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M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

ADVANCING THE NATION'S HEALTH

JANUARY 7, 1965.—Referred to the Committee on Ways and Means and ordered to be printed

To the Congress of the United States:

In 1787, Thomas Jefferson wrote that, "Without health there is no happiness. An attention to health, then, should take the place of every other object."

That priority has remained fixed in both the private and public values of our society through generations of Americans since.

Our rewards have been immeasurably bountiful. "An attention to health"—of the individual, the family, the community and the Nation—has contributed to the vitality and efficiency of our system as well as to the happiness and prosperity of our people.

Today, at this point in our history, we are privileged to contemplate new horizons of national advance and achievement in many sectors. But it is imperative that we give first attention to our opportunities—and our obligations—for advancing the Nation's health. For the health of our people is, inescapably, the foundation for fulfillment of all our aspirations.

In these years of the 1960's, we live as beneficiaries of this century's great—and continuing—revolution of medical knowledge and capabilities. Smallpox, malaria, yellow fever, and typhus are conquered in this country. Infant deaths have been reduced by half every two decades. Poliomyelitis, which took 3,154 lives so recently as 1952, cost only 5 lives in 1964. Over the brief span of the past two decades, death rates have been reduced for influenza by 88 percent, tuberculosis by 87 percent, rheumatic fever by 90 percent.

A baby born in America today has a life expectancy half again as long as those born in the year the 20th century began.

The successes of the century are many.

The pace of medical progress is rapid.

The potential for the future is unlimited.

But we must not allow the modern miracles of medicine to mesmerize us. The work most needed to advance the Nation's health will not be done for us by miracles. We must undertake that work ourselves through practical, prudent, and patient programs—to put more firmly in place the foundation for the healthiest, happiest, and most hopeful society in the history of man.

Our first concern must be to assure that the advance of medical knowledge leaves none behind. We can—and we must—strive now to assure the availability of and accessibility to the best health care for all Americans, regardless of age or geography or economic status.

With this as our goal, we must strengthen our Nation's health facilities and services, assure the adequacy and quality of our health manpower, continue to assist our States and communities in meeting their health responsibilities, and respond alertly to the new hazards of our new and complex environment.

We must, certainly, continue and intensify our health research and research facilities. Despite all that has been done, we cannot be complacent before the facts that—

Forty-eight million people now living will become victims of cancer.

Nearly 15 million people suffer from heart disease and this, together with strokes, accounts for more than half the deaths in the United States each year.

Twelve million people suffer arthritis and rheumatic disease and 10 million are burdened with neurological disorders.

Five and one-half million Americans are afflicted by mental retardation and the number increases by 126,000 new cases each year.

In our struggle against disease, great advances have been made, but the battle is far from won. While that battle will not end in our lifetime—or any time to come—we have the high privilege and high promise of making longer strides forward now than any other generation of Americans.

The measures I am outlining today will carry us forward in the oldest tradition of our society—to give “an attention to health” for all our people. Our advances, thus far, have been most dramatic in the field of health knowledge. We are challenged now to give attention to advances in the field of health care—and this is the emphasis of the recommendations I am placing before you at this time.

I. REMOVING BARRIERS TO HEALTH CARE

In this century, medical scientists have done much to improve human health and prolong human life. Yet as these advances come, vital segments of our populace are being left behind—behind barriers of age, economics, geography, or community resources. Today the political community is challenged to help all our people surmount these needless barriers to the enjoyment of the promise and reality of better health.

A. HOSPITAL INSURANCE FOR THE AGED

Thirty years ago, the American people made a basic decision that the later years of life should not be years of despondency and drift. The result was enactment of our social security program, a program now fixed as a valued part of our national life. Since World War II, there has been increasing awareness of the fact that the full value of social security would not be realized unless provision were made to deal with the problem of costs of illnesses among our older citizens.

I believe this year is the year when, with the sure knowledge of public support, the Congress should enact a hospital insurance program for the aged.

The facts of the need are well and widely known:

Four out of five persons 65 or older have a disability or chronic disease.

People over 65 go to the hospital more frequently and stay twice as long as younger people.

Health costs for them are twice as high as for the young.

Where health insurance is available it is usually associated with an employer-employee plan. However, since most of our older people are not employed they are usually not eligible under these plans.

Almost half of the elderly have no health insurance at all.

The average retired couple cannot afford the cost of adequate health protection under private health insurance.

I ask that our social security system—proved and tested by three decades of successful operation—be extended to finance the cost of basic health services. In this way, the specter of catastrophic hospital bills can be lifted from the lives of our older citizens. *I again strongly urge the Congress to enact a hospital insurance program for the aged.*

Such a program should—

Be financed under social security by regular, modest contributions during working years;

Provide protection against the costs of hospital and post-hospital extended care, home nursing services, and outpatient diagnostic services;

Provide similar protection to those who are not now covered by social security, with the costs being paid from the administrative budget;

Clearly indicate that the plan in no way interferes with the patient's complete freedom to select his doctor or hospital.

Like our existing social security cash retirement benefits, this hospital insurance plan will be a basic protection plan. It should cover the heaviest cost elements in serious illnesses. In addition, we should encourage private insurance to provide supplementary protection.

I consider this measure to be of utmost urgency. Compassion and reason dictate that this logical extension of our proven social security system will supply the prudent, feasible, and dignified way to free the aged from the fear of financial hardship in the event of illness.

Also, I urge all States to provide adequate medical assistance under the existing Kerr-Mills program for the aged who cannot afford to meet the noninsured costs.

B. BETTER HEALTH SERVICES FOR CHILDREN AND YOUTH

America's tradition of compassion for the aged is matched by our traditional devotion to our most priceless resource of all—our young. Today, far more than many realize, there are great and growing needs among our children for better health services.

Acute illness strikes children under 15 nearly twice as frequently as it does adults.

One in five children under age 17 is afflicted with a chronic ailment.

Three out of every 100 children suffer some form of paralysis or orthopedic impairment.

At least 2 million children are mentally retarded, with a higher concentration of them from poor families.

Four million children are emotionally disturbed.

At age 15, the average child has more than 10 decayed teeth.

If the health of our Nation is to be substantially improved in the years to come, we must improve the care of the health of our 75 million preschool and school-age children and youth.

There is much to do if we are to make available the medical and dental services our rising generation needs. Nowhere are the needs greater than for the 15 million children of families who live in poverty.

Children in families with incomes of less than \$2,000 are able to visit a doctor only half as frequently as those in families with incomes of more than \$7,000.

Public assistance payments for medical services to the 3 million needy children receiving dependent children's benefits throughout the Nation average only \$2.80 a month, and in some States such medical benefits are not provided at all.

Poor families increasingly are forced to turn to overcrowded hospital emergency rooms and to overburdened city clinics as their only resource to meet their routine health needs.

Military entrance examinations reveal the consequences. Half of those rejected cannot pass the medical tests. Three-fourths of them would benefit from treatment, and earlier treatment would greatly increase recovery and decrease lifelong disability.

The States and localities bear the major responsibility for providing modern medical care to our children and youth. But the Federal Government can help. *I recommend legislation to—*

Increase the authorizations for maternal and child health and crippled children's services, earmarking funds for project grants to provide health screening and diagnosis for children of preschool and school age, as well as treatment and followup care services for disabled children and youth. This should include funds to help defray the operational costs of university-affiliated mental retardation clinical centers. Provisions should also be made for the training of personnel who will operate medical facilities for children.

Broaden the public assistance program to permit specific Federal participation in paying costs of medical and dental care for children in medically needy families, similar to the Kerr-Mills program for the aged.

Extend the grant programs for (a) family health services and clinics for domestic agricultural migratory workers and their children and (b) community vaccination assistance.

C. IMPROVED COMMUNITY MENTAL HEALTH SERVICES

Mental illness afflicts 1 out of 10 Americans, fills nearly one-half of all the hospital beds in the Nation, and costs \$3 billion annually. Fortunately, we are entering a new era in the prevention, treatment, and care of mental illness. Mere custodial care of patients in large, isolated asylums is clearly no longer appropriate. Most patients can be cared for and cured in their own communities.

An important beginning toward community preparation has been made through the legislation enacted by the 88th Congress authorizing aid for constructing community mental health centers. But facilities alone cannot assure services.

It has been estimated that at least 10,000 more psychiatrists are needed.

Few communities have the funds to support adequate programs, particularly during the first years.

Communities with the greatest needs hesitate to build centers without being able to identify the source of operating funds.

Most of the people in need are children, the aged, or patients with low incomes.

I therefore recommend legislation to authorize a 5-year program of grants for the initial costs of personnel to man community mental health centers which offer comprehensive services.

D. A NEW LIFE FOR THE DISABLED

Today, we are rehabilitating about 120,000 disabled persons each year. I recommend a stepped-up program to overcome this costly waste of human resources. My 1966 budget will propose increased funds to rehabilitate an additional 25,000.

Our goal should be at least 200,000 a year. *I recommend legislation to authorize—*

Project grants to help States expand their services.

Special Federal matching so that rehabilitative services can be provided to a greater number of the mentally retarded and other seriously disabled individuals.

Construction and modernization of workshops and rehabilitation centers.

II. STRENGTHENING THE NATION'S HEALTH FACILITIES AND SERVICES

In our urbanized society today, the availability of health care depends uniquely upon the availability and accessibility of modern facilities, located in convenient and efficient places, and on well-organized and adequately supported services. The lack of such facilities and services is, of itself, a barrier to good health care.

A. MULTIPURPOSE REGIONAL MEDICAL COMPLEXES

In this century, we have made more advance than in all other centuries toward overcoming diseases which have taken the heaviest toll of human life. Today we are challenged to meet and master the 3 killers which alone account for 7 out of 10 deaths in the United States each year—heart disease, cancer, and stroke. The Commission on Heart Disease, Cancer, and Stroke has pointed the way for us toward that goal.

The newest and most effective diagnostic methods and the most recent and most promising methods of treatment often require equipment or skills of great scarcity and expense such as—

- open heart surgery;
- advanced and very high voltage radiation therapy;
- advanced disease detection methods.

It is not necessary for each hospital or clinic to have such facilities, equipment, or services, but it is essential that every patient requiring such specialized and expensive procedures and services have access to them. Multipurpose medical complexes can meet these needs. They would—

- speed the application of research knowledge to patient care, so as to turn otherwise hollow laboratory triumphs into health victories;
- save thousands of lives now needlessly taken annually by the three great killers—heart disease, cancer, and stroke—and by other major diseases.

A plan to improve our attack upon these major causes of death and disability should become a part of the fabric of our regional and community health services. The services provided under this plan will help the practicing physician keep in touch with the latest medical knowledge and by making available to him the latest techniques, specialized knowledge, and the most efficient methods.

To meet these objectives, such complexes should—

- Be regional in scope.
- Provide services for a variety of diseases—heart disease, cancer, stroke, and other major illnesses.
- Be affiliated with medical schools, teaching hospitals, and medical centers.
- Be supported by diagnostic services in community hospitals.
- Provide diagnosis and treatment of patients, together with research and teaching in a coordinated system.
- Permit clinical trial of advanced techniques and drugs.

Medical complexes—consisting of regional organizations of medical schools, teaching hospitals, and treatment centers tied into community diagnostic and treatment facilities—represent a new kind of organization for providing coordinated teaching, research, and patient care. When we consider that the economic cost of heart disease alone amounts to 540,000 lost man-years annually—worth some \$2.5 billion—the urgency and value of effective action is unmistakable.

Action on this new approach, stemming from recommendations of the Commission on Heart Disease, Cancer, and Stroke, will provide significant improvements in many fields of medicine.

I recommend legislation to authorize a 5-year program of project grants to develop multipurpose regional medical complexes for an all-out attack on heart disease, cancer, stroke, and other major diseases.

B. IMPROVED SERVICES FOR THE MENTALLY RETARDED

Mental retardation in any individual is a lifelong problem of the most serious nature for the family and for the community. But we know today that the problem need not and must not lead to tragic hopelessness. Much is being done to provide a decent, dignified, place in society for these unfortunate individuals.

The 88th Congress provided a substantial foundation for building an effective national program for the prevention of mental retardation and care of the mentally retarded. Under this authority, grants are authorized—

For construction of mental retardation research centers, community mental retardation centers, and university-affiliated mental retardation centers.

For planning by all the States of comprehensive action to combat mental retardation at the State and community levels.

The 1966 budget includes \$282 million—a \$40 million increase—for these programs and other mental retardation services, including preventive activities and the training of teachers of the retarded. I urge that this full amount be appropriated.

Extensive resources and programs need to be developed in the States and communities to prevent mental retardation and to care for the mentally retarded. The existing authority for planning grants will end on June 30, 1965. The developmental needs and effective utilization of the construction grants require followup action.

I recommend the enactment of mental retardation program development grants for 2 additional years to help the States continue this essential work.

C. MODERNIZATION OF HEALTH FACILITIES

Great progress has been made throughout the Nation in the provision of new general hospitals under the Hill-Burton program. But relatively little assistance has been available for modernization of the older hospitals, found particularly in our large cities. Without aid, deterioration threatens and rapid scientific and technical change is passing by these essential links to health care for millions of our people.

The 1966 budget will include funds for a greatly increased hospital modernization effort as well as for expansion in the number and quality of nursing homes. *I urge the Congress to approve the full amount requested for each of these purposes.*

D. AID FOR GROUP PRACTICE FACILITIES

New approaches are needed to stretch the supply of medical specialists and to provide a wider range of medical services in the communities. The growth of voluntary, comprehensive group practice programs has demonstrated the feasibility of grouping health services for the mutual benefit of physicians and patients by—

Integrating the burgeoning medical specialties into an efficient and economical system of patient care.

Reducing the incidence of hospitalization which may now occur because there are few alternative centers for specialized care.

The initial capital requirements for group practice are substantial, and the funds are not now sufficiently available to stimulate the expansion and establishment of group practice. To facilitate and encourage this desirable trend, *I recommend legislation to authorize a program of direct loans and loan guarantees to assist voluntary associations in the construction and equipping of facilities for comprehensive group practice.*

III. MANPOWER FOR THE HEALTH SERVICES

The advance of our Nation's health in this century has, in the final measure, been possible because of the unique quality and fortunate quantity of men and women serving in our health professions. Americans respect and are grateful for our doctors, dentists, nurses, and others who serve our Nation's health. But it is clear that the future requires our support now to increase the quantity and assure the continuing high quality of such vital personnel.

In all sectors of health care, the need for trained personnel continues to outstrip the supply:

At present, the United States has 290,000 physicians. In a decade, we shall need 346,000.

Today we are keeping pace with our needs largely because of the influx of numbers of foreign-trained doctors. Last year 1,600 came into the United States, the equivalent of the output from 16 medical schools and 21 percent of our medical school graduates.

Population growth has badly outpaced the increase in dentists and the shortage of dentists is now acute.

To begin to meet the Nation's health needs, the number of new physicians graduated each year must increase at least 50 percent by 1975, and the output of new dentists by 100 percent.

The Health Professions Educational Assistance Act of 1963, authorizing grants to schools for construction of medical and other health education schools and loans to students, will help meet this problem. The magnitude of the need is demonstrated by the response:

Ninety applications have been received from medical and dental schools, requesting \$247 million in Federal aid for construction.

Only \$100 million is available in 1965; and the full authorization for 1966, which I will shortly request in the budget I am submitting, will provide \$75 million more.

In the light of these needs, *I urge the Congress to appropriate the full amount authorized and requested for the Health Professions Educational Assistance Act program.*

While we must build new medical and dental schools, we must also retain and sustain the ones we have. To be neglectful of such schools would be wasteful folly.

We must face the fact that high operating costs and shortages of operating funds are jeopardizing our health professions educational system. Tuition and fees paid by medical and dental students meet less than half the institutional costs of their education. Several underfinanced medical and dental schools are threatened with failure to meet educational standards. New schools are slow to start, even when construction funds are available due to lack of operating funds.

I therefore recommend legislation to authorize—

formula grants to help cover basic operating costs of our health profession schools in order that they may significantly expand both their capacity and the quality of their educational programs;

project grants to enable health profession schools to experiment and demonstrate new and improved educational methods.

Traditionally, our medical profession has attracted outstanding young talent, and we must be certain that this tradition is not compromised. We must draw the best available talent into the medical profession. Half of last June's medical school graduates came from

families with incomes of over \$10,000 a year. The high costs of medical school must not deny access to the medical profession for able youths from low- and middle-income families.

I therefore recommend legislation to authorize scholarships for medical and dental students who would otherwise not be able to enter or complete such training.

Looking to the future

We must also look to the future in planning to meet the health manpower requirements of the Nation.

Unmet health needs are already large. American families are demanding and expecting more and better health services. In the past decades the proportion of our gross national product devoted to health has increased by more than 50 percent. The trend is still upward. If we are to meet our future needs and raise the health of the Nation, we must—

- improve utilization of available professional health personnel;
- expand the use and training of technicians and ancillary health workers through special schools and under the Vocational Education Act and Manpower Development and Training Act programs;
- expand and improve training programs for professional and for supporting health personnel;
- plan ahead to meet requirements for which the leadtime is often 10 years or more.

With these objectives in mind, *I have asked the Secretary of Health, Education, and Welfare to develop a long-range health manpower program for the Nation and to recommend to me the steps which should be taken to put it into effect.*

IV. HEALTH RESEARCH AND RESEARCH FACILITIES

Two decades ago this Nation decided that its Government should be a strong supporter of the health research to advance the well-being of its people. This year that support amounts to more than two-thirds of the total national expenditure of \$1.5 billion for health research.

Continued growth of this research is necessary and the 1966 budget includes:

Ten-percent growth in expenditures for health research and for the related training.

Funds to begin an automated system for processing the exploding volume of information on drugs and other chemicals related to health.

Health research, no less than patient care, requires adequate facilities. Over the past 8 years the Health Research Facilities Act has been highly successful in helping provide research facilities to universities and other nonprofit institutions. Federal grants of \$320 million to 990 construction projects have generated over \$500 million in matching institutional dollars.

This authority expires on June 30, 1966, and *I recommend that it be extended for 5 years with an increased authorization and with a larger Federal share for specialized research facilities of a national or regional character.*

V. HEALTH GRANTS AND PROTECTION MEASURES

Our complex modern society is creating health hazards never before encountered. The pollution of our environment is assuming such important proportion I shall shortly send to the Congress a special message dealing with this challenge.

But the protection of the public health also requires action on other fronts.

A. HEALTH GRANTS TO COMMUNITIES AND STATES

In safeguarding and advancing the Nation's health, States and communities have long had special responsibilities. General and special-purpose health grants have proved an effective means of strengthening the Federal Government's partnership with them in improving the public health.

I have directed the Secretary of Health, Education, and Welfare to study these programs thoroughly and to recommend to me necessary legislation to increase their usefulness.

Authorizations for many of these programs expire at the close of fiscal year 1966. So that a thorough review may be made, *I recommend that the Congress extend the authorizations through June 30, 1967.*

B. CONSUMERS HEALTH PROTECTION

Modernization of the Federal Food, Drug, and Cosmetic Act is imperative if our health protection program is to keep pace with the technological and industrial advances of recent years.

The health of all Americans depends on the reliability and safety of the products of the—

food industry which alone generates nearly \$100 billion in retail sales each year;

drug industry with sales reaching \$6 billion;

cosmetic industry which markets \$2.5 billion of products.

All must be operated under the highest standards of purity and safety.

Yet, despite recent improvements in food and drug legislation, serious gaps in our ability to protect the consumer still exist. The law should be strengthened to provide adequate authority in the regulation of nonprescription drugs, medical devices, cosmetics, and food.

Narcotics are not alone among the hazardous, habit-forming drugs subject to improper use. Barbiturates, amphetamines, and other drugs have harmful effects when improperly used. Widespread traffic resulting from inadequate controls over the manufacture, distribution, and sale of these drugs is creating a growing problem which must be met. We must also counter the threat from counterfeit drugs.

I recommend legislation to bring the production and distribution of barbiturates, amphetamines, and other psychotoxic drugs under more effective control.

For the fuller protection of our families, *I recommend legislation to require—*

Adequate labeling of hazardous substances.

Safety regulation of cosmetics and therapeutic devices by pre-marketing examination by the Food and Drug Administration.

Authority to seize counterfeit drugs at their source.

CONCLUSION

I believe we have come to a rare moment of opportunity and challenge in the evolution of our society. In the message I have presented to you—and in other messages I shall be sending—my purpose is to outline the attainable horizons of a greater society which a confident and prudent people can begin to build for the future.

Whatever we aspire to do together, our success in those enterprises—and our enjoyment of the fruits that result—will rest finally upon the health of our people. We cannot and we will not overcome all the barriers—or surmount all the obstacles—in one effort, no matter how intensive. But in all the sectors I have mentioned we are already behind our capability and our potential. Further delay will only compound our problems and deny our people the health and happiness that could be theirs.

The Eighty-eighth Congress wrote a proud and significant record of accomplishment in the field of health legislation. I have every confidence that this Congress will write an even finer record that will be remembered with honor by generations of Americans to come.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *January 7, 1965.*



89TH CONGRESS
1ST SESSION

H. R. 1

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1965

Mr. KING of California introduced the following bill, which was referred to the Committee on Ways and Means

A BILL

To provide a hospital insurance program for the aged under social security, to amend the Federal Old-Age, Survivors, and Disability Insurance System to increase benefits, improve the actuarial status of the Disability Insurance Trust Fund, and extend coverage, to amend the Social Security Act to provide additional Federal financial participation in the Federal-State public assistance programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, with the following table of contents, may be
4 cited as the "Hospital Insurance, Social Security, and Pub-
5 lic Assistance Amendments of 1965".

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1 **MEANING OF TERM "SECRETARY"**

2 **SEC. 2.** As used in this Act, and in the provisions of the
3 Social Security Act amended thereby, the term "Secretary",
4 unless the context otherwise requires, means the Secretary
5 of Health, Education, and Welfare.

6 **TITLE I—HOSPITAL INSURANCE FOR THE AGED**

7 **SHORT TITLE**

8 **SEC. 100.** This title may be cited as the "Hospital In-
9 surance Act of 1965".

1 PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED
2 FINDINGS AND DECLARATION OF PURPOSE

3 SEC. 101. The Congress hereby finds that (1) the
4 heavy costs of hospital care and related health care are a
5 grave threat to the security of aged individuals, (2) most of
6 them are not able to qualify for and to afford private insur-
7 ance adequately protecting them against such costs, (3)
8 many of them are accordingly forced to apply for private or
9 public aid, accentuating the financial difficulties of hospitals
10 and private or public welfare agencies and the burdens on
11 the general revenues, and (4) it is in the interest of the gen-
12 eral welfare for financial burdens resulting from hospital serv-
13 ices and related services required by these individuals to
14 be met primarily through social insurance.

15 (b) The purposes of this title are (1) to provide aged
16 individuals entitled to benefits under the old-age, survivors,
17 and disability insurance system or the railroad retirement
18 system with basic protection against the costs of inpatient
19 hospital services, and to provide, in addition, as an alterna-
20 tive to such protection against the costs of inpatient hospital
21 care, protection against the costs of certain post-hospital

1 extended care, home health services, and outpatient hospital
2 diagnostic services; to utilize social insurance for financing
3 the protection so provided; to encourage, and make it pos-
4 sible for, such individuals to purchase protection against other
5 health costs by providing in such basic social insurance pro-
6 tection a set of benefits which can easily be supplemented by
7 a State, private insurance, or other methods; to assure ade-
8 quate and prompt payment on behalf of these individuals to
9 the providers of these services; and to do these things in a
10 manner consistent with the dignity and self-respect of each
11 individual, without interfering in any way with the free
12 choice of physicians or other health personnel or facilities
13 by the individual, and without the exercise of any Federal
14 supervision or control over the practice of medicine by any
15 doctor or over the manner in which medical services are
16 provided by any hospital or any other medical facility; and
17 (2) to provide such basic protection, financed from gen-
18 eral revenues, to those persons who are now age 65 or over
19 or who will reach age 65 within the next several years and
20 who are not eligible for benefits under the old-age, survivors,
21 and disability insurance or railroad retirement systems.

22 (c) It is hereby declared to be the policy of the Congress
23 that post-hospital extended care for which payment may be
24 made under title XVIII of the Social Security Act shall be
25 utilized in lieu of continuation of inpatient hospital services

1 where such care would suffice in meeting the medical needs
 2 of the patient, and that home health services for which pay-
 3 ment may be made under such title XVIII shall be utilized
 4 in lieu of inpatient hospital services or post-hospital extended
 5 care where home health services would suffice.

6 (d) It is further declared to be the policy of the
 7 Congress that no individual who receives aid or assistance
 8 (including medical or any other type of remedial care)
 9 under a State plan approved under title I, IV, X, XIV, or
 10 XVI of the Social Security Act shall receive less benefits
 11 or be otherwise disadvantaged by reason of the enactment
 12 of title XVIII of such Act.

13 **BENEFITS**

14 **SEC. 102.** The Social Security Act is amended by add-
 15 ing after title XVII the following new title:

16 **“TITLE XVIII—HOSPITAL INSURANCE BENE-**
 17 **FITS FOR THE AGED**

18 **“PROHIBITION AGAINST ANY FEDERAL INTERFERENCE**

19 **“SEC. 1801.** Nothing in this title shall be construed to
 20 authorize any Federal officer or employee to exercise any
 21 supervision or control over the practice of medicine or the
 22 manner in which medical services are provided, or over the
 23 selection, tenure, or compensation of any officer or employee
 24 of any hospital, extended care facility, or home health
 25 agency; or to exercise any supervision or control over the

1 administration or operation of any such hospital, facility, or
2 agency.

3 "FREE CHOICE BY PATIENT GUARANTEED

4 "SEC. 1802. Any individual entitled to insurance bene-
5 fits under this title may obtain inpatient hospital services,
6 posthospital extended care, home health services, or out-
7 patient hospital diagnostic services from any provider of
8 services which has an agreement in effect under this title
9 and which undertakes to provide him such services or care.

10 "OPTION TO INDIVIDUALS TO OBTAIN SUPPLEMENTARY
11 PRIVATE HEALTH INSURANCE PROTECTION

12 "SEC. 1803. Nothing contained in this title or part D
13 of the Hospital Insurance Act of 1965 shall be construed to
14 preclude any State from providing, or any individual from
15 purchasing or otherwise securing, protection against the cost
16 of health or medical care services which supplements the
17 protection provided under this title or part D of the Hospital
18 Insurance Act of 1965.

19 "ENTITLEMENT TO BENEFITS

20 "SEC. 1804. (a) Every individual who—

21 " (1) has attained the age of 65, and

22 " (2) is entitled to monthly insurance benefits un-
23 der section 202,

24 shall be entitled to insurance benefits under this title for
25 each month for which he is entitled to such benefits under

1 section 202, beginning with the first month after June 1966
2 with respect to which he meets the conditions specified in
3 paragraphs (1) and (2).

4 “(b) For purposes of this section—

5 “(1) entitlement of an individual to insurance
6 benefits under this title for a month shall consist of
7 entitlement to have payment made under, and subject
8 to the limitations in, this title on his behalf for inpatient
9 hospital services, post-hospital extended care, home
10 health services, and outpatient hospital diagnostic serv-
11 ices furnished him in the United States during such
12 month, except that no such payment may be made for
13 post-hospital extended care furnished before January
14 1967; and

15 “(2) an individual shall be deemed entitled to
16 monthly insurance benefits under section 202 for the
17 month in which he died if he would have been entitled
18 to such benefits for such month had he died in the next
19 month.

20 “DEDUCTIBLE; DURATION OF SERVICES

21 “Deductible

22 “SEC. 1805. (a) (1) Payment for inpatient hospital
23 services furnished an individual during any benefit period
24 shall be reduced by a deduction equal to the current average
25 per diem rate for such services for one day.

1 “(2) Payment for outpatient hospital diagnostic services
2 furnished an individual during any thirty-day period shall be
3 reduced by a deduction equal to one-half of the current aver-
4 age per diem rate for inpatient hospital services for one day
5 which is applicable to benefit periods beginning in the same
6 calendar year as such thirty-day period. For purposes of the
7 preceding sentence, a thirty-day period for any individual is
8 a period of thirty consecutive days beginning with the first
9 day (not included in a previous such period) on which he
10 is entitled to benefits under this title and on which outpatient
11 hospital diagnostic services are furnished him.

12 “Determination of Current Average Per Diem Rate

13 “(b) The Secretary shall, as soon as possible after the
14 enactment of this Act and between July 1 and October 1 of
15 each year thereafter, promulgate the current average per
16 diem rate for inpatient hospital services which shall be ap-
17 plicable for the purposes of subsection (a) in the case of
18 benefit periods beginning during the succeeding calendar
19 year. Such current average per diem rate shall be based
20 on the best information available to the Secretary (at the
21 time the determination is made) as to the amounts paid
22 under this title on account of inpatient hospital services
23 furnished, during the two calendar years preceding such
24 determination by hospitals which have agreements in effect
25 under section 1810, to individuals who are entitled to insur-

1 ance benefits under this title; except that, in the case of
 2 benefit periods (and thirty-day periods) beginning before
 3 1969 such current average per diem rate shall be based on
 4 the best information available to the Secretary with respect
 5 to costs of inpatient hospital services for such individuals.
 6 Any amount determined under the preceding provisions of
 7 this subsection which is not a multiple of \$1, shall—

8 “(1) if it is a multiple of \$0.50, be raised to the next
 9 higher multiple of \$1, or

10 “(2) in any other case be rounded to the nearest
 11 multiple of \$1.

12 “Duration of Services

13 “(c) Payment under this title for services furnished
 14 an individual during a benefit period may not be made for—

15 “(1) inpatient hospital services furnished to him
 16 during such period after such services have been fur-
 17 nished to him for sixty days during such period; or

18 “(2) posthospital extended care furnished to him
 19 during such period after such care has been furnished
 20 him for sixty days during such period.

21 For purposes of the preceding provisions of this subsection,
 22 inpatient hospital services or posthospital extended care shall
 23 be taken into account only if payment is or would be, except
 24 for this subsection or the failure to comply with the request
 25 and certification requirements of or under section 1809 (a),

1 made with respect to such services or care under this title.
2 Payment under this title may not be made for home health
3 services furnished an individual, during a calendar year, after
4 such services have been furnished him during—

5 “(A) in the case of the calendar year 1966, 120
6 visits in such year (not counting any visit prior to July
7 1, 1966), or

8 “(B) in the case of any other year, 240 visits in
9 such year.

10 “Benefit Period

11 “(d) For the purposes of this section, a ‘benefit period’
12 with respect to any individual means a period of consecutive
13 days—

14 “(1) beginning with the first day (not included in
15 a previous benefit period) (A) on which such individ-
16 ual is furnished inpatient hospital services or post-
17 hospital extended care and (B) which occurs in a
18 month for which he is entitled to insurance benefits
19 under this title, and

20 “(2) ending with the ninetieth day thereafter on
21 each of which he is neither an inpatient of a hospital
22 nor an inpatient of an extended care facility (whether
23 or not such 90 days are consecutive), but only if such
24 90 days occur within a period of not more than 180
25 consecutive days.

1 “DEFINITION OF SERVICES, INSTITUTIONS, ETC.

2 “SEC. 1806. For purposes of this title—

3 “Inpatient Hospital Services

4 “(a) The term ‘inpatient hospital services’ means the
5 following items and services furnished to an inpatient of a
6 hospital and (except as provided in paragraph (3)) by
7 the hospital—

8 “(1) bed and board,

9 “(2) such nursing services and other related serv-
10 ices, such use of hospital facilities, and such medical
11 social services as are customarily furnished by the hospi-
12 tal for the care and treatment of inpatients, and such
13 drugs, biologicals, supplies, appliances, and equipment,
14 for use in the hospital, as are customarily furnished by
15 such hospital for the care and treatment of inpatients,
16 and

17 “(3) such other diagnostic or therapeutic items or
18 services, furnished by the hospital or by others under
19 arrangements with them made by the hospital, as are
20 customarily furnished to inpatients either by such hos-
21 pital or by others under such arrangements;

22 excluding, however—

23 “(4) medical or surgical services provided by a
24 physician, resident, or intern, except services provided
25 in the field of pathology, radiology, physiatry, or anes-

1 thesiology, and except services provided in the hospital
2 by an intern or a resident-in-training under a teaching
3 program approved by the Council on Medical Education
4 of the American Medical Association (or, in the case
5 of an osteopathic hospital, approved by the Committee
6 on Hospitals of the Bureau of Professional Education
7 of the American Osteopathic Association) ; and

8 “(5) the services of a private-duty nurse.

9 “Hospital

10 “(b) The term ‘hospital’ (except for purposes of section
11 1805 (d) (2) section 1809 (f), paragraph (7) of this sub-
12 section, and so much of subsection (d) of this section as
13 precedes paragraph (1) thereof) means an institution
14 which—

15 “(1) is primarily engaged in providing, by or
16 under the supervision of physicians or surgeons, to
17 inpatients (A) diagnostic services and therapeutic
18 services for medical diagnosis, treatment, and care of
19 injured, disabled, or sick persons, or (B) rehabilitation
20 services for the rehabilitation of injured, disabled, or
21 sick persons,

22 “(2) maintains clinical records on all patients,

23 “(3) has bylaws in effect with respect to its staff
24 of physicians,

1 “(4) has a requirement that every patient must
2 be under the care of a physician,

3 “(5) provides 24-hour nursing service rendered
4 or supervised by a registered professional nurse, and has
5 a licensed practical nurse or registered professional nurse
6 on duty at all times,

7 “(6) has in effect a hospital utilization review plan
8 which meets the requirements of subsection (c),

9 “(7) in the case of an institution in any State in
10 which State or applicable local law provides for the
11 licensing of hospitals, (A) is licensed pursuant to such
12 law or (B) is approved, by the agency of such State
13 or locality responsible for licensing hospitals, as meeting
14 the standards established for such licensing, and

15 “(8) meets such other requirements as the Sec-
16 retary finds necessary in the interest of the health and
17 safety of individuals who are furnished services in the
18 institution, except that such other requirements may not
19 be higher than the comparable requirements prescribed
20 for the accreditation of hospitals by the Joint Commis-
21 sion on the Accreditation of Hospitals.

22 For purposes of section 1805 (d) (2), such term includes
23 any institution which meets the requirements of paragraph
24 (1) of this subsection. For purposes of section 1809 (f)

1 (including determination of whether an individual received
2 inpatient hospital services for purposes of such section
3 1809 (f)), and so much of subsection (d) of this section
4 as precedes paragraph (1) thereof, such term includes any
5 institution which meets the requirements of paragraphs (1),
6 (2), (4), (5), and (7) of this subsection. Notwith-
7 standing the preceding provisions of this subsection, such
8 term shall not, except for purposes of section 1805 (d) (2),
9 include any institution which is primarily for the care and
10 treatment of tuberculosis or mental diseases.

11 "Utilization Review

12 "(c) A utilization review plan of a hospital or extended
13 care facility shall be considered sufficient if it is applicable
14 to services furnished by the institution to individuals entitled
15 to insurance benefits under this title and if it provides—

16 "(1) for the review, on a sample or other basis,
17 of admissions to the institution, the duration of stays
18 therein, and the professional services (including drugs
19 and biologicals) furnished, (A) with respect to the
20 medical necessity of the services, and (B) for the pur-
21 pose of promoting the most efficient use of available
22 health facilities and services;

23 "(2) for such review to be made by either (A)
24 a staff committee of the institution composed of two
25 or more physicians, with or without participation of

1 other professional personnel, or (B) a group outside the
2 institution which is similarly composed and (i) which
3 is established by the local medical society and some or
4 all of the hospitals and extended care facilities in the
5 locality, or (ii) if (and for as long as) there has not
6 been established such a group which serves such insti-
7 tution, which is established in such other manner as
8 may be approved by the Secretary;

9 “(3) for such review, in each case in which in-
10 patient hospital services are furnished to such an in-
11 dividual during a continuous period, as of the twenty-
12 first day of such period, and as of such subsequent days
13 of such period as may be specified in regulations, with
14 such review to be made as promptly after such twenty-
15 first or subsequent specified day as possible, and in no
16 event later than one week following such day;

17 “(4) for such review, in each case in which post-
18 hospital extended care is furnished to such an individual
19 during a continuous period, at such intervals as may be
20 specified in regulations; and

21 “(5) for prompt notification to the institution,
22 the individual, and his attending physician of any find-
23 ing (made after opportunity for consultation to such
24 attending physician) by the physician members of such

1 committee or group that any further stay in the institu-
2 tion is not medically necessary.

3 The review committee must be composed as provided in
4 clause (B) of paragraph (2) rather than as provided in
5 clause (A) of such paragraph in the case of any hospital
6 or extended care facility where, because of the small size of
7 the institution, or (in the case of an extended care facility)
8 because of lack of an organized medical staff, or for such
9 other reason or reasons as may be included in regulations,
10 it is impracticable for the institution to have a properly
11 functioning staff committee for the purposes of this sub-
12 section.

13 “Posthospital Extended Care

14 “(d) The term ‘posthospital extended care’ means the
15 following items and services furnished to an inpatient of an
16 extended care facility, after transfer from a hospital in which
17 he was an inpatient, and (except as provided in paragraph
18 (3)) by such extended care facility—

19 “(1) nursing care provided by or under the super-
20 vision of a registered professional nurse,

21 “(2) bed and board in connection with the fur-
22 nishing of such nursing care,

23 “(3) physical, occupational, or speech therapy
24 furnished by the extended care facility or by others under
25 arrangements with them made by the facility,

1 “ (4) medical social services,

2 “ (5) such drugs, biologicals, supplies, appliances,
3 and equipment, furnished for use in the extended care
4 facility, as are customarily furnished by such facility for
5 the care and treatment of inpatients,

6 “ (6) medical services provided by an intern or resi-
7 dent-in-training of a hospital, with which the facility
8 has in effect a transfer agreement (meeting the require-
9 ments of subsection (f)), under a teaching program of
10 such hospital approved as provided in subsection (a)
11 (4), and

12 “ (7) such other services necessary to the health of
13 the patients as are generally provided by extended care
14 facilities;

15 excluding, however, any item or service if it would not be
16 included under subsection (a) if furnished to an inpatient
17 of a hospital.

18 “Extended Care Facility

19 “ (e) The term ‘extended care facility’ means (except
20 for purposes of section 1805 (d) (2)) an institution (or a
21 distinct part of an institution) which has in effect a transfer
22 agreement (meeting the requirements of subsection (f))
23 with one or more hospitals having agreements in effect
24 under section 1810 and which—

25 “ (1) is primarily engaged in providing to in-

1 patients (A) skilled nursing care and related services
2 for patients who require medical or nursing care or (B)
3 rehabilitation services,

4 “(2) has policies, which are developed with the
5 advice of (and with provision of review of such policies
6 from time to time by) a group of professional personnel,
7 including one or more physicians and one or more regis-
8 tered professional nurses, to govern the skilled nursing
9 care and related medical or other services it provides,

10 “(3) has a physician, a registered professional
11 nurse, or a medical staff responsible for the execution
12 of such policies,

13 “(4) has a requirement that every patient must be
14 under the care of a physician and makes provision in
15 emergencies when such physician is not available for
16 another physician to be available,

17 “(5) maintains clinical records on all patients,

18 “(6) provides twenty-four-hour nursing service
19 which is sufficient to meet nursing needs in accordance
20 with the policies developed as provided in subpara-
21 graph (2), and has at least one registered professional
22 nurse employed full time,

23 “(7) provides appropriate methods and procedures
24 for the dispensing and administering of drugs and
25 biologicals,

1 “ (8) has in effect a utilization review plan which
2 meets the requirements of subsection (c) ,

3 “ (9) in the case of an institution in any State in
4 which State or applicable local law provides for the
5 licensing of institutions of this nature, (A) is licensed
6 pursuant to such law, or (B) is approved, by the agency
7 of such State or locality responsible for licensing insti-
8 tutions of this nature, as meeting standards established
9 for such licensing, and

10 “ (10) meets such other conditions relating to the
11 health and safety of individuals who are furnished serv-
12 ices in such institution or relating to the physical facili-
13 ties thereof as the Secretary may find necessary ;

14 except that such term shall not (other than for purposes of
15 section 1805 (d) (2)) include any institution which is pri-
16 marily for the care and treatment of tuberculosis or mental
17 diseases. For purposes of section 1805 (d) (2) , such term
18 includes any institution which meets the requirements of
19 paragraph (1) of this subsection.

20 “Agreements for Transfer Between Extended Care
21 Facilities and Hospitals

22 “ (f) A hospital and an extended care facility shall be
23 considered to have a transfer agreement in effect if, by reason
24 of a written agreement between them or (in case the two
25 institutions are under common control) by reason of a writ-

1 ten undertaking by the person or body which controls them,
2 there is reasonable assurance that—

3 “(1) timely transfer of patients will be effected
4 between the hospital and the extended care facility
5 whenever such transfer is medically appropriate; and

6 “(2) there will be timely interchange of medical
7 and other information necessary or useful in the care
8 and treatment of individuals transferred between the
9 institutions, or in determining whether such individuals
10 can be adequately cared for otherwise than in either
11 of such institutions.

12 “Home Health Services

13 “(g) The term ‘home health services’ means the follow-
14 ing items and services furnished to an individual, who is
15 under the care of a physician, by a home health agency or by
16 others under arrangements with them made by such agency,
17 under a plan (for furnishing such items and services to such
18 individual) established and periodically reviewed by a
19 physician, which items and services are provided in a place
20 of residence used as such individual’s home—

21 “(1) part-time or intermittent nursing care pro-
22 vided by or under the supervision of a registered pro-
23 fessional nurse,

24 “(2) physical, occupational, or speech therapy,

25 “(3) medical social services,

1 “(4) to the extent permitted in regulations, part-
2 time or intermittent services of a home health aid,

3 “(5) medical supplies (other than drugs and bio-
4 logicals), and the use of medical appliances, while under
5 such a plan, and

6 “(6) in the case of a home health agency which
7 is affiliated or under common control with a hospital,
8 medical services provided by an intern or resident-in-
9 training of such hospital, under a teaching program of
10 such hospital approved as provided in subsection (a)
11 (4);

12 excluding, however, any item or service if it would not be
13 included under subsection (a) if furnished to an inpatient
14 of a hospital.

15 “Home Health Agency

16 “(h) The term ‘home health agency’ means an agency
17 which—

18 “(1) is a public agency, or a private nonprofit
19 organization exempt from Federal income taxation under
20 section 501 of the Internal Revenue Code of 1954,

21 “(2) is primarily engaged in providing skilled
22 nursing services or other therapeutic services,

23 “(3) has policies, established by a group of pro-
24 fessional personnel (associated with the agency), in-
25 cluding one or more physicians and one or more regis-

1 tered professional nurses, to govern the services (referred
2 to in paragraph (2)) which it provides, and provides
3 for supervision of such services by a physician or regis-
4 tered professional nurse,

5 “(4) maintains clinical records on all patients,

6 “(5) in the case of an agency in any State in
7 which State or applicable local law provides for the
8 licensing of agencies of this nature, (A) is licensed pur-
9 suant to such law, or (B) is approved, by the agency
10 of such State or locality responsible for licensing agencies
11 of this nature, as meeting standards established for such
12 licensing, and

13 “(6) meets such other conditions of participation
14 as the Secretary may find necessary in the interest of
15 the health and safety of individuals who are furnished
16 services by such agency;

17 except that such term shall not include any agency which is
18 primarily for the care and treatment of tuberculosis or mental
19 diseases.

20 “Outpatient Hospital Diagnostic Services

21 “(i) The term ‘outpatient hospital diagnostic services’
22 means diagnostic services—

23 “(1) which are furnished to an individual as an
24 outpatient by a hospital or by others under arrange-
25 ments with them made by a hospital, and

1 “(2) which are customarily furnished by such hos-
2 pital (or by others under such arrangements) to its
3 outpatients for the purpose of diagnostic study;
4 excluding, however—

5 “(3) any item or service if it would not be included
6 under subsection (a) if furnished to an inpatient of a
7 hospital; and

8 “(4) any services furnished under such arrange-
9 ments unless (A) furnished in the hospital or in other
10 facilities operated by or under the supervision of the hos-
11 pital or its organized medical staff, and (B) in the case
12 of professional services, furnished by or under the re-
13 sponsibility of members of the hospital medical staff
14 acting as such members.

15 “Drugs and Biologicals in Hospitals and Extended Care
16 Facilities

17 “(j) The term ‘drugs’ and the term ‘biologicals’, ex-
18 cept for purposes of subsection (g) (5) of this section, in-
19 clude only such drugs and biologicals, respectively, as are
20 included in the United States Pharmacopoeia, National For-
21 mulary, New Drugs, or Accepted Dental Remedies, or are
22 approved by the pharmacy and drug therapeutics committee
23 (or equivalent committee) of the medical staff of a hospital
24 having an agreement in effect under section 1810.

1 “Arrangements for Certain Services

2 “(k) The term ‘arrangements’ is limited to arrange-
3 ments under which receipt of payment by the hospital,
4 extended care facility, or home health agency (whether in
5 its own right or as agent), with respect to services for which
6 an individual is entitled to have payment made under this
7 title, discharges the liability of such individual or any other
8 person to pay for the services.

9 “Provider of Services

10 “(l) The term ‘provider of services’ means a hospital,
11 extended care facility, or home health agency.

12 “Physician

13 “(m) The term ‘physician’, when used in connection
14 with the performance of any function or action, means an
15 individual (including a physician within the meaning of
16 section 1101 (a) (7)) legally authorized to practice surgery
17 or medicine by the State in which he performs such function
18 or action.

19 “States and United States

20 “(n) The term ‘State’ and ‘United States’ shall have
21 the meaning ascribed to them in subsections (h) and (i),
22 respectively, of section 210.

1 “USE OF STATE AGENCIES AND OTHER ORGANIZATIONS TO
2 DEVELOP CONDITIONS OF PARTICIPATION FOR PROVID-
3 ERS OF SERVICE

4 “SEC. 1807. In carrying out his functions, relating to
5 determination of conditions of participation by providers
6 of services, under section 1806 (b) (8), section 1806 (e)
7 (11), or section 1806 (h) (6), the Secretary shall consult
8 with the Hospital Insurance Benefits Advisory Council estab-
9 lished by section 1812, appropriate State agencies, and
10 recognized national listing or accrediting bodies. Such con-
11 ditions prescribed under any of such sections may be varied
12 for different areas or different classes of institutions or agen-
13 cies and may, at the request of a State, provide (subject to
14 the limitation provided in section 1806 (b) (8)) higher re-
15 quirements for such State than for other States.

16 “USE OF STATE AGENCIES AND OTHER ORGANIZATIONS TO
17 DETERMINE COMPLIANCE BY PROVIDERS OF SERVICES
18 WITH CONDITIONS OF PARTICIPATION

19 “SEC. 1808. (a) The Secretary may, pursuant to agree-
20 ment, utilize the services of State health agencies or other
21 appropriate State agencies for the purposes of (1) deter-
22 mining whether an institution is a hospital or extended care

1 facility, or whether an agency is a home health agency,
2 (2) providing consultative services to institutions or agencies
3 to assist them (A) to qualify as hospitals, extended care
4 facilities, or home health agencies, (B) to establish and
5 maintain fiscal records necessary for purposes of this title,
6 and (C) to provide information which may be necessary
7 to permit determination under this title as to whether pay-
8 ments are due and the amounts thereof, or (3) providing
9 consultative services to institutions, agencies, or societies to
10 assist in the establishment of utilization review procedures
11 meeting the requirements of section 1806(c) and in eval-
12 uating their effectiveness. To the extent that the Secretary
13 finds it appropriate, an institution or agency which such a
14 State agency certified is a hospital, extended care facility,
15 or home health agency may be treated as such by the Secre-
16 tary. The Secretary shall pay any such State agency, in
17 advance or by way of reimbursement, as may be provided in
18 the agreement with it (and may make adjustments in such
19 payments on account of overpayments or underpayments
20 previously made), for the reasonable cost of performing the
21 functions specified in the first sentence of this subsection, and
22 for the fair share of the costs attributable to the planning
23 and other efforts directed toward coordination of activities in
24 carrying out its agreement and other activities related to the

1 provision of services similar to those for which payment may
2 be made under this title, or related to the facilities and per-
3 sonnel required for the provision of such services, or related
4 to improving the quality of such services.

5 “(b) (1) An institution shall be deemed to meet the
6 conditions of participation under section 1806 (b) (except
7 paragraph (6) thereof) if such institution is accredited as
8 a hospital by the Joint Commission on the Accreditation of
9 Hospitals. If such Commission, as a condition for accredi-
10 tation of a hospital, hereafter requires a utilization review
11 plan or imposes another requirement which serves sub-
12 stantially the same purpose, the Secretary is authorized to
13 find that all institutions so accredited by the Commission
14 comply also with section 1806 (b) (6) .

15 “(2) If the Secretary finds that accreditation of an
16 institution by the American Osteopathic Association or
17 any other national accreditation body, other than the Joint
18 Commission on the Accreditation of Hospitals, provides
19 reasonable assurance that any or all of the conditions of
20 section 1806 (b) , (e) or (h) , as the case may be, are met,
21 he may, to the extent he deems it appropriate, treat such
22 institution as meeting the condition or conditions with respect
23 to which he made such finding.

1 "CONDITIONS OF AND LIMITATIONS ON PAYMENT FOR
2 SERVICES

3 "Requirement of Requests and Certifications

4 "SEC. 1809. (a) Except as provided in subsection (f),
5 payment for services furnished an individual may be made
6 only to providers of services which are eligible therefor under
7 section 1810 (a) and only if—

8 "(1) written request, signed by such individual
9 except in cases in which the Secretary finds it impracti-
10 cal for the individual to do so, is filed for such payment
11 in such form, in such manner, within such time, and by
12 such person or persons as the Secretary may by regula-
13 tion prescribe;

14 "(2) a physician certifies (and recertifies, where
15 such services are furnished over a period of time, in such
16 cases, with such frequency, and accompanied by such
17 supporting material, appropriate to the case involved,
18 as may be provided in or pursuant to regulations)
19 that—

20 "(A) in the case of inpatient hospital services,
21 such services are or were required for such indi-
22 vidual's medical treatment, or that inpatient diag-
23 nostic study is or was medically required and such
24 services are or were necessary for such purpose.

25 "(B) in the case of outpatient hospital diag-

1 nostic services, such services are or where required
2 for diagnostic study;

3 “(C) in the case of posthospital extended care,
4 such care is or was required because the individual
5 needed skilled nursing care on a continuing basis
6 for any of the conditions with respect to which he
7 was receiving inpatient hospital services prior to
8 transfer to the extended care facility or for a con-
9 dition requiring such care which arose after such
10 transfer and while he was still in the facility for
11 treatment of the condition or conditions for which
12 he was receiving such inpatient hospital services;

13 “(D) in the case of home health services, such
14 services are or were required because the individual
15 is or was confined to his home and needed skilled
16 nursing care on an intermittent basis or physical or
17 speech therapy; a plan for furnishing such services
18 to such individual has been established and is peri-
19 odically reviewed by a physician; and such services
20 are or were furnished while the individual was
21 under the care of a physician;

22 “(3) with respect to inpatient hospital services fur-
23 nished such individual after the twenty-first day of a
24 continuous period of such services and with respect to
25 posthospital extended care furnished after such day of a

1 continuous period of such care as may be prescribed in
2 or pursuant to regulations, there was not in effect, at the
3 time of admission of such individual to the hospital or
4 extended care facility, as the case may be, a decision
5 under section 1810 (e) (based on a finding that timely
6 utilization review of long-stay cases is not being made in
7 such hospital or facility) ;

8 “(4) with respect to inpatient hospital services or
9 posthospital extended care furnished such individual
10 during a continuous period, a finding has not been made
11 (by the physician members of the committee or group)
12 pursuant to the system of utilization review that further
13 inpatient hospital services or further posthospital ex-
14 tended care, as the case may be, are not medically neces-
15 sary; except that, if such a finding has been made,
16 payment may be made for such services or care furnished
17 before the fourth day after the day on which the hospital
18 or extended care facility, as the case may be, received
19 notice of such finding.

20 “Determination of Cost of Services

21 “(b) The amount paid to any provider of services with
22 respect to services for which payment may be made under
23 this title shall be the reasonable cost of such services, as de-
24 termined in accordance with regulations establishing the
25 method or methods to be used, and the items to be included,

1 in determining such costs for various types or classes of insti-
2 tutions, services, and agencies. In prescribing such regula-
3 tions, the Secretary shall consider, among other things, the
4 principles generally applied by national organizations or
5 established prepayment organizations (which have devel-
6 oped such principles) in computing the amount of payment,
7 to be made by persons other than the recipients of services,
8 to providers of services on account of services furnished to
9 such recipients by such providers. Such regulations may
10 provide for determination of the costs of services on a per
11 diem, per unit, per capita, or other basis, may provide for
12 using different methods in different circumstances, and may
13 provide for the use of estimates of costs of particular items or
14 services.

15 “Amount of Payment for More Expensive Services

16 “(c) (1) In case the bed and board furnished as part of
17 inpatient hospital services or posthospital extended care is
18 in accommodations more expensive than two-, three-, or
19 four-bed accommodations, payment under this title with re-
20 spect to such services may not exceed an amount equal to the
21 reasonable cost of such services if furnished in such two-,
22 three-, or four-bed accommodations unless the more expen-
23 sive accommodations were required for medical reasons.

24 “(2) Where a provider of services which has an agree-

1 ment in effect under this title furnishes to an individual items
2 or services which are in excess of or more expensive than the
3 items or services with respect to which payment may be made
4 under this title, the Secretary shall pay to such provider of
5 services only the equivalent of the reasonable cost of the
6 items or services with respect to which payment under this
7 title may be made.

8 "Amount of Payment Where Less Expensive Services
9 Furnished

10 "(d) In case the bed and board furnished as part of
11 inpatient hospital services or posthospital extended care in
12 accommodations other than, but not more expensive than,
13 two-, three-, or four-bed accommodations and the use of such
14 other accommodations rather than two-, three-, or four-bed
15 accommodations was neither at the request of the patient
16 nor for a reason which the Secretary determines is consistent
17 with the purposes of this title, the amount of the payment
18 with respect to such services or care under this title shall be
19 the reasonable cost thereof (determined pursuant to subsec-
20 tion (b)) minus the difference between the charge custom-
21 arily made by the hospital or extended care facility for such
22 services or care in two-, three-, or four-bed accommodations
23 and the charge customarily made by it for such services or
24 care in the accommodations furnished.

1 “No Payments to Federal Providers of Services

2 “(e) No payment may be made under this title (except
3 under subsection (f) of this section) to any Federal provider
4 of services, except a provider of services which the Secretary
5 determines is providing services to the public generally as a
6 community institution or agency; and no such payment may
7 be made to any provider of services for any item or service
8 which such provider is obligated by a law of, or a contract
9 with, the United States to render at public expense.

10 “Payments for Emergency Inpatient Hospital Services

11 “(f) Payments shall also be made to any hospital for
12 inpatient hospital services or outpatient hospital diagnostic
13 services furnished, by the hospital or under arrangements
14 (as defined in section 1806(k)) with it, to an individual
15 entitled to hospital insurance benefits under this title even
16 though such hospital does not have an agreement in effect
17 under this title if (A) such services were emergency serv-
18 ices and (B) the Secretary would be required to make such
19 payment if the hospital had such an agreement in effect and
20 otherwise met the conditions of payment hereunder. Such
21 payment shall be made only in amounts determined as pro-
22 vided in subsection (b) and then only if such hospital agrees
23 to comply, with respect to the emergency services provided,
24 with the provisions of section 1810(a).

1 "Payment for Services Prior to Notification of Non-
2 eligibility

3 "(g) Notwithstanding that an individual is not entitled
4 to have payment made under this title for inpatient hospital
5 services, posthospital extended care, home health services,
6 or outpatient hospital diagnostic services furnished by any
7 provider of services, payment shall be made to such provider
8 of services (unless such provider elects not to receive such
9 payment or, if payment has already been made, refunds
10 such payment within the time specified by the Secretary)
11 for such services which are furnished to the individual prior
12 to notification to such provider from the Secretary of his
13 lack of entitlement, if such payments are not precluded under
14 this title (otherwise than under section 1804 or 1805) and
15 if such provider of services complies with the requirements
16 of and regulations under this title with respect to such pay-
17 ments, has acted in good faith and without knowledge of
18 such lack of entitlement, and has acted reasonably in assum-
19 ing entitlement existed.

20 "AGREEMENTS WITH PROVIDERS OF SERVICES

21 "SEC. 1810. (a) (1) Any provider of services shall be
22 eligible for payments under this title if it files with the
23 Secretary an agreement—

24 "(A) not to charge, except as provided in para-
25 graph (2), any individual or any other person for

1 items or services for which such individual is entitled
2 to have payment made under this title (or for which
3 he would be so entitled if such provider of services had
4 complied with the procedural and other requirements
5 under or pursuant to this title or for which such provider
6 is paid pursuant to the provisions of section 1809 (g)),
7 and

8 “(B) to make adequate provision for return (or
9 other disposition, in accordance with regulations) of
10 any moneys incorrectly collected from such individual
11 or other person.

12 “(2) (A) A provider of services may charge such in-
13 dividual or other person the amount of any deduction im-
14 posed pursuant to subsection (a) of section 1805 with
15 respect to such items and services (not in excess of the
16 amount customarily charged for such items and services by
17 such provider).

18 “(B) Where a provider of services has furnished, at
19 the request of such individual, items or services which are
20 in excess of or more expensive than the items or services
21 with respect to which payment may be made under this title,
22 such provider of services may also charge such individual or
23 other person for such more expensive items or services to the
24 extent that the amount customarily charged by it for the
25 items or services furnished at such request exceeds the

1 amount customarily charged by it for the items or services
2 with respect to which payment may be made under this
3 title.

4 “(b) An agreement with the Secretary under this sec-
5 tion may be terminated—

6 “(1) by the provider of services at such time and
7 upon such notice to the Secretary and the public as may
8 be provided in regulations, except that notice of more
9 than 6 months shall not be required, or

10 “(2) by the Secretary at such time and upon such
11 notice to the provider of services and the public as may
12 be specified in regulations, but only after the Secretary
13 has determined, and has given such provider notification
14 thereof, (A) that such provider of services is not com-
15 plying substantially with the provisions of such agree-
16 ment, or with the provisions of this title and regu-
17 lations thereunder, or (B) that such provider of services
18 no longer substantially meets the applicable provisions
19 of section 1806, or (C) that such provider of services
20 has failed to provide such information as the Secretary
21 finds necessary to determine whether payments are or
22 were due under this title and the amounts thereof, or
23 has refused to permit such examination of its fiscal and
24 other records by or on behalf of the Secretary as may be
25 necessary to verify such information.

1 Any termination shall be applicable—

2 “(3) in the case of inpatient hospital services or
3 posthospital extended care with respect to such services
4 or care furnished to any individual who is admitted to
5 the hospital or extended care facility furnishing such
6 services or care on or after the effective date of such
7 termination,

8 “(4) (A) with respect to home health services fur-
9 nished to an individual under a plan therefor established
10 on or after the effective date of such termination, or (B)
11 if a plan is established before such effective date, with
12 respect to such services furnished to such individual after
13 the calendar year in which such termination is effective,
14 and

15 “(5) with respect to outpatient hospital diagnostic
16 services furnished on or after the effective date of such
17 termination.

18 “(c) Nothing in this title shall preclude any provider
19 of services or any group or groups of providers of services
20 from being represented by an individual, association, or orga-
21 nization authorized by such provider or providers of services
22 to act on its or their behalf in negotiating with respect to its
23 or their participation under this title and the terms, methods,
24 and amounts of payments for services to be provided there-
25 under.

1 “(d) Where an agreement filed under this title by a
2 provider or services has been terminated by the Secretary,
3 such provider may not file another agreement under this
4 title unless the Secretary finds that the reason for the termi-
5 nation has been removed and that there is reasonable assur-
6 ance that it will not recur.

7 “(e) If the Secretary finds that there is a substantial
8 failure to make timely review in accordance with section
9 1806 (c) of long-stay cases in a hospital or extended-care
10 facility, he may, in lieu of terminating his agreement with
11 such hospital or facility, decide that, with respect to any
12 individual admitted to such hospital or facility after a date
13 specified by him, no payment shall be made for inpatient
14 hospital services after the twenty-first day of a continuous
15 period of such services or for post-hospital extended care
16 after such day of a continuous period of such care as is pre-
17 scribed in or pursuant to regulations, as the case may be.
18 Such decision may be made only after such notice to the hos-
19 pital, or (in the case of an extended care facility) to the facil-
20 ity and the hospital or hospitals with which it has a transfer
21 agreement, and to the public as may be prescribed by regu-
22 lations, and its effectiveness shall terminate when the Secre-
23 tary finds that the reason therefor has been removed and
24 that there is reasonable assurance that it will not recur.

1 “PAYMENT TO PROVIDERS OF SERVICES

2 “SEC. 1811. The Secretary shall periodically determine
3 the amount which should be paid to each provider of services
4 under this title with respect to the services furnished by it,
5 and the provider of services shall be paid, at such time or
6 times as the Secretary believes appropriate (but not less
7 often than monthly) and prior to audit or settlement by the
8 General Accounting Office, from the Federal Hospital Insur-
9 ance Trust Fund the amounts so determined, with necessary
10 adjustments on account of previously made overpayments or
11 underpayments.

12 “HOSPITAL INSURANCE BENEFITS ADVISORY COUNCIL

13 “SEC. 1812. For the purpose of advising the Secretary
14 on matters of general policy in the administration of this title
15 and in the formulation of regulations under this title, there is
16 hereby created a Hospital Insurance Benefits Advisory Coun-
17 cil which shall consist of sixteen persons, not otherwise in
18 the employ of the United States, appointed by the Secretary
19 without regard to the civil service laws. The Secretary shall
20 from time to time appoint one of the members to serve as
21 Chairman. The appointed members shall include persons
22 who are outstanding in fields related to hospital and health
23 activities. Each appointed member shall hold office for a
24 term of four years, except that any member appointed to

1 fill a vacancy prior to the expiration of the term for which
2 his predecessor was appointed shall be appointed for the
3 remainder of such term, and except that the terms of office
4 of the members first taking office shall expire, as designated
5 by the Secretary at the time of appointment, four at the end
6 of the first year, four at the end of the second year, four at
7 the end of the third year, and four at the end of the fourth
8 year after the date of appointment. An appointed member
9 shall not be eligible to serve continuously for more than 2
10 terms. The Secretary may, at the request of the Council
11 or otherwise, appoint such special advisory or technical com-
12 mittees as may be useful in carrying out this title. Appointed
13 members of the Advisory Council and members of any such
14 advisory or technical committee, while attending meetings
15 or conferences thereof or otherwise serving on business of
16 the Advisory Council or of such committee, shall be entitled
17 to receive compensation at rates fixed by the Secretary, but
18 not exceeding \$100 per day, including travel time, and while
19 so serving away from their homes or regular places of busi-
20 ness they may be allowed travel expenses, including per
21 diem in lieu of subsistence, as authorized by section 5 of the
22 Administrative Expenses Act of 1946 (5 U.S.C. 73b-2)
23 for persons in the Government service employed intermit-
24 tently. The Advisory Council shall meet as frequently as
25 the Secretary deems necessary. Upon request of four or

1 more members, it shall be the duty of the Secretary to call
2 a meeting of the Advisory Council.

3 "REVIEW OF DETERMINATIONS

4 "SEC. 1813. Any individual dissatisfied with any de-
5 termination made by the Secretary that he is not entitled to
6 insurance benefits under this title or that payment has already
7 been made for the maximum number of days of inpatient
8 hospital services or posthospital extended care in a benefit
9 period provided under section 1805 (c), or for home health
10 services during the maximum number of visits in a calendar
11 year provided under section 1805 (c), shall be entitled to
12 a hearing thereon by the Secretary to the same extent as is
13 provided in section 205 (b) with respect to decisions of
14 the Secretary, and to judicial review of the Secretary's final
15 decision after such hearing as is provided in section 205 (g).

16 "OVERPAYMENTS TO INDIVIDUALS

17 "SEC. 1814. (a) Any payment under this title to any
18 provider of services with respect to inpatient hospital serv-
19 ices, posthospital extended care, home health services, or
20 outpatient hospital diagnostic services, furnished any indi-
21 vidual shall be regarded as a payment to such individual.

22 "(b) Where—

23 "(1) more than the correct amount is paid under
24 this title to a provider of services for services or care
25 furnished an individual and the Secretary determines

1 that, within such period as he may specify, the excess
2 over the correct amount cannot be recouped from such
3 provider of services, or

4 “(2) any payment has been made under section
5 1809 (g) to a provider of services for services or care
6 furnished an individual,

7 proper adjustments shall be made, under regulations pre-
8 scribed by the Secretary, by decreasing subsequent pay-
9 ments—

10 “(3) to which such individual is entitled under
11 title II, or

12 “(4) if such individual dies before such adjustment
13 has been completed, to which any other individual is
14 entitled under title II with respect to the wages and
15 self-employment income which were the basis of bene-
16 fits of such deceased individual under such title.

17 “(c) There shall be no adjustment as provided in sub-
18 section (b) (nor shall there be recovery) in any case where
19 the incorrect payment has been made (including payments
20 under section 1809 (g)) with respect to an individual who
21 is without fault and where such adjustment (or recovery)
22 would defeat the purposes of title II or would be against
23 equity and good conscience.

24 “(d) No certifying or disbursing officer shall be held
25 liable for any amount certified or paid by him to any pro-

1 vider of services where the adjustment or recovery of such
2 amount is waived under subsection (c) or where adjustment
3 under subsection (b) is not completed prior to the death of
4 all persons against whose benefits such adjustment is author-
5 ized.

6 "USE OF PRIVATE ORGANIZATIONS TO FACILITATE PAY-
7 MENT TO PROVIDERS OF SERVICES

8 "SEC. 1815. (a) The Secretary is authorized to enter
9 into an agreement with any organization, which has been
10 designated by any group of providers of services, or by an
11 association of such providers on behalf of its members, to
12 receive payments under section 1811 on behalf of such pro-
13 viders, providing for the determination by such organization
14 (subject to such review by the Secretary as may be pro-
15 vided for by the agreement) of the amount of payments
16 required pursuant to this title to be made to such providers,
17 and for making such payments. The Secretary shall not
18 enter into an agreement with any organization under this
19 section unless he finds it consistent with effective and efficient
20 administration of this title.

21 "(b) To the extent that the Secretary finds that per-
22 formance of any of the following functions by an organiza-
23 tion with which he has entered into an agreement under
24 subsection (a) will be advantageous and will promote the
25 efficient administration of this title, he may also include in

1 the agreement provision that the organization shall (with
2 respect to providers of services which are to receive pay-
3 ments through the organization) —

4 “(1) serve as a center for, and communicate to
5 provides, any information or instructions furnished to
6 it by the Secretary, and serve as a channel of communi-
7 cation from providers to the Secretary;

8 “(2) make such audits of the records of providers
9 as may be necessary to insure that proper payments
10 are made under this title;

11 “(3) assist in the application of safeguards against
12 unnecessary utilization of services or care furnished by
13 providers to individuals entitled to have payment made
14 under this title with respect to services or care furnished
15 them;

16 “(4) perform such other duties as are necessary to
17 carry out the functions specified in subsection (a) and
18 this subsection.

19 “(c) An agreement with any organization under this
20 section may contain such terms and conditions as the Sec-
21 retary finds necessary or appropriate, and may provide for
22 advances of funds to the organization for the making of pay-
23 ments by it under subsection (a) and shall provide for
24 payment of the reasonable cost of administration of the
25 organization as determined by the Secretary to be necessary

1 and proper for carrying out the functions covered by the
2 agreement.

3 “(d) If the designation of an organization as provided
4 in this section is made by an association of providers of serv-
5 ices, it shall not be binding on members of the association
6 which notify the Secretary of their election to that effect.
7 Any provider may, upon such notice as may be specified in
8 the agreement with an organization, withdraw his designa-
9 tion to receive payments through such organization and any
10 provider who has not designated an organization may elect
11 to receive payments from an organization which has entered
12 into agreement with the Secretary under this section, if the
13 Secretary and the organization agree to it.

14 “(e) An agreement with the Secretary under this sec-
15 tion may be terminated—

16 “(1) by the organization entering into such agree-
17 ment at such time and upon such notice to the Secretary,
18 to the public, and to the providers as may be provided in
19 regulations, or

20 “(2) by the Secretary at such time and upon such
21 notice to the organization, and to the providers which
22 have designated it for purposes of this section, as may
23 be provided in regulations, but only if he finds, after
24 reasonable notice and opportunity for hearing to the
25 organization, that (A) the organization has failed sub-

1 stantially to carry out the agreement, or (B) the con-
2 tinuation of some or all of the functions provided for in
3 the agreement with the organization is disadvantageous
4 or is inconsistent with efficient administration of this
5 title.

6 “(f) An agreement with an organization under this
7 section may require any of its officers or employees certify-
8 ing payments or disbursing funds pursuant to the agreement,
9 or otherwise participating in carrying out the agreement,
10 to give surety bond to the United States in such amount
11 as the Secretary may deem appropriate, and may provide
12 for the payment of the charges for such bond from the
13 Federal Hospital Insurance Trust Fund.

14 “(g) (1) No individual designated pursuant to an agree-
15 ment under this section as a certifying officer shall, in the
16 absence of gross negligence or intent to defraud the United
17 States, be liable with respect to any payments certified by
18 him under this section.

19 “(2) No disbursing officer shall, in the absence of gross
20 negligence or intent to defraud the United States, be liable
21 with respect to any payment by him under this section if it
22 was based upon a voucher signed by a certifying officer des-
23 ignated as provided in paragraph (1) of this subsection.

24 REGULATIONS

25 “SEC. 1816. When used in this title, the term ‘regula-

1 tions' means, unless the context otherwise requires, regula-
2 tions prescribed by the Secretary.

3 "APPLICATION OF CERTAIN PROVISIONS OF TITLE II

4 "SEC. 1817. The provisions of sections 206, 208, and
5 216 (j), and of subsections (a), (d), (e), (f), (h), (i),
6 and (l) of section 205 shall also apply with respect to this
7 title to the same extent as they are applicable with respect
8 to title II.

9 "DESIGNATION OF ORGANIZATION OR PUBLICATION BY NAME

10 "SEC. 1818. Designation in this title, by name, of any
11 nongovernmental organization or publication shall not be
12 affected by change of name of such organization or pub-
13 lication, and shall apply to any successor organization or
14 publication which the Secretary finds serves the purpose
15 for which such designation is made."

16 FEDERAL HOSPITAL INSURANCE TRUST FUND

17 SEC. 103. (a) Section 201 of the Social Security Act
18 is amended by redesignating subsections (c), (d), (e), (f),
19 (g), and (h) as subsections (d), (e), (f), (g), (h), and
20 (i), respectively, and by adding after subsection (b) the
21 following new subsection:

22 "(c) There is hereby created on the books of the Treas-
23 ury of the United States a trust fund to be known as the
24 'Federal Hospital Insurance Trust Fund'. The Federal

1 Hospital Insurance Trust Fund shall consist of such amounts
2 as may be appropriated to, or deposited in, such fund as
3 provided in this section. There is hereby appropriated to
4 the Federal Hospital Insurance Trust Fund for the fiscal
5 year ending June 30, 1966, and for each fiscal year there-
6 after, out of any moneys in the Treasury not otherwise ap-
7 propriated, amounts equivalent to 100 per centum of—

8 “(1) (A) 0.6 of 1 per centum of the wages (as
9 defined in section 3121 of the Internal Revenue Code
10 of 1954) paid after December 31, 1965, and prior to
11 January 1, 1967, and reported to the Secretary of the
12 Treasury or his delegate pursuant to subtitle F of the
13 Internal Revenue Code of 1954, which wages shall be
14 certified by the Secretary of Health, Education, and
15 Welfare on the basis of the records of wages established
16 and maintained by such Secretary in accordance with
17 such reports; (B) 0.76 of 1 per centum of the wages
18 (as so defined) paid after December 31, 1966, and
19 prior to January 1, 1969, and so reported, which shall
20 be so certified by the Secretary of Health, Education,
21 and Welfare; and (C) 0.9 of 1 per centum of the
22 wages (as so defined) paid after December 31, 1968,
23 and so reported, which shall be so certified by the
24 Secretary of Health, Education, and Welfare; and

25 “(2) (A) 0.45 of 1 per centum of the amount of

1 self-employment income (as defined in section 1402 of
2 the Internal Revenue Code of 1954) reported to the
3 Secretary of the Treasury or his delegate on tax returns
4 under subtitle F of the Internal Revenue Code of 1954
5 for any taxable year beginning after December 31,
6 1965, and prior to January 1, 1967, which self-employ-
7 ment income shall be certified by the Secretary of
8 Health, Education, and Welfare on the basis of the records
9 of self-employment income established and maintained
10 by the Secretary of Health, Education, and Welfare in
11 accordance with such returns; (B) 0.57 of 1 per centum
12 of the self-employment income (as so defined) reported
13 to the Secretary of the Treasury or his delegate on tax
14 returns under such subtitle F for any taxable year begin-
15 ning after December 31, 1966, and prior to January 1,
16 1969, which shall be so certified by the Secretary of
17 Health, Education, and Welfare; and (C) 0.675 of 1
18 per centum of the self-employment income (as so de-
19 fined) reported to the Secretary of the Treasury or his
20 delegate on tax returns under such subtitle F for any
21 taxable year beginning after December 31, 1968, which
22 shall be so certified by the Secretary of Health, Edu-
23 cation, and Welfare.”

24 (b) (1) The heading of section 201 of the Social Se-
25 curity Act is amended to read: “FEDERAL OLD-AGE AND

1 SURVIVORS INSURANCE TRUST FUND, FEDERAL DISABILITY
2 INSURANCE TRUST FUND, AND FEDERAL HOSPITAL INSUR-
3 ANCE TRUST FUND”.

4 (2) Subsection (a) of section 201 of such Act is
5 amended by inserting “and the amounts specified in clause
6 (1) of subsection (c) of this section” immediately before the
7 semicolon in clause (3) thereof, by inserting “and the
8 amount specified in clause (2) of subsection (c) of this
9 section” immediately before the period in clause (4) thereof,
10 and by striking out the last sentence and inserting in lieu
11 thereof: “The amounts appropriated by clauses (3) and (4)
12 shall be transferred from time to time from the general fund
13 in the Treasury to the Federal Old-Age and Survivors Insur-
14 ance Trust Fund, the amounts appropriated by clauses (1)
15 and (2) of subsection (b) shall be transferred from time to
16 time from the general fund in the Treasury to the Federal
17 Disability Insurance Trust Fund, and the amounts appro-
18 priated by clauses (1) and (2) of subsection (c) shall be
19 transferred from time to time from the general fund in the
20 Treasury to the Federal Hospital Insurance Trust Fund,
21 such amounts to be determined on the basis of estimates by
22 the Secretary of the Treasury of the taxes, specified in clauses
23 (3) and (4) of this subsection, paid to or deposited into
24 the Treasury; and proper adjustment shall be made in
25 amounts subsequently transferred to the extent prior esti-

1 mates were in excess of or were less than the taxes specified
2 in such clauses (3) and (4) of this subsection.”

3 (c) The first sentence of the subsection of such section
4 201 herein redesignated as subsection (d) is amended by
5 striking out “and the Federal Disability Insurance Trust
6 Fund” and inserting in lieu thereof “, the Federal Disability
7 Insurance Trust Fund, and the Federal Hospital Insurance
8 Trust Fund”.

9 (d) The subsection of such section herein redesignated
10 as subsection (g) is amended by striking out “and the
11 Federal Disability Insurance Trust Fund” each time that it
12 appears and inserting in lieu thereof “, the Federal Disability
13 Insurance Trust Fund, and the Federal Hospital Insurance
14 Trust Fund”.

15 (e) Paragraph (1) of the subsection of such section
16 201 herein redesignated as subsection (h) is amended—

17 (1) by striking out “titles II and VIII” and “this
18 title” wherever they appear and inserting in lieu thereof
19 “this title and title XVIII”:

20 (2) by striking out “either or both” in the third
21 sentence of such paragraph (1) and inserting in lieu
22 thereof “any”; and

23 (3) by striking out “the other” each time that it
24 appears in the last two sentences of such paragraph (1)
25 and inserting in lieu thereof “another”.

1 (f) The last sentence of paragraph (2) of such sub-
2 section is amended by striking out “and the Federal Disabil-
3 ity Insurance Trust Fund” and inserting in lieu thereof “,
4 Federal Disability Insurance Trust Fund, and the Federal
5 Hospital Insurance Trust Fund” and by striking out “and
6 clause (1) of subsection (b)” and inserting in lieu thereof
7 “, clause (1) of subsection (b), and clause (1) of sub-
8 section (c)”.

9 (g) The subsection of such section herein redesignated
10 as subsection (i) is amended by adding at the end thereof
11 the following new sentence: “Payments required to be made
12 under title XVIII shall be made only from the Federal Hos-
13 pital Insurance Trust Fund.”

14 (h) Section 218 (h) (1) of such Act is amended by
15 striking out “and (b) (1)” and inserting in lieu thereof
16 “, (b) (1), and (c) (1)”.

17 (i) Section 221 (e) of such Act is amended—

18 (1) by striking out “Trust Funds” wherever it
19 appears and inserting in lieu thereof “Trust Funds (ex-
20 cept the Federal Hospital Insurance Trust Fund)”;

21 (2) by striking out “subsection (g) of section
22 201” and inserting in lieu thereof “subsection (h) of
23 section 201”; and

24 (3) by inserting “under this title” before the pe-
25 riod at the end thereof.

1 (j) Section 221 (f) of such Act is amended by striking
2 out "Trust Funds" and inserting in lieu thereof "Federal
3 Old-Age and Survivors Insurance Trust Fund and the Fed-
4 eral Disability Insurance Trust Fund".

5 (k) Section 1106 (b) of such Act is amended by strik-
6 ing out "and the Federal Disability Insurance Trust Fund"
7 and inserting in lieu thereof " the Federal Disability In-
8 surance Trust Fund, and the Federal Hospital Insurance
9 Trust Fund".

10 TRANSITIONAL PROVISION ON ELIGIBILITY OF PRESENTLY
11 UNINSURED INDIVIDUALS FOR HOSPITAL INSURANCE
12 BENEFITS

13 SEC. 104. (a) Anyone who—

14 (1) has attained the age of 65,
15 (2) (A) attained such age before 1968, or (B)
16 has not less than 3 quarters of coverage (as defined in
17 title II of the Social Security Act or section 5 (1) of the
18 Railroad Retirement Act of 1937), whenever acquired,
19 for each calendar year elapsing after 1965 and before
20 the year in which he attained such age,

21 (3) is not, and upon filing application therefor
22 would not be, entitled to monthly insurance benefits un-
23 der section 202 of the Social Security Act and does not
24 meet the requirements set forth in subparagraph (B) of

1 section 21 (b) of the Railroad Retirement Act of 1937,
2 and

3 (4) has filed an application under this section at
4 such time, in such manner, and in accordance with such
5 other requirements as may be prescribed in regulations
6 of the Secretary,

7 shall (subject to the limitations in this section) be deemed,
8 solely for purposes of section 1804 of the Social Security Act,
9 to be entitled to monthly insurance benefits under such sec-
10 tion 202 for each month, beginning with the first month in
11 which he meets the requirements of this subsection and end-
12 ing with the month in which he dies, or if earlier, the month
13 before the month in which he becomes entitled to monthly
14 insurance benefits under such section 202 or meets the re-
15 quirements set forth in subparagraph (B) of section 21 (b)
16 of the Railroad Retirement Act of 1937.

17 (b) The provisions of subsection (a) (1) shall not ap-
18 ply to any individual unless he is—

19 (A) a resident of the United States (as defined in
20 section 210 of the Social Security Act), and

21 (B) a citizen of the United States or an individual
22 who has resided in the United States (as so defined)
23 continuously for not less than 10 years;

24 and shall not apply to any individual who—

1 (C) is a member of any organization referred to
2 in section 210 (a) (17) of the Social Security Act,

3 (D) has been convicted of any offense listed in sec-
4 tion 202 (u) of the Social Security Act,

5 (E) is covered by an enrollment in a health bene-
6 fits plan under the Federal Employees Health Benefits
7 Act of 1959 or who could have been so covered had he
8 or some other individual availed himself of opportunities
9 to enroll in a health benefits plan under such Act and
10 (where the Federal employee has retired) to continue
11 such enrollment after retirement, or (B) is or was
12 eligible to be covered by an enrollment in a health
13 benefits plan under the Retired Federal Employees
14 Health Benefits Act.

15 (d) There are authorized to be appropriated to the
16 Federal Hospital Insurance Trust Fund (established by
17 section 201 of the Social Security Act) from time to time
18 such sums as the Secretary deems necessary, on account of—

19 (1) payments made from such Trust Fund under
20 title XVIII of such Act with respect to individuals who
21 are entitled to insurance benefits under such title solely
22 by reason of this section,

23 (2) the additional administrative expenses result-
24 ing therefrom, and

1 (3) any loss in interest to such Trust Fund result-
2 ing from the payment of such amounts,
3 in order to place such Trust Fund in the same position in
4 which it would have been if the preceding subsections of this
5 section had not been enacted.

6 SUSPENSION IN CASE OF ALIENS

7 SEC. 105. Subsection (t) of section 202 of the Social
8 Security Act is amended by adding at the end thereof the
9 following new paragraph:

10 “(9) No payments shall be made under title XVIII
11 with respect to services or care furnished to an individual
12 in any month for which the prohibition in paragraph (1)
13 against payment of benefits to him is applicable (or
14 would be if he were entitled to any such benefits).”

15 PERSONS CONVICTED OF SUBVERSIVE ACTIVITIES

16 SEC. 106. Subsection (u) of section 202 of the Social
17 Security Act is amended by striking out “and” before the
18 phrase “in determining the amount of any such benefit pay-
19 able to such individual for any such month,” and inserting
20 after such phrase “and in determining whether such indi-
21 vidual is entitled to insurance benefits under title XVIII
22 for any such month,”.

ADVISORY COUNCIL ON SOCIAL SECURITY

1
2 SEC. 107. (a) Title VII of the Social Security Act is
3 amended by adding at the end thereof the following new
4 section:

“ADVISORY COUNCIL ON SOCIAL SECURITY

5
6 “SEC. 706. (a) During 1968 and every fifth year there-
7 after, the Secretary shall appoint an Advisory Council on
8 Social Security for the purpose of reviewing the status of
9 the Federal Old-Age and Survivors Insurance Trust Fund,
10 the Federal Disability Insurance Trust Fund, and the Fed-
11 eral Hospital Insurance Trust Fund in relation to the long-
12 term commitments of the old-age, survivors, and disability
13 insurance program and the program established under title
14 XVIII of the Social Security Act, and of reviewing the scope
15 of coverage and the adequacy of benefits under, and all other
16 aspects of, these programs.

17 “(b) Each such Council shall consist of the Commis-
18 sioner of Social Security, as Chairman, and twelve other
19 persons, appointed by the Secretary without regard to the
20 civil service laws, who shall, to the extent possible, repre-
21 sent employers and employees in equal numbers, and self-
22 employed persons and the public.

1 “(c) (1) Any Council appointed hereunder is author-
2 ized to engage such technical assistance, including actuarial
3 services, as may be required to carry out its functions, and
4 the Secretary shall, in addition, make available to such
5 Council such secretarial, clerical, and other assistance and
6 such actuarial and other pertinent data prepared by the
7 Department of Health, Education, and Welfare as it may
8 require to carry out such functions.

9 “(2) Members of any such Council, while serving on
10 business of the Council (inclusive of travel time), shall re-
11 ceive compensation at rates fixed by the Secretary, but not
12 exceeding \$100 per day and, while so serving away from
13 their homes or regular places of business, they may be
14 allowed travel expenses, including per diem in lieu of sub-
15 sistence, as authorized by section 5 of the Administrative
16 Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the
17 Government employed intermittently.

18 “(d) Each such Council shall make a report of its find-
19 ings and recommendations (including recommendations for
20 changes in the tax rates in sections 1401, 3101, and 3111
21 of the Internal Revenue Code of 1954) to the Secretary
22 of the Board of Trustees of the Trust Funds referred to in

1 subsection (a), such report to be submitted not later than
2 January 1 of the second year after the year in which it is
3 appointed, after which date such Council shall cease to exist,
4 and such report and recommendations shall be included in
5 the annual report of the Board of Trustees to be submitted
6 to the Congress not later than the March 1 following such
7 January 1.”

8 (b) Effective January 1, 1966, section 116 (e) of the
9 Social Security Amendments of 1956 is repealed.

10 TECHNICAL AMENDMENTS TO INTERNAL REVENUE CODE

11 SEC. 108. (a) Section 3121 (1) (6) of the Internal
12 Revenue Code of 1954 is amended by striking out “and the
13 Federal Disability Insurance Trust Fund,” and inserting in
14 lieu thereof, “the Federal Disability Insurance Trust Fund,
15 and the Federal Hospital Insurance Trust Fund,”.

16 (b) Section 6051 (c) of such Code is amended by
17 adding at the end thereof the following new sentence: “The
18 Secretary or his delegate may require that the statements
19 required under this section shall also show the proportion
20 of the total amount withheld as tax under section 3101 which
21 is for financing the cost of hospital and related insurance
22 benefits under title XVIII of the Social Security Act.”

1 PART B—RAILROAD RETIREMENT AMENDMENTS—HOS-
2 PITAL INSURANCE BENEFITS FOR THE AGED UNDER
3 THE RAILROAD RETIREMENT ACT
4 HOSPITAL INSURANCE BENEFITS FOR THE AGED

5 SEC. 121. (a) The Railroad Retirement Act of 1937
6 is amended by adding after section 20 of such Act the fol-
7 lowing new section:

8 “Hospital Insurance Benefits for the Aged
9 “SEC. 21. (a) For the purposes of this section, and sub-
10 ject to the conditions hereinafter provided, the Board shall
11 have the same authority to determine the rights of indi-
12 viduals described in subsection (b) of this section to have
13 payments made on their behalf for insurance benefits con-
14 sisting of inpatient hospital services, posthospital extended
15 care, home health services, and outpatient hospital diagnostic
16 services within the meaning of title XVIII of the Social
17 Security Act as the Secretary of Health, Education, and
18 Welfare has under such title XVIII with respect to indi-
19 viduals to whom such title applies. The rights of individuals
20 described in subsection (b) of this section to have payment
21 made on their behalf for the services and care referred to in
22 the next preceding sentence shall be the same as those of
23 individuals to whom title XVIII of the Social Security Act
24 applies and this section shall be administered by the Board
25 as if the provisions of such title XVIII were applicable,

1 references to the Secretary of Health, Education, and Wel-
2 fare were to the Board, references to the Federal Hos-
3 pital Insurance Trust Fund were to the Railroad Retire-
4 ment Account, references to the United States or a State in-
5 cluded Canada or a subdivision thereof, and the provisions
6 of sections 1807 and 1812 of such title XVIII were not in-
7 cluded in such title. For purposes of section 11, a de-
8 termination with respect to the rights of an individual under
9 this section shall, except in the case of a provider of services,
10 be considered to be a decision with respect to an annuity.

11 “(b) Except as otherwise provided in this section, every
12 individual who—

13 “(A) has attained age 65, and

14 “(B) (i) is entitled to an annuity, or (ii) would
15 be entitled to an annuity had he ceased compensated
16 service and, in the case of a spouse, had such spouse’s
17 husband or wife ceased compensated service, or (iii)
18 had been awarded a pension under section 6, or (iv)
19 bears a relationship to an employee which, by reason
20 of section 3 (e), has been, or would be, taken into ac-
21 count in calculating the amount of an annuity of such
22 employee or his survivor,

23 shall be entitled to have payment made for the services and
24 care referred to in subsection (a), and in accordance with
25 the provisions of such subsection. The payments for serv-

1 ices and care herein provided for shall be made from the
2 Railroad Retirement Account (in accordance with, and sub-
3 ject to, the conditions applicable under section 10 (b) in mak-
4 ing payment of other benefits) to the hospital, extended care
5 facility, or home health agency providing such services or
6 care, including such services or care provided in Canada to
7 individuals to whom this subsection applies but only to the
8 extent that the amount of payments for services or care
9 otherwise hereunder provided for an individual exceeds the
10 amount payable for like services or care provided pursuant
11 to the law in effect in the place in Canada where such serv-
12 ices or care are furnished. For the purposes of this section,
13 an individual shall be entitled to have payment made for
14 the services and care referred to in subsection (a) provided
15 during the month in which he died if he would be entitled
16 to have payment for services and care provided during such
17 month had he died in the next month.

18 “(c) No individual shall be entitled to have payment
19 made for the same services or care, which are provided for
20 in this section, under both this section and title XVIII of
21 the Social Security Act, and no individual shall be entitled
22 to have payment made under both this section and such title
23 XVIII for more than sixty days of inpatient hospital serv-
24 ices or more than sixty days of post-hospital extended care
25 during any benefit period, or more than one hundred and

1 twenty visits in calendar year 1966 or two hundred and
2 forty visits in any calendar year thereafter in which home
3 health services are furnished. In any case in which an in-
4 dividual would, but for the preceding sentence, be entitled
5 to have payment for such services or care made under both
6 this section and such title XVIII, payment for such services
7 or care to which such individual is entitled shall be made
8 in accordance with the procedures established pursuant to
9 the next succeeding sentence, upon certification by the
10 Board or by the Secretary of Health, Education, and Wel-
11 fare. It shall be the duty of the Board and such Secretary
12 with respect to such cases jointly to establish procedures
13 designed to minimize duplications of requests for payment
14 for services or care, and of determinations, and to assign
15 administrative functions between them so as to promote the
16 greatest facility, efficiency, and consistency of administra-
17 tion of this section and title XVIII of the Social Security
18 Act; and, subject to the provisions of this subsection to assure
19 that the rights of individuals under this section or title
20 XVIII of the Social Security Act shall not be impaired or
21 diminished by reason of the administration of this section
22 and title XVIII of the Social Security Act. The procedures
23 so established may be included in regulations issued by the
24 Board and by the Secretary of Health, Education, and Wel-

1 fare to implement this section and such title XVIII,
2 respectively.

3 “(d) Any agreement entered into by the Secretary
4 of Health, Education, and Welfare pursuant to title XVIII
5 of the Social Security Act shall be entered into on behalf
6 of both such Secretary and the Board. The preceding sen-
7 tence shall not be construed to limit the authority of the
8 Board to enter on its own behalf into any such agreement
9 relating to services provided in Canada or in any facility
10 devoted primarily to railroad employees.

11 “(e) A request for payment for services or care filed
12 under this section shall be deemed to be a request for pay-
13 ment for services or care filed as of the same time under
14 title XVIII of the Social Security Act, and a request for
15 payment for services or care filed under such title shall be
16 deemed to be a request for payment for services or care filed
17 as of the same time under this section.

18 “(f) The Board and the Secretary of Health, Educa-
19 tion, and Welfare shall furnish each other with such infor-
20 mation, records, and documents as may be considered neces-
21 sary to the administration of this section or title XVIII of
22 the Social Security Act.

23 “(g) Any erroneous payment to any provider of serv-
24 ices with respect to inpatient hospital services, posthospital
25 extended care, home health services, or outpatient diagnostic

1 services, furnished any individual shall be governed by the
2 provisions of section 1814 of the Social Security Act and
3 treated as if it were an erroneous payment of an annuity
4 or pension.

5 “(h) There are authorized to be appropriated to the
6 Railroad Retirement Account from time to time such sums
7 as the Board finds sufficient to cover—

8 “(1) the costs of payments made from such account
9 under this section,

10 “(2) the additional administrative expenses result-
11 ing from such payments, and

12 “(3) any loss of interest to such account resulting
13 from such payments,

14 in cases where such payments are not includible in determi-
15 nations under section 5(k)(2)(A)(iii) of this Act, pro-
16 vided such payments could have been made as a result of
17 section 104 of the Hospital Insurance Act of 1965 but for
18 eligibility under subparagraph (B) of subsection (b) of this
19 section.”

20 Financial Interchange Between Railroad Retirement Account
21 and Federal Hospital Insurance Trust Fund

22 (b) (1) Section 5(k)(2) of such Act is amended—

23 (A) by striking out subparagraphs (A) and (B)
24 and redesignating subparagraphs (C), (D), and (E)
25 as subparagraphs (A), (B), and (C), respectively;

1 (B) by striking out the second sentence and the
2 last sentence of subdivision (i) of the subparagraph
3 redesignated as subparagraph (A) by subparagraph
4 (A) of this paragraph; and by striking out from the
5 said subdivision (i) "the Retirement Account" and in-
6 serting in lieu thereof "the Railroad Retirement Account
7 (hereinafter termed 'Retirement Account')";

8 (C) by adding at the end of the subparagraph re-
9 designated as subparagraph (A) by subparagraph (A)
10 of this paragraph the following new subdivision:

11 “(iii) At the close of the fiscal year ending
12 June 30, 1966, and each fiscal year thereafter, the
13 Board and the Secretary of Health, Education, and
14 Welfare shall determine the amount, if any, which,
15 if added to or subtracted from the Federal Hospital
16 Insurance Trust Fund, would place such fund in the
17 same position in which it would have been if service
18 as an employee after December 31, 1936, had been
19 included in the term 'employment' as defined in the
20 Social Security Act and in the Federal Insurance
21 Contributions Act. Such determination shall be
22 made no later than June 15 following the close of
23 the fiscal year. If such amount is to be added to
24 the Federal Hospital Insurance Trust Fund the

1 Board shall, within ten days after the determination,
2 certify such amount to the Secretary of the Treasury
3 for transfer from the Retirement Account to the
4 Federal Hospital Insurance Trust Fund; if such
5 amount is to be subtracted from the Federal Hospital
6 Insurance Trust Fund the Secretary of Health, Ed-
7 ucation, and Welfare shall, within ten days after
8 the determination, certify such amount to the Sec-
9 retary of the Treasury for transfer from the Federal
10 Hospital Insurance Trust Fund to the Retirement
11 Account. The amount so certified shall further
12 include interest (at the rate determined under sub-
13 paragraph (B) for the fiscal year under considera-
14 tion) payable from the close of such fiscal year until
15 the date of certification;”

16 (D) by striking out “subparagraph (D)” where it
17 appears in the subparagraph redesignated as subpara-
18 graph (A) by subparagraph (A) of this paragraph, and
19 inserting in lieu thereof “subparagraph (B)”;

20 (E) by striking out “subparagraphs (B) and (C)”
21 where it appears in the subparagraph redesignated as
22 subparagraph (B) by subparagraph (A) of this para-
23 graph and inserting in lieu thereof “subparagraph (A)”;
24 and

1 (F) by amending the subparagraph redesignated
2 as subparagraph (C) by subparagraph (A) of this
3 paragraph to read as follows:

4 “(C) The Secretary of the Treasury is authorized
5 and directed to transfer to the Federal Old-Age and
6 Survivors Insurance Trust Fund, the Federal Disability
7 Insurance Trust Fund, or the Federal Hospital Insur-
8 ance Trust Fund from the Retirement Account or to
9 the Retirement Account from the Federal Old-Age and
10 Survivors Insurance Trust Fund, the Federal Disability
11 Insurance Trust Fund, or the Federal Hospital Insur-
12 ance Trust Fund, as the case may be, such amounts as,
13 from time to time, may be determined by the Board and
14 the Secretary of Health, Education, and Welfare pur-
15 suant to the provisions of subparagraph (A), and
16 certified by the Board or the Secretary of Health, Educa-
17 tion, and Welfare for transfer from the Retirement
18 Account or from the Federal Old-Age and Survivors
19 Insurance Trust Fund, the Federal Disability Insurance
20 Trust Fund, or the Federal Hospital Insurance Trust
21 Fund.”

22 (2) The amendments made by paragraph (1) of this
23 subsection shall be effective January 1, 1966.

PART C—MISCELLANEOUS PROVISIONS

STUDIES AND RECOMMENDATIONS

1 SEC. 131. The Secretary of Health, Education, and
2 Welfare shall carry on studies and develop recommendations
3 to be submitted from time to time to the Congress relating
4 to health care of the aged, including studies and recommenda-
5 tions concerning (1) the adequacy of other programs for
6 health care of the aged and the adequacy of existing facili-
7 ties for health care for purposes of the program established
8 by this title; (2) methods for encouraging the further de-
9 velopment of efficient and economical forms of health care
10 which are a constructive alternative to inpatient hospital care;
11 (3) the feasibility of providing additional types of health
12 insurance benefits (including benefits relating to mental dis-
13 eases) within the financial resources provided by this Act;
14 (4) the effects of the deductibles upon beneficiaries, hospi-
15 tals, and the financing of the program; and (5) the authori-
16 zation of payments with respect to additional days of post-
17 hospital extended care where the number of days of inpatient
18 hospital services in a benefit period for which payment is
19 made is less than the maximum provided under the pro-
20 gram.
21
22

1 PART D—COMPLEMENTARY PRIVATE HEALTH BENEFITS
2 COVERAGE FOR INDIVIDUALS AGED SIXTY-FIVE OR
3 OVER

4 PURPOSE

5 SEC. 141. The Congress hereby declares that it is the
6 purpose of this part to provide, for all individuals aged sixty-
7 five or over, the opportunity to secure at reasonable cost
8 private health benefits coverage which will protect them
9 against the cost of health services which are not covered
10 under the program established by title XVIII of the Social
11 Security Act.

12 DEFINITIONS

13 SEC. 142. For purposes of the succeeding provisions of
14 this part—

15 (a) the term “health benefits plan” means the
16 policy, contract, agreement, or other arrangement en-
17 tered into between a carrier and another person whereby
18 the carrier, in consideration of the payment to it of a
19 periodic premium, undertakes to provide, pay for, or
20 provide reimbursement for the cost of, health services
21 for the individual (or group of individuals) who are
22 the beneficiaries of such policy, contract, agreement, or
23 other arrangement;

24 (b) the term “health benefits” means provision of,
25 payment for, or reimbursement for the cost of, all or

1 any part of any medical care or any other remedial care
 2 recognized under State law, but only to the extent that
 3 such care is not covered under the program established
 4 by title XVIII of the Social Security Act;

5 (c) the term "carrier" means an association, cor-
 6 poration, partnership, or other nongovernmental organ-
 7 ization which may lawfully offer health benefit plans in
 8 any one or more States (which, for purposes of this
 9 part, includes Puerto Rico, the Virgin Islands, the Dis-
 10 trict of Columbia, Guam, and American Samoa); and

11 (d) the term "premium" means the amount of the
 12 consideration charged by a carrier for coverage by a
 13 health benefits plan offered by the carrier.

14 REQUIREMENTS FOR APPROVAL

15 SEC. 143. (a) Any two or more carriers desiring to
 16 secure the benefit of this part and forming an association
 17 for this purpose may file with the Secretary an application
 18 for approval of a health benefits plan offering health benefits
 19 for the aged designed to complement the health insurance
 20 benefits provided for eligible individuals under title XVIII
 21 of the Social Security Act.

22 (b) The Secretary shall approve any such health bene-
 23 fits plan if—

24 (1) the plan provides reasonable assurance that it
 25 will provide, pay for, or provide reimbursement for the

1 cost of, health services the cost of which amounts on
2 the average, in the judgment of the Secretary, to not
3 less than 75 per centum of the cost of physicians' services
4 for aged persons 65 years of age or older;

5 (2) the association files with the Secretary an
6 agreement providing that—

7 (A) membership in the association will be
8 open to all carriers which desire to participate in
9 offering the approved plan and which are able and
10 willing to abide by the requirements of the
11 association;

12 (B) the terms and conditions of such plan as
13 well as the terms and conditions under which it is
14 offered and sold will be uniform, except that, sub-
15 ject to limitations in regulations of the Secretary

16 (i) the premiums and benefits under the plan may
17 be varied for different areas of any State or of the
18 United States whenever necessary to reflect differ-
19 ences in the cost of securing health services with
20 respect to which protection is provided under such
21 plan, and (ii) limitations upon the period, during
22 each year, when the plan is offered to new sub-
23 scribers in order to minimize the factor of adverse
24 selection in the sale of the plan (which may be
25 established by the association subject to limitations

1 in regulations of the Secretary) may be varied for
2 different areas of any State or of the United States,
3 and except that the plan may be varied with respect
4 to particular States to the extent permitted under
5 paragraph (3) hereof;

6 (C) the operations of the association and any
7 member thereof with respect to such plan will be
8 on a nonprofit basis and, on dissolution of the asso-
9 ciation, any premiums or other funds collected or
10 accruing as the result of such plan and remaining
11 after payment of the obligations of the association,
12 or of any member with respect to such plan, will
13 be paid to the United States;

14 (D) the association and its members will ad-
15 here to such limitations on the amount claimed for
16 administrative and other expenses in connection
17 with the plan as the Secretary may prescribe in
18 order to hold such expenses within reasonable limits;

19 (E) any plan offered for sale in conjunction
20 with the plan approved under this part and which
21 is designed to provide health benefits supplementary
22 to those provided under such approved plan will
23 be offered in a manner which enables prospective
24 subscribers clearly to distinguish between the two
25 plans;

1 (3) the plan (A) is approved without change by
2 the State agencies, of a majority of States or of States
3 with a majority of the population of the United States
4 (according to the most recent data available to the
5 Secretary from the Department of Commerce), engaged
6 in supervising carriers offering health benefits plans for
7 sale in their respective States, and (B) is approved,
8 in any other States in which it is offered for sale, with
9 only such modifications as may be necessary to meet
10 special requirements of such agencies in each of such
11 other States and as are approved as reasonable by the
12 Secretary.

13 **EXEMPTION OF ASSOCIATIONS FROM CERTAIN LAWS**

14 **SEC. 144.** The provisions of the Act of July 2, 1890, as
15 amended (known as the Sherman Act), other than so much
16 thereof as relates to any agreement to boycott, coerce, or
17 intimidate or any act of boycott, coercion, or intimidation; the
18 Act of October 15, 1914, as amended (known as the Clayton
19 Act); the Federal Trade Commission Act; and the antitrust
20 laws of any State shall not apply to so much of the operations
21 of any association, or of any member of such an association,
22 as is concerned exclusively with offering for sale, selling, and
23 administering any plan approved under this part.

24 **COMPLIANCE PROVISIONS**

25 **SEC. 145. (a)** If, after reasonable notice and opportu-

1 nity for hearing to an association or to a member thereof, the
2 Secretary determines that such association or member has
3 failed to comply substantially with any requirement of sec-
4 tion 143 or that the plan of such association approved under
5 this part has been so changed that it no longer complies with
6 any such requirement, the provisions of section 144 shall not
7 apply to the association and its members, or to such member,
8 as the case may be, until such time as the Secretary is satis-
9 fied that there will no longer be any such failure to comply.

10 (b) Any carrier which, in offering for sale any health
11 benefits plan, falsely represents such plan to be an approved
12 plan shall be fined not more than \$10,000.

13 HEARINGS AND JUDICIAL REVIEW

14 SEC. 146. (a) If a group of carriers, or any member
15 thereof, is dissatisfied with any action of the Secretary under
16 section 145 or with his refusal to approve a plan of such
17 group under this part, such group or such member, as the
18 case may be, may appeal to the United States Court of Ap-
19 peals for the District of Columbia by filing a petition with
20 such court within 60 days after such action. A copy of the
21 petition shall be forthwith transmitted by the clerk of the
22 court to the Secretary, or any officer designated by him for
23 that purpose. The Secretary shall thereupon file in the
24 court the record of the proceedings on which he based his
25 action, as provided in section 2112 of title 28, United States

1 Code. Upon the filing of such petition, the court shall have
2 jurisdiction to affirm the action of the Secretary or to set it
3 aside, in whole or in part, temporarily or permanently, but
4 until the filing of the record, the Secretary may modify or
5 set aside his order.

6 (b) The findings of the Secretary as to the facts, if
7 supported by substantial evidence, shall be conclusive, but
8 the court, for good cause shown, may remand the case to
9 the Secretary to take further evidence, and the Secretary
10 may thereupon make new or modified findings of fact and
11 may modify his previous action, and shall file in the court
12 the record of the further proceedings. Such new or modified
13 findings of fact shall likewise be conclusive if supported by
14 substantial evidence.

15 (c) The judgment of the court affirming or setting aside,
16 in whole or in part, any action of the Secretary shall be final,
17 subject to review by the Supreme Court of the United States
18 upon certiorari or certification as provided in section 1254
19 of title 28, United States Code. The commencement of pro-
20 ceedings under this section shall not, unless so specifically
21 ordered by the court, operate as a stay of the Secretary's
22 action.

1 TITLE II—SOCIAL SECURITY AMENDMENTS

2 SHORT TITLE

3 SEC. 200. This title may be cited as the "Social Security
4 Amendments of 1965".

5 SEVEN-PER CENTUM INCREASE IN OLD-AGE, SURVIVORS,
6 AND DISABILITY INSURANCE BENEFITS

7 SEC. 201. (a) Section 215 (a) of the Social Security
8 Act is amended by striking out the table and inserting in
9 lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY
BENEFITS

| "I (Primary insurance benefit under 1939 Act, as modi- fied) | | II (Primary insurance amount under 1958 Act, as modified) | III (Average monthly wage) | | IV (Primary insur- ance amount) | V (Maximum family benefits) |
|---|-----------------------|---|---|-----------------------|--|---|
| If an individual's primary insurance benefit (as de- termined under subsec. (d)) is— | | Or his primary insurance amount (as deter- mined under subsec. (c)) is— | Or his average monthly wage (as determined under subsec. (b)) is— | | The amount referred to in the preceding para- graphs of this subsection shall be— | And the maximum amount of bene- fits payable (as provided in sec. 203 (a)) on the basis of his wages and self-employ- ment income shall be— |
| At least— | But not more than— | | At least— | But not more than— | | |
| ----- | \$13.48 | \$40 | --- | \$67 | \$42.80 | \$64.20 |
| \$13.49 | 14.00 | 41 | \$68 | 69 | 43.90 | 65.90 |
| 14.01 | 14.48 | 42 | 70 | 70 | 45.00 | 67.50 |
| 14.49 | 15.00 | 43 | 71 | 72 | 46.10 | 69.20 |
| 15.01 | 15.60 | 44 | 73 | 74 | 47.10 | 70.70 |
| 15.61 | 16.20 | 45 | 75 | 76 | 48.20 | 72.30 |
| 16.21 | 16.84 | 46 | 77 | 78 | 49.30 | 74.00 |
| 16.85 | 17.60 | 47 | 79 | 80 | 50.30 | 75.50 |
| 17.61 | 18.40 | 48 | 81 | 81 | 51.40 | 77.10 |
| 18.41 | 19.24 | 49 | 82 | 83 | 52.50 | 78.80 |
| 19.25 | 20.00 | 50 | 84 | 85 | 53.50 | 80.30 |
| 20.01 | 20.64 | 51 | 86 | 87 | 54.60 | 81.90 |
| 20.65 | 21.28 | 52 | 88 | 89 | 55.70 | 83.60 |
| 21.29 | 21.88 | 53 | 90 | 90 | 56.80 | 85.20 |
| 21.89 | 22.28 | 54 | 91 | 92 | 57.80 | 86.70 |
| 22.29 | 22.68 | 55 | 93 | 94 | 58.90 | 88.40 |
| 22.69 | 23.08 | 56 | 95 | 96 | 60.00 | 90.00 |
| 23.09 | 23.44 | 57 | 97 | 97 | 61.00 | 91.50 |
| 23.45 | 23.76 | 58 | 98 | 99 | 62.10 | 93.20 |
| 23.77 | 24.20 | 59 | 100 | 101 | 63.20 | 94.80 |
| 24.21 | 24.60 | 60 | 102 | 102 | 64.20 | 96.30 |
| 24.61 | 25.00 | 61 | 103 | 104 | 65.30 | 98.00 |
| 25.01 | 25.48 | 62 | 105 | 106 | 66.40 | 99.60 |
| 25.49 | 25.92 | 63 | 107 | 107 | 67.50 | 101.30 |
| 25.93 | 26.40 | 64 | 108 | 109 | 68.50 | 102.80 |
| 26.41 | 26.94 | 65 | 110 | 113 | 69.60 | 104.40 |
| 26.95 | 27.46 | 66 | 114 | 118 | 70.70 | 106.10 |

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—continued

| "I (Primary insurance benefit under 1939 Act, as modified) | | II (Primary insurance amount under 1958 Act, as modified) | III (Average monthly wage) | | IV (Primary insurance amount) | V (Maximum family benefits) |
|--|--------------------|---|---|--------------------|---|---|
| If an individual's primary insurance benefit (as determined under subsec. (d)) is— | | Or his primary insurance amount (as determined under subsec. (c)) is— | Or his average monthly wage (as determined under subsec. (b)) is— | | The amount referred to in the preceding paragraphs of this subsection shall be— | And the maximum amount of benefits payable (as provided in sec. 203 (a)) on the basis of his wages and self-employment income shall be— |
| At least— | But not more than— | | At least— | But not more than— | | |
| \$27.47 | \$28.00 | \$67 | \$119 | \$122 | \$71.70 | \$107.60 |
| 28.01 | 28.63 | 68 | 123 | 127 | 72.80 | 109.20 |
| 28.69 | 29.25 | 69 | 128 | 132 | 73.90 | 110.90 |
| 29.26 | 29.68 | 70 | 133 | 136 | 74.90 | 112.40 |
| 29.69 | 30.36 | 71 | 137 | 141 | 76.00 | 114.00 |
| 30.37 | 30.92 | 72 | 142 | 146 | 77.10 | 116.80 |
| 30.93 | 31.26 | 73 | 147 | 150 | 78.20 | 120.00 |
| 31.37 | 32.00 | 74 | 151 | 155 | 79.20 | 124.00 |
| 32.01 | 32.60 | 75 | 156 | 160 | 80.30 | 128.00 |
| 32.61 | 33.20 | 76 | 161 | 164 | 81.40 | 131.20 |
| 33.21 | 33.88 | 77 | 165 | 169 | 82.40 | 135.20 |
| 33.89 | 34.50 | 78 | 170 | 174 | 83.50 | 139.20 |
| 34.51 | 35.00 | 79 | 175 | 178 | 84.60 | 142.40 |
| 35.01 | 35.80 | 80 | 179 | 183 | 85.60 | 146.40 |
| 35.81 | 36.40 | 81 | 184 | 188 | 86.70 | 150.40 |
| 36.41 | 37.08 | 82 | 189 | 193 | 87.80 | 154.40 |
| 37.09 | 37.60 | 83 | 194 | 197 | 88.90 | 157.60 |
| 37.61 | 38.20 | 84 | 198 | 202 | 89.90 | 161.60 |
| 38.21 | 39.12 | 85 | 203 | 207 | 91.00 | 165.60 |
| 39.13 | 39.68 | 86 | 208 | 211 | 92.10 | 168.80 |
| 39.69 | 40.33 | 87 | 212 | 216 | 93.10 | 172.80 |
| 40.34 | 41.12 | 88 | 217 | 221 | 94.20 | 176.80 |
| 41.13 | 41.76 | 89 | 222 | 225 | 95.30 | 180.00 |
| 41.77 | 42.44 | 90 | 226 | 230 | 96.30 | 184.00 |
| 42.45 | 43.20 | 91 | 231 | 235 | 97.40 | 188.00 |
| 43.21 | 43.76 | 92 | 236 | 239 | 98.50 | 191.20 |
| 43.77 | 44.44 | 93 | 240 | 244 | 99.60 | 195.20 |
| 44.45 | 44.88 | 94 | 245 | 249 | 100.60 | 199.20 |
| 44.89 | 45.60 | 95 | 250 | 253 | 101.70 | 202.40 |
| | | 96 | 254 | 258 | 102.80 | 206.40 |
| | | 97 | 259 | 263 | 103.80 | 210.40 |
| | | 98 | 264 | 267 | 104.90 | 213.60 |
| | | 99 | 268 | 272 | 106.00 | 217.60 |
| | | 100 | 273 | 277 | 107.00 | 221.60 |
| | | 101 | 278 | 281 | 108.10 | 224.80 |
| | | 102 | 282 | 286 | 109.20 | 228.80 |
| | | 103 | 287 | 291 | 110.30 | 232.80 |
| | | 104 | 292 | 295 | 111.30 | 236.00 |
| | | 105 | 296 | 300 | 112.40 | 240.00 |
| | | 106 | 301 | 305 | 113.50 | 244.00 |
| | | 107 | 306 | 309 | 114.60 | 247.20 |
| | | 108 | 310 | 314 | 115.60 | 251.20 |
| | | 109 | 315 | 319 | 116.70 | 254.00 |
| | | 110 | 320 | 323 | 117.70 | 255.00 |
| | | 111 | 324 | 328 | 118.80 | 256.80 |
| | | 112 | 329 | 333 | 119.90 | 258.80 |
| | | 113 | 334 | 337 | 121.00 | 260.40 |
| | | 114 | 338 | 342 | 122.00 | 262.40 |
| | | 115 | 343 | 347 | 123.10 | 264.40 |
| | | 116 | 348 | 351 | 124.20 | 266.00 |
| | | 117 | 352 | 356 | 125.20 | 268.00 |

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

| "I (Primary insurance benefit under 1939 Act, as modified) | | II (Primary insurance amount under 1958 Act, as modified) | III (Average monthly wage) | | IV (Primary insurance amount) | V (Maximum family benefits) |
|--|--------------------|---|---|--------------------|---|---|
| If an individual's primary insurance benefit (as determined under subsec. (d)) is— | | Or his primary insurance amount (as determined under subsec. (c)) is— | Or his average monthly wage (as determined under subsec. (b)) is— | | The amount referred to in the preceding paragraphs of this subsection shall be— | And the maximum amount of benefits payable (as provided in sec. 203 (a)) on the basis of his wages and self-employment income shall be— |
| At least— | But not more than— | | At least— | But not more than— | | |
| | | \$118 | \$357 | \$361 | \$126.30 | \$270.00 |
| | | 119 | 362 | 365 | 127.40 | 271.60 |
| | | 120 | 366 | 370 | 128.40 | 273.60 |
| | | 121 | 371 | 375 | 129.50 | 275.60 |
| | | 122 | 376 | 379 | 130.60 | 277.20 |
| | | 123 | 380 | 384 | 131.70 | 279.20 |
| | | 124 | 385 | 389 | 132.70 | 281.20 |
| | | 125 | 390 | 393 | 133.80 | 282.80 |
| | | 126 | 394 | 398 | 134.90 | 284.80 |
| | | 127 | 399 | 403 | 135.90 | 286.80 |
| | | | 404 | 407 | 136.90 | 288.40 |
| | | | 408 | 412 | 137.90 | 290.40 |
| | | | 413 | 417 | 138.90 | 292.40 |
| | | | 418 | 421 | 139.90 | 294.00 |
| | | | 422 | 426 | 140.90 | 296.00 |
| | | | 427 | 431 | 141.90 | 298.00 |
| | | | 432 | 436 | 142.90 | 300.00 |
| | | | 437 | 440 | 143.90 | 301.60 |
| | | | 441 | 445 | 144.90 | 303.60 |
| | | | 446 | 450 | 145.90 | 305.60 |
| | | | 451 | 454 | 146.90 | 307.20 |
| | | | 455 | 459 | 147.90 | 309.20 |
| | | | 460 | 464 | 148.90 | 311.20 |
| | | | 465 | 466 | 149.90 | 312.00" |

1 (b) Section 215 (c) of such Act is amended to read
2 as follows:
3 "Primary Insurance Amount Under 1958 Act, as Modified
4 "(c) (1) For the purposes of column II of the table
5 appearing in subsection (a) of this section, an individual's
6 primary insurance amount shall be computed as provided in,
7 and subject to the limitations specified in, (A) this section
8 as in effect prior to the enactment of the Social Security
9 Amendments of 1965, and (B) the applicable provisions
10 of the Social Security Amendments of 1960.

1 “(2) The provisions of this subsection shall be appli-
2 cable only in the case of an individual who became entitled
3 to benefits under section 202 (a) or section 223 before the
4 date of enactment of the Social Security Amendments of
5 1965 or who died after December 1964 and before such
6 date.”

7 (c) Section 203 (a) of such Act is amended by strik-
8 ing out paragraphs (2) and (3) and inserting in lieu thereof
9 the following:

10 “(2) when two or more persons were entitled
11 (without the application of section 202 (j) (1) and sec-
12 tion 223 (b)) to monthly benefits under section 202 or
13 223 for any month which begins after December 1964
14 and before the enactment of the Social Security Amend-
15 ments of 1965, on the basis of the wages and self-
16 employment income of such insured individual, such
17 total of benefits for any month occurring after December
18 1964 shall not be reduced to less than the larger of—

19 “(A) the amount determined under this sub-
20 section without regard to this paragraph, or

21 “(B) (i) with respect to the month in which
22 such Amendments are enacted or any prior month,
23 an amount equal to the sum of the amounts derived
24 by multiplying the benefit amount determined under
25 this title (including this subsection, but without the

1 application of section 222 (b), section 202 (q), and
2 subsections (b), (c), and (d) of this section), as in
3 effect prior to the enactment of such Amendments,
4 for each such person, for such month, by 107
5 percent and raising each such increased amount, if
6 it is not a multiple of \$0.10, to the next higher
7 multiple of \$0.10, and

8 “(ii) with respect to any month after the
9 month in which such Amendments are enacted, an
10 amount equal to the sum of the amounts derived by
11 multiplying the benefit amount determined under
12 this title (including this subsection, but without the
13 application of section 222 (b), section 202 (q), and
14 subsections (b), (c), and (d) of this section),
15 as in effect prior to the enactment of such Amend-
16 ments, for each such person for the month of
17 enactment, by 107 percent and raising each such
18 increased amount, if it is not a multiple of \$0.10,
19 to the next higher multiple of \$0.10;

20 but in any such case (I) paragraph (1) of this sub-
21 section shall not be applied to such total of benefits after
22 the application of subparagraph (B) of this paragraph,
23 and (II) if section 202 (k) (2) (A) was applicable in
24 the case of any of such benefits for any such month
25 beginning before the enactment of the Social Security

1 Amendments of 1965, and ceases to apply after such
2 month, the provisions of subparagraph (B) shall be
3 applied, for and after the month in which such section
4 202 (k) (2) (A) ceases to apply, as though paragraph
5 (1) had not been applicable to such total of benefits for
6 such month beginning prior to such enactment.”

7 (d) The amendments made by this section shall apply
8 with respect to monthly benefits under title II of the Social
9 Security Act for months after December 1964 and with
10 respect to lump-sum death payments under such title in
11 the case of deaths occurring after the month in which this
12 Act is enacted.

13 (e) If an individual is entitled to a disability insurance
14 benefit under section 223 of the Social Security Act for De-
15 cember 1964 on the basis of an application filed after enact-
16 ment of this Act and is entitled to old-age insurance benefits
17 under section 202 (a) of such Act for January 1965, then,
18 for purposes of section 215 (a) (4) of the Social Security
19 Act (if applicable) the amount in column IV of the table
20 appearing in such section 215 (a) for such individual shall
21 be the amount in such column on the line on which in column
22 II appears his primary insurance amount (as determined
23 under section 215 (c) of such Act) instead of the amount
24 in column IV equal to his disability insurance benefit.

1 COMPUTATION AND RECOMPUTATION OF BENEFITS

2 SEC. 202. (a) (1) Subparagraph (C) of section 215
3 (b) (2) of the Social Security Act is amended to read as
4 follows:

5 “(C) For purposes of subparagraph (B), ‘computation
6 base years’ include only calendar years in the period after
7 1950 and prior to the earlier of the following years—

8 “(i) the year in which occurred (whether by
9 reason of section 202(j) (1) or otherwise) the first
10 month for which the individual was entitled to old-age
11 insurance benefits, or

12 “(ii) the year succeeding the year in which he died.
13 Any calendar year all of which is included in a period of
14 disability shall not be included as a computation base year.”

15 (2) Clauses (A), (B), and (C) of the first sentence of
16 section 215(b) (3) of such Act are amended to read as
17 follows:

18 “(A) in the case of a woman, the year in which
19 she died or, if it occurred earlier but after 1960, the year
20 in which she attained age 62,

21 “(B) in the case of a man who has died, the year
22 in which he died or, if it occurred earlier but after 1960,
23 the year in which he attained age 65, or

24 “(C) in the case of a man who has not died, the

1 year occurring after 1960 in which he attained (or
2 would attain) age 65.”

3 (3) Paragraphs (4) and (5) of section 215 (b) of
4 such Act are amended to read as follows:

5 “(4) The provisions of this subsection shall be appli-
6 cable only in the case of an individual—

7 “(A) who becomes entitled, after December 1965,
8 to benefits under section 202 (a) or section 223; or

9 “(B) who dies after December 1965 without being
10 entitled to benefits under section 202 (a) or section 223;
11 or

12 “(C) whose primary insurance amount is required
13 to be recomputed under subsection (f) (2), as amended
14 by the Social Security Amendments of 1965;

15 except that it shall not apply to any such individual for
16 purposes of monthly benefits for months before January
17 1966.

18 “(5) For the purposes of column III of the table
19 appearing in subsection (a) of this section, the provisions of
20 this subsection, as in effect prior to the enactment of the
21 Social Security Amendments of 1965, shall apply—

22 “(A) in the case of an individual to whom the
23 provisions of this subsection are not made applicable by
24 paragraph (4), but who, on or after the date of the
25 enactment of the Social Security Amendments of 1965

1 and prior to 1966, met the requirements of this para-
2 graph or paragraph (4), as in effect prior to such enact-
3 ment, and

4 “(B) with respect to monthly benefits for months
5 before January 1966, in the case of an individual to
6 whom the provisions of this subsection are made appli-
7 cable by paragraph (4).”

8 (b) (1) Subparagraph (A) of section 215(d) (1) of
9 such Act is amended by striking out “(2) (C) (i) and (3)
10 (A) (i)” and inserting in lieu thereof “(2) (C) and (3)”,
11 by striking out “December 31, 1936,” and inserting in lieu
12 thereof “1936”, and by striking out “December 31, 1950”
13 and inserting in lieu thereof “1950”.

14 (2) Section 215(d) (3) of such Act is amended by
15 striking out “1960” and inserting in lieu thereof “1965”
16 and by striking out “but without regard to whether such
17 individual has six quarters of coverage after 1950”.

18 (c) Section 215(e) of such Act is amended by insert-
19 ing “and” after the semicolon at the end of paragraph (1),
20 by striking out “; and” at the end of paragraph (2) and
21 inserting in lieu thereof a period, and by striking out para-
22 graph (3).

23 (d) (1) Paragraph (2) of section 215(f) of such Act
24 is amended to read as follows:

25 “(2) With respect to each year—

1 “(A) which begins after December 31, 1964, and

2 “(B) for any part of which an individual is en-

3 titled to old-age insurance benefits,

4 the Secretary shall, at such time or times and within such

5 period as he may by regulations prescribe, recompute the

6 primary insurance amount of such individual. Such recom-

7 putation shall be made—

8 “(C) as provided in subsection (a) (1) and (3)

9 if such year is either the year in which he became en-

10 titled to such old-age insurance benefits or the year

11 preceding such year, or

12 “(D) as provided in subsection (a) (1) in any

13 other case;

14 and in all cases such recomputation shall be made as though

15 the year with respect to which such recomputation is made

16 is the last year of the period specified in paragraph (2) (C)

17 of subsection (b). A recomputation under this paragraph

18 with respect to any year shall be effective—

19 “(E) in the case of an individual who did not die

20 in such year, for monthly benefits beginning with bene-

21 fits for January of the following year; or

22 “(F) in the case of an individual who died in such

23 year (including any individual whose increase in his

24 primary insurance amount is attributable to compensa-

25 tion which, upon his death, is treated as remuneration

1 for employment under section 205 (o)), for monthly
2 benefits beginning with benefits for the month in which
3 he died.”

4 (2) Effective January 2, 1966, paragraphs (3), (4),
5 and (7) of such section are repealed, and paragraphs (5)
6 and (6) of such section are redesignated as paragraphs (3)
7 and (4), respectively.

8 (e) (1) The first sentence of section 223 (a) (2) of
9 such Act is amended by inserting before the period at the
10 end thereof “and was entitled to an old-age insurance benefit
11 for each month for which (pursuant to subsection (b)) he
12 was entitled to a disability insurance benefit”.

13 (2) The last sentence of section 223 (a) (2) of such
14 Act is amended by striking out “first year” and inserting
15 in lieu thereof “year”; by striking out the phrase “both was
16 fully insured and had” both times it appears in such sentence.

17 (f) (1) The amendments made by subsection (c) shall
18 apply only to individuals who become entitled to old-age
19 insurance benefits under section 202 (a) of the Social Secur-
20 ity Act after 1965.

21 (2) Any individual who would, upon filing an applica-
22 tion prior to January 2, 1966, be entitled to a recomputation
23 of his benefit amount for purposes of title II of the Social
24 Security Act shall be deemed to have filed such application
25 on the earliest date on which such application could have

1 been filed, or on the day on which this Act is enacted, which-
2 ever is the later.

3 (3) In the case of an individual who died after 1960
4 and prior to 1966 and who was entitled to old-age insurance
5 benefits under section 202 (a) of the Social Security Act at
6 the time of his death, the provisions of sections 215 (f) (3)
7 (B) and 215 (f) (4) of such Act as in effect before the
8 enactment of this Act shall apply.

9 (4) In the case of a man who attains age 65 prior to
10 1966, or dies before such year, the provisions of section
11 215 (f) (7) of the Social Security Act as in effect before the
12 enactment of this Act shall apply.

13 (5) The amendments made by subsection (e) of this
14 section shall apply in the case of individuals who become
15 entitled to disability insurance benefits under section 223
16 of the Social Security Act after December 1965.

17 (6) Section 303 (g) (1) of the Social Security Amend-
18 ments of 1960 is amended—

19 (A) by striking out “notwithstanding the amend-
20 ments made by the preceding subsections of this sec-
21 tion,” in the first sentence and inserting in lieu thereof
22 “notwithstanding the amendments made by the preced-
23 ing subsections of this section, or the amendments made
24 by section 204 of the Social Security Amendments of
25 1965,”; and

1 (B) by striking out "Social Security Amendments
2 of 1960," in the second sentence and inserting in lieu
3 thereof "Social Security Amendments of 1960, or (if
4 such individual becomes entitled to old-age insurance
5 benefits after 1965, or dies after 1965 without becoming
6 so entitled) as amended by the Social Security Amend-
7 ments of 1965,".

8 IMPROVEMENT OF ACTUARIAL STATUS OF DISABILITY

9 INSURANCE TRUST FUND

10 SEC. 203. (a) Section 201 (b) (1) of the Social Se-
11 curity Act is amended by inserting "and before January 1,
12 1966," after "December 31, 1956," and by inserting after
13 "1954," the following: "and 0.67 of 1 per centum of such
14 wages paid after December 31, 1965, and so reported,".

15 (b) Section 201 (b) (2) of such Act is amended by
16 inserting after "December 31, 1956," the following: "and
17 before January 1, 1966, and 0.5025 of 1 per centum of the
18 amount of such self-employment income so reported for any
19 taxable year beginning after December 31, 1965,".

20 COVERAGE FOR DOCTORS OF MEDICINE

21 SEC. 204. (a) (1) Section 211 (c) (5) of the Social
22 Security Act is amended to read as follows:

23 “(5) The performance of service by an individual
24 in the exercise of his profession as a Christian Science
25 practitioner.”

1 (2) Section 211 (c) of such Act is further amended by
2 striking out the last two sentences and inserting in lieu
3 thereof the following: "The provisions of paragraph (4) or
4 (5) shall not apply to service (other than service performed
5 by a member of a religious order who has taken a vow of
6 poverty as a member of such order) performed by an in-
7 dividual during the period for which a certificate filed by
8 him under section 1402 (e) of the Internal Revenue Code of
9 1954 is in effect."

10 (3) Section 210 (a) (6) (C) (iv) of such Act is
11 amended by inserting before the semicolon at the end thereof
12 the following: ", other than as a medical or dental intern
13 or a medical or dental resident in training".

14 (4) Section 210 (a) (13) of such Act is amended by
15 striking out all that follows the first semicolon.

16 (b) (1) Section 1402 (c) (5) of the Internal Revenue
17 Code of 1954 (relating to definition of trade or business) is
18 amended to read as follows:

19 “(5) the performance of service by an individual
20 in the exercise of his profession as a Christian Science
21 practitioner.”

22 (2) Section 1402 (c) of such Code is further amended
23 by striking out the last two sentences and inserting in lieu
24 thereof the following: "The provisions of paragraph (4) or
25 (5) shall not apply to service (other than service performed

1 by a member of a religious order who has taken a vow of
2 poverty as a member of such order) performed by an in-
3 dividual during the period for which a certificate filed by
4 him under subsection (e) is in effect.”

5 (3) (A) Section 1402 (e) (1) of such Code (relating
6 to filing of waiver certificate by ministers, members of reli-
7 gious orders, and Christian Science practitioners) is amended
8 by striking out “extended to service” and all that follows and
9 inserting in lieu thereof “extended to service described in
10 subsection (c) (4) or (c) (5) performed by him.”

11 (B) Clause (A) of section 1402 (e) (2) of such Code
12 (relating to time for filing waiver certificate) is amended
13 to read as follows: “(A) the due date of the return (includ-
14 ing any extension thereof) for his second taxable year ending
15 after 1954 for which he has net earnings from self-employ-
16 ment (computed without regard to subsections (c) (4) and
17 (c) (5)) of \$400 or more, any part of which was derived
18 from the performance of service described in subsection (c)
19 (4) or (c) (5); or”.

20 (4) Section 3121 (b) (6) (c) (iv) of such Code (re-
21 lating to definition of employment) is amended by inserting
22 before the semicolon at the end thereof the following: “,
23 other than as a medical or dental intern or a medical or dental
24 resident in training”.

1 (5) Section 3121 (b) (13) of such Code is amended
2 by striking out all that follows the first semicolon.

3 (c) The amendments made by paragraphs (1) and
4 (2) of subsection (a), and by paragraphs (1), (2), and
5 (3) of subsection (b), shall apply only with respect to
6 taxable years ending after December 31, 1965. The amend-
7 ments made by paragraphs (3) and (4) of subsection (a),
8 and by paragraphs (4) and (5) of subsection (b), shall
9 apply only with respect to services performed after 1965.

10

COVERAGE OF TIPS

11

SEC. 205. (a) (1) Section 209 of the Social Security
12 Act is amended by striking out "or" at the end of subsec-
13 tion (j), by striking out the period at the end of subsection
14 (k) and inserting in lieu thereof "; or", and by adding im-
15 mediately after subsection (k) the following new subsection:

16

"(1) (1) Tips paid in any medium other than cash;

17

"(2) Cash tips received by an employee in any calen-

18

dar month in the course of his employment by an employer
19 unless the amount of such cash tips is \$20 or more."

20

(2) Section 209 of such Act is further amended by
21 adding at the end thereof the following new paragraph:

22

"For purposes of this title, tips received by an employee

23

in the course of his employment, on his own behalf and not on

24

behalf of another person, shall be considered remuneration

25

for employment, whether such tips are received by the em-

1 ployee directly from a person other than his employer or
2 are paid over to the employee by his employer. Such tips
3 shall be deemed to be paid to the employee by the employer,
4 and shall be deemed to be so paid at the time a written
5 statement including such tips is furnished to the employer
6 pursuant to section 6053 of the Internal Revenue Code of
7 1954 or (if no statement including such tips is so furnished)
8 at the close of the 10th day following the calendar month
9 in which they were received.”

10 (b) (1) Section 3102 of the Internal Revenue Code
11 of 1954 (relating to deduction of tax from wages) is amended
12 by adding at the end thereof the following new subsection:

13 “(c) SPECIAL RULE FOR TIPS.—In the case of tips
14 which constitute wages, subsection (a) shall be applicable
15 only to such tips as are included in a written statement fur-
16 nished to the employer pursuant to section 6053, and only
17 to the extent that collection can be made by the employer,
18 at or after the time such statement is so furnished and before
19 the close of the 10th day following the calendar month in
20 which the tips were received, by deducting the amount of the
21 tax from such wages of the employee (exclusive of tips,
22 but including funds turned over by the employee to the em-
23 ployer for the purpose of such deduction) as are under control
24 of the employer.”

25 (2) Section 3121(a) of such Code (relating to the

1 definition of wages under the Federal Insurance Contribu-
2 tions Act) is amended by striking out “or” at the end of
3 paragraph (10), by striking out the period at the end of para-
4 graph (11) and inserting in lieu thereof “; or”, and by
5 adding after paragraph (11) the following new paragraph:

6 “(12) (A) tips paid in any medium other than
7 cash;

8 “(B) cash tips received by an employee in any
9 calendar month in the course of his employment by an
10 employer unless the amount of such cash tips is \$20
11 or more.”

12 (3) Section 3121 of such Code is further amended by
13 adding at the end thereof the following new subsection:

14 “(q) TIPS.—Tips received by an employee in the course
15 of his employment, on his own behalf and not on behalf of
16 another person, shall be considered remuneration for em-
17 ployment, whether such tips are received by the employee
18 directly from a person other than his employer or are paid
19 over to the employee by his employer. Such tips shall be
20 deemed to be paid to the employee by the employer, and
21 shall be deemed to be so paid at the time a written state-
22 ment including such tips is furnished to the employer pur-
23 suant to section 6053 or (if no statement including such
24 tips is so furnished) at the close of the 10th day following
25 the calendar month in which they were received.”

1 (c) (1) Section 6051 (a) of such Code (relating to
2 receipts for employees) is amended by adding at the end
3 thereof the following new sentence: "In the case of tips
4 received by an employee in the course of his employment,
5 the amounts required to be shown by paragraph (5) shall
6 include only such tips as are reported by the employee to
7 the employer pursuant to section 6053; and the amounts
8 required to be shown by paragraph (3) shall include only
9 such tips as are reported by the employee to the employer
10 pursuant to such section (other than the second sentence
11 thereof)."

12 (2) (A) Subpart C of part III of subchapter A of
13 chapter 61 of such Code (relating to information regarding
14 wages paid employees) is amended by adding at the end
15 thereof the following new section:

16 **"SEC. 6053. REPORTING OF TIPS.**

17 "Every employee, who in the course of his employment
18 by an employer, receives in any calendar month tips which
19 are wages as defined in section 3121 (a) shall report all
20 such tips in one or more written statements furnished to his
21 employer. For purposes of sections 3111, 6051 (a), and
22 6652 (c), tips received in any calendar month shall be con-
23 sidered reported pursuant to this section only if they are
24 included in such a statement furnished to the employer on

1 or before the 10th day following such month and only to
2 the extent that the tax imposed with respect to such tips
3 by section 3101 can be collected by the employer under
4 section 3102. Such statement shall be furnished by the
5 employee under such regulations, at such other times before
6 such 10th day, and in such form and manner, as may be
7 prescribed by the Secretary or his delegate.”

8 (B) The table of sections for such subpart C is amended
9 by adding at the end thereof the following:

“Sec. 6053. Reporting of tips.”

10 (3) Section 6652 of such Code (relating to failure to
11 file certain information returns) is amended by redesignating
12 subsection (c) as subsection (d) and by inserting after sub-
13 section (b) the following new subsection:

14 “(c) FAILURE TO REPORT TIPS.—In the case of tips
15 to which section 3121 (a) and the first sentence of section
16 6053 are applicable, if the employee fails to report any of
17 such tips to the employer pursuant to such section, unless it
18 is shown that such failure is due to reasonable cause and not
19 due to willful neglect, there shall be paid by the employee,
20 in addition to the tax imposed by section 3101 with respect
21 to the amount of the tips which he so failed to report, an
22 amount equal to such tax.”

23 (d) Section 3111 of such Code (relating to rate of tax
24 on employers under the Federal Insurance Contributions

1 Act), as amended by section 213 of this Act, is amended
2 by adding at the end thereof (after and below paragraph
3 (4)) the following new sentence: "In the case of tips
4 which constitute wages, the tax imposed by this section
5 shall be applicable only to such tips as are reported by the
6 employee to the taxpayer pursuant to section 6053."

7 (e) The second sentence of section 3102 (a) of such
8 Code (relating to requirement of deduction) is amended by
9 inserting before the period at the end thereof the following:
10 "; and an employer who is furnished by an employee a writ-
11 ten statement of tips (received in a calendar month) to
12 which paragraph (12) (B) of section 3121 (a) is applicable
13 may deduct an amount equivalent to such tax with respect to
14 such tips from any wages of the employee (exclusive of tips)
15 under his control, even though at the time such statement is
16 furnished the total amount of the tips so reported by the em-
17 ployee as received in such calendar month in the course of
18 his employment by such employer is less than \$20'.

19 (f) (1) Section 3401 of such Code (relating to defini-
20 tions for purposes of collecting income tax at source on
21 wages) is amended by adding at the end thereof the follow-
22 ing new subsection:

23 "(f) TIPS.—For purposes of subsection (a) the term
24 'wages' includes tips received by an employee in the course
25 of his employment, on his own behalf and not on behalf of

1 another person, whether such tips are received by the em-
2 ployee directly from a person other than his employer or are
3 paid over to the employee by his employer. Such tips shall
4 be deemed to be paid to the employee by the employer; and
5 any amount of such tips received by an employee in a calen-
6 dar month other than December, which is included in a state-
7 ment furnished to the employer pursuant to section 6053
8 (a), shall be deemed to be so paid at the time the state-
9 ment is so furnished.”

10 (2) Section 3401 (a) of such Code (relating to defi-
11 nition of wages for purposes of collecting income tax at
12 source) is amended by striking out the period at the end
13 of paragraph (12) and inserting in lieu thereof “; or”, by
14 striking out the period at the end of paragraph (15) and
15 inserting in lieu thereof “; or”, and by adding after para-
16 graph (15) the following new paragraph:

17 “(16) (A) as tips in any medium other than cash;

18 “(B) as cash tips to an employee in any calendar
19 month in the course of his employment by an employer
20 unless the amount of such cash tips is \$20 or more.”

21 (3) Subsection (a) of section 3402 of such Code
22 (relating to income tax collected at source) is amended by
23 striking “subsection (j)” and inserting in lieu thereof “sub-
24 sections (j) and (k)”.

1 (4) Section 3402 of such Code is further amended by
2 adding at the end thereof the following new subsection:

3 “(k) TIPS.—In the case of tips which constitute wages,
4 subsection (a) shall be applicable only to such tips as are
5 included in a written statement furnished to the employer
6 pursuant to section 6053 (a), and only to the extent that
7 the tax can be deducted and withheld by the employer, at
8 or after the time such statement is so furnished and before
9 the close of the calendar year in which the employee re-
10 ceives the tips which are included in such statement, from
11 such wages of the employee (exclusive of tips, but including
12 funds turned over by the employee to the employer for the
13 purpose of such deduction and withholding) as are under the
14 control of the employer. Such tax shall not at any time be
15 deducted and withheld in an amount which exceeds the ag-
16 gregate of such wages and funds minus any tax required by
17 section 3102 (a) to be collected from such wages.”

18 (g) The amendments made by this section shall apply
19 only with respect to tips received by employees after 1965.

20 REIMBURSEMENT OF TRUST FUNDS FOR COST OF NONCON-

21 TRIBUTORY MILITARY SERVICE CREDITS

22 SEC. 206. Sec. 217 (g) of the Social Security Act is
23 amended to read as follows:

24 “(g) (1) In September 1965, and in every fifth Sep-

1 tember thereafter up to and including September 2010, the
2 Secretary shall determine the amount which, if paid in equal
3 installments at the beginning of each fiscal year in the period
4 beginning—

5 “(A) with July 1, 1965, in the case of the first
6 such determination, and

7 “(B) with the July 1 following the determination
8 in the case of all other such determinations,

9 and ending with the close of June 30, 2015, would accumu-
10 late, with interest compounded annually, to an amount equal
11 to the amount needed to place each of the Trust Funds in the
12 same position at the close of June 30, 2015, as he estimates
13 they would otherwise be in at the close of that date if section
14 210 of this Act, as in effect prior to the Social Security Act
15 Amendments of 1950, and section 217 of this Act had not
16 been enacted. The rate of interest to be used in determining
17 such amount shall be the rate determined under section 201
18 (d) for public-debt obligations which were or could have
19 been issued for purchase by the Trust Funds in the June
20 preceding the September in which such determination is
21 made.

22 “(2) There are authorized to be appropriated to the
23 Trust Funds—

1 “(A) for the fiscal year ending June 30, 1966,
2 an amount equal to the amount determined under para-
3 graph (1) in September 1965, and

4 “(B) for each fiscal year in the period beginning
5 with July 1, 1966, and ending with the close of June 30,
6 2015, an amount equal to the annual installment for
7 such fiscal year under the most recent determination
8 under paragraph (1) which precedes such fiscal year.

9 “(3) For the fiscal year ending June 30, 2016, there
10 is authorized to be appropriated to the Trust Funds (or the
11 amount appropriated to the Trust Funds under section 201
12 for that year shall be reduced by, as the case may be) such
13 sums as the Secretary determines would place the Trust
14 Funds in the same position in which they would have been
15 at the close of June 30, 2015, if section 210 of this Act
16 as in effect prior to the Social Security Act Amendments of
17 1950, and section 217 of this Act, had not been enacted.

18 “(4) There are authorized to be appropriated to the
19 Trust Funds annually, as benefits under this title are paid
20 after June 30, 2015, such sums as the Secretary determines
21 to be necessary to meet the additional costs, resulting from
22 subsections (a), (b), and (c), of such benefits (including
23 lump-sum death payments).”

1 INCLUSION OF ALASKA AND KENTUCKY AMONG STATES
2 PERMITTED TO DIVIDE THEIR RETIREMENT SYSTEMS

3 SEC. 207. The first sentence of section 218 (d) (6) (C)
4 of the Social Security Act is amended—

5 (1) by inserting “Alaska,” before “California,”
6 and

7 (2) by inserting “Kentucky,” before “Massachu-
8 setts”.

9 ADDITIONAL PERIOD FOR ELECTING COVERAGE UNDER
10 DIVIDED RETIREMENT SYSTEM

11 SEC. 208. The first sentence of section 218 (d) (6) (F)
12 of the Social Security Act is amended by striking out “1963”
13 and inserting in lieu thereof “1967”.

14 COVERAGE FOR CERTAIN ADDITIONAL HOSPITAL EMPLOYEES
15 IN CALIFORNIA

16 SEC. 209. Section 102 (k) of the Social Security
17 Amendments of 1960 is amended by inserting “(l)” im-
18 mediately after “(k)”, and by adding at the end thereof
19 the following new paragraph:

20 “(2) Such agreement, as modified pursuant to para-
21 graph (1), may at the option of such State be further
22 modified, at any time prior to the seventh month after the
23 month in which this paragraph is enacted, so as to apply
24 to services performed for any hospital affected by such
25 earlier modification by any individual who after December

1 31, 1959, was or is employed by such State (or any politi-
 2 cal subdivision thereof) in any position described in para-
 3 graph (1). Such modification shall be effective with re-
 4 spect to (A) all services performed by such individual in
 5 any such position on or after January 1, 1962, and (B)
 6 all such services, performed before such date, with respect
 7 to which amounts equivalent to the sum of the taxes which
 8 would have been imposed by sections 3101 and 3111 of
 9 the Internal Revenue Code of 1954 if such services had
 10 constituted employment for purposes of chapter 21 of such
 11 Code at the time they were performed have, prior to the
 12 date of the enactment of this paragraph, been paid.”

13 INCREASE OF EARNINGS COUNTED FOR BENEFIT AND TAX
 14 PURPOSES

15 SEC. 201. (a) (1) (A) Section 209 (a) (3) of the
 16 Social Security Act is amended by inserting “and before
 17 1966” after “1958”.

18 (B) Section 209 (a) of such Act is further amended by
 19 adding at the end thereof the following new paragraph:

20 “(4) That part of remuneration which, after remu-
 21 neration (other than remuneration referred to in the
 22 succeeding subsections of this section) equal to \$5,600
 23 with respect to employment has been paid to an indi-
 24 vidual during any calendar year after 1965, is paid to
 25 such individual during such calendar year;”.

1 (2) (A) Section 211 (b) (1) (C) of such Act is
2 amended by inserting "and before 1966" after "1958", and
3 by striking out "; or" and inserting in lieu thereof "; and".

4 (B) Section 211 (b) (1) of such Act is further amended
5 by adding at the end thereof the following new subpara-
6 graph:

7 “(D) For any taxable year ending after 1965, (i)
8 \$5,600, minus (ii) the amount of the wages paid to
9 such individual during the taxable year; or”.

10 (3) (A) Section 213 (a) (2) (ii) of such Act is
11 amended by striking out "after 1958" and inserting in lieu
12 thereof "after 1958 and before 1966, or \$5,600 in the case
13 of a calendar year after 1965”.

14 (B) Section 213 (a) (2) (iii) of such Act is amended
15 by striking out "after 1958" and inserting in lieu thereof
16 "after 1958 and before 1966, or \$5,600 in the case of a tax-
17 able year ending after 1965”.

18 (4) Section 215 (e) (1) of such Act is amended by
19 striking out "and the excess over \$4,800 in the case of any
20 calendar year after 1958" and inserting in lieu thereof
21 "the excess over \$4,800 in the case of any calendar year
22 after 1958 and before 1966, and the excess over \$5,600 in
23 the case of any calendar year after 1965”.

24 (b) (1) (A) Section 1402 (b) (1) (C) of the Internal
25 Revenue Code of 1954 (relating to definition of self-employ-

1 ment income) is amended by inserting “and before 1966”
2 after “1958”, and by striking out “; or” and inserting in
3 lieu thereof “; and”.

4 (B) Section 1402(b)(1) of such Code is further
5 amended by adding at the end thereof the following new
6 subparagraph:

7 “(D) for any taxable year ending after 1965,
8 (i) \$5,600, minus (ii) the amount of the wages
9 paid to such individual during the taxable year; or”.

10 (2) Section 3121(a)(1) of such Code (relating to
11 definition of wages) is amended by striking out “\$4,800”
12 each place it appears and inserting in lieu thereof “\$5,600”.

13 (3) The second sentence of section 3122 of such Code
14 (relating to Federal service) is amended by striking out
15 “\$4,800” and inserting in lieu thereof “\$5,600”.

16 (4) Section 3125 of such Code (relating to returns in
17 the case of governmental employees in Guam and American
18 Samoa) is amended by striking out “\$4,800” where it ap-
19 pears in subsections (a) and (b) and inserting in lieu
20 thereof “\$5,600”.

21 (5) Section 6413(c)(1) of such Code (relating to
22 special refunds of employment taxes) is amended—

23 (A) by inserting “and prior to the calendar year
24 1966” after “the calendar year 1958”;

25 (B) by inserting after “exceed \$4,800,” the follow-

1 ing: "or (C) during any calendar year after the calen-
2 dar year 1965, the wages received by him during such
3 year exceed \$5,600," and

4 (C) by inserting before the period at the end there-
5 of the following: "and before 1966, or which exceeds
6 the tax with respect to the first \$5,600 of such wages
7 received in such calendar year after 1965".

8 (6) Section 6413 (c) (2) (A) of such Code (relating
9 to refunds of employment taxes in the case of Federal em-
10 ployees) is amended by striking out "or \$4,800 for any
11 calendar year after 1958" and inserting in lieu thereof
12 "\$4,800 for the calendar year 1959, 1960, 1961, 1962,
13 1963, 1964, or 1965, or \$5,600 for any calendar year after
14 1965".

15 (c) The amendments made by subsections (a) (1) and
16 (a) (3) (A), and the amendments made by subsection (b)
17 (except paragraph (1) thereof), shall apply only with re-
18 spect to remuneration paid after December 1965. The
19 amendments made by subsections (a) (2), (a) (3) (B),
20 and (b) (1) shall apply only with respect to taxable years
21 ending after 1965. The amendment made by subsection (a)
22 (4) shall apply only with respect to calendar years after
23 1965.

24

CHANGES IN TAX SCHEDULES

25

SEC. 211. (a) Section 1401 of the Internal Revenue

1 Code of 1954 (relating to rate of tax on self-employment
2 income) is amended to read as follows:

3 **“SEC. 1401. RATE OF TAX.**

4 “In addition to other taxes, there shall be imposed for
5 each taxable year, on the self-employment income of every
6 individual, a tax as follows:

7 “(1) in the case of any taxable year beginning
8 after December 31, 1965, and before January 1, 1968,
9 the tax shall be equal to 6.4 percent of the amount of
10 the self-employment income for such taxable year;

11 “(2) in the case of any taxable year beginning after
12 December 31, 1967, and before January 1, 1971 the
13 tax shall be equal to 7.5 percent of the amount of the
14 self-employment income for such taxable year;

15 “(3) in the case of any taxable year beginning after
16 December 31, 1970, the tax shall be equal to 7.8 percent
17 of the amount of the self-employment income for such
18 taxable year.”

19 (b) Section 3101 of such Code (relating to rate of tax
20 on employees under the Federal Insurance Contributions
21 Act) is amended to read as follows:

22 **“SEC. 3101. RATE OF TAX.**

23 “In addition to other taxes, there is hereby imposed on
24 the income of every individual a tax equal to the following
25 percentages of the wages (as defined in section 3121 (a))

1 received by him with respect to employment (as defined in
2 section 3121 (b)) —

3 “(1) with respect to wages received during the
4 calendar years 1966 and 1967, the rate shall be 4.25
5 percent;

6 “(2) with respect to wages received during the
7 calendar years 1968, 1969, and 1970, the rate shall
8 be 5 percent; and

9 “(3) with respect to wages received after Decem-
10 ber 31, 1970, the rate shall be 5.2 percent.”

11 (c) Section 3111 of such code (relating to rate of tax
12 on employers under the Federal Insurance Contributions
13 Act) is amended to read as follows:

14 **“SEC. 3111. RATE OF TAX.**

15 “In addition to other taxes, there is hereby imposed
16 on every employer an excise tax, with respect to having in-
17 dividuals in his employ, equal to the following percentages
18 of the wages (as defined in section 3121 (a)) paid by him
19 with respect to employment (as defined in section
20 3121 (b)) —

21 “(1) with respect to wages paid during the calen-
22 dar years 1966 and 1967, the rate shall be 4.25 percent;

23 “(2) with respect to wages paid during the calen-
24 dar years 1968, 1969, and 1970, the rate shall be 5 per-
25 cent; and

1 “(3) with respect to wages paid after December
2 31, 1970, the rate shall be 5.2 percent.”

3 (d) The amendment made by subsection (a) shall
4 apply only with respect to taxable years beginning after De-
5 cember 31, 1965. The amendments made by subsections
6 (b) and (c) shall apply only with respect to remuneration
7 paid after December 31, 1965.

8 AMENDMENT PRESERVING RELATIONSHIP BETWEEN RAIL-
9 ROAD RETIREMENT AND OLD-AGE, SURVIVORS, AND DIS-
10 ABILITY INSURANCE SYSTEMS

11 SEC. 212. (a) Section 1 (q) of the Railroad Retire-
12 ment Act of 1937 is amended by striking out “1961” and
13 inserting in lieu thereof “1965”.

14 (b) Section 5 (1) (9) of such Act is amended by strik-
15 ing out “after 1958 is less than \$4,800” and inserting in lieu
16 thereof the following: “after 1958 and before 1966 is less
17 than \$4,800, or for any calendar year after 1965 is less than
18 \$5,600”; and by striking out “and \$4,800 for years after
19 1958”, and inserting in lieu thereof the following: “\$4,800
20 for years after 1958 and before 1966, and \$5,600 for years
21 after 1965”.

22 EXTENSION OF PERIOD FOR FILING PROOF OF SUPPORT
23 AND APPLICATIONS FOR LUMP-SUM DEATH PAYMENT

24 SEC. 213. (a) Subsection (p) of section 202 of the
25 Social Security Act is amended to read as follows:

1 "EXTENSION OF PERIOD FOR FILING PROOF OF SUPPORT
2 AND APPLICATIONS FOR LUMP-SUM DEATH PAYMENT

3 "(p) In any case in which there is a failure—

4 "(1) to file proof of support under subparagraph
5 (C) of subsection (c) (1), clause (i) or (ii) of sub-
6 paragraph (D) of subsection (f) (1), or subparagraph
7 (B) of subsection (h) (1), or under clause (B) of
8 subsection (f) (1) of this section as in effect prior to
9 the Social Security Act Amendments of 1950, within
10 the period prescribed by such subparagraph or clause, or

11 "(2) to file, in the case of a death after 1946,
12 application for a lump-sum death payment under sub-
13 section (i), or under subsection (g) of this section as
14 in effect prior to the Social Security Act Amendments
15 of 1950, within the period prescribed by such subsection,
16 any such proof or application, as the case may be, which is
17 filed after the expiration of such period shall be deemed to
18 have been filed within such period if it is shown to the satis-
19 faction of the Secretary that there was good cause for failure
20 to file such proof or application within such period. The
21 determination of what constitutes good cause for purposes
22 of this subsection shall be made in accordance with regula-
23 tions of the Secretary."

24 (b) The amendments made by this section shall be
25 effective with respect to (1) applications for lump-sum death

1 payments filed in or after the month in which this Act is
 2 enacted, and (2) monthly benefits based on applications
 3 filed in or after such month.

4 TECHNICAL AMENDMENT RELATING TO MEETINGS OF
 5 BOARD OF TRUSTEES OF TRUST FUNDS

6 SEC. 214. The subsection of section 201 of the Social
 7 Security Act redesignated as subsection (d) (by section 103
 8 of this Act) is amended by striking out "six months" in the
 9 fourth sentence and inserting in lieu thereof "year".

10 TITLE III—PUBLIC ASSISTANCE AMENDMENTS

11 SHORT TITLE

12 SEC. 300. This title may be cited as the "Public Assist-
 13 ance Amendments of 1965".

14 REMOVAL OF LIMITATIONS ON FEDERAL PARTICIPATION IN
 15 ASSISTANCE TO AGED INDIVIDUALS WITH TUBERCULO-
 16 SIS OR MENTAL DISEASE; PROTECTIVE PAYMENTS

17 SEC. 301. (a) (1) Section 6(a) of the Social Security
 18 Act is amended to read as follows:

19 "(a) For the purposes of this title, the term 'old-age
 20 assistance' means money payments to, or (if provided in
 21 or after the third month before the month in which the
 22 recipient makes application for assistance) medical care in
 23 behalf of or any type of remedial care recognized under State
 24 law in behalf of, needy individuals who are 65 years of

1 age or older, but does not include any such payments to
2 or care in behalf of any individual who is an inmate of a
3 public institution (except as a patient in a medical institu-
4 tion). Such term also includes payments which are not
5 included within the meaning of such term under the pre-
6 ceding sentence, but which would be so included except that
7 they are made on behalf of such a needy individual to
8 another individual who (as determined in accordance with
9 standards prescribed by the Secretary) is interested in or
10 concerned with the welfare of such needy individual, but
11 only with respect to a State whose State plan approved
12 under section 2 includes provision for—

13 “(1) determination by the State agency that such
14 needy individual has, by reason of his physical or
15 mental condition, such inability to manage funds that
16 making payments to him would be contrary to his wel-
17 fare and, therefore, it is necessary to provide such
18 assistance through payments described in this sentence;

19 “(2) making such payments only in cases in which
20 such payments will, under the rules otherwise applicable
21 under the State plan for determining need and the
22 amount of old-age assistance to be paid (and in con-
23 junction with other income and resources), meet all the
24 need of the individuals with respect to whom such pay-
25 ments are made;

1 “(3) undertaking and continuing special efforts to
2 protect the welfare of such individual and to improve,
3 to the extent possible, his capacity for self-care and to
4 manage funds;

5 “(4) periodic review by such State agency of the
6 determination under paragraph (1) to ascertain whether
7 conditions justifying such determination still exist, with
8 provision for termination of such payments if they do not
9 and for seeking judicial appointment of a guardian or
10 other legal representative, as described in section 1111,
11 if and when it appears that such action will best serve
12 the interests of such needy individual; and

13 “(5) opportunity for a fair hearing before the State
14 agency on the determination referred to in paragraph
15 (1) for any individual with respect to whom it is made.”

16 (2) Section 6(b) of such Act is amended by striking
17 out all that follows clause (12), and inserting in lieu thereof
18 the following: “except that such term does not include any
19 such payments with respect to care or services for any in-
20 dividual who is an inmate of a public institution (except as
21 a patient in a medical institution).”

22 (3) Section 2(a) of such Act is amended (A) by
23 striking out “and” at the end of paragraph (10); (B) by
24 striking out the period at the end of paragraph (11) and

1 inserting in lieu thereof a semicolon; and (C) by adding at
2 the end thereof the following new paragraphs:

3 “(12) if the State plan includes assistance to or in
4 behalf of patients who are in institutions for tuberculosis
5 or mental diseases, or who are in medical institutions for
6 more than 42 days as a result of a diagnosis of tubercu-
7 losis or psychosis—

8 “(A) provide for having in effect such agree-
9 ments or other arrangements with State authorities
10 concerned with mental diseases or tuberculosis (as
11 the case may be), and, where appropriate, with
12 such institutions, as may be necessary for carrying
13 out the State plan, including arrangements for joint
14 planning and for development of alternate methods
15 of care, arrangements providing assurance of im-
16 mediate readmittance to institutions where needed
17 for individuals under alternate plans of care, and
18 arrangements providing for access to patients and
19 facilities, for furnishing information, and for making
20 reports;

21 “(B) provide for an individual plan for each
22 such patient to assure that the institutional care
23 provided to him is in his best interests, including,
24 to that end, assurances that there will be initial
25 and periodic review of his medical and other needs,

1 that he will be given appropriate medical treat-
2 ment within the institution, and that there will be a
3 periodic determination of his need for continued
4 treatment in the institution;

5 “(C) provide for the development of alternate
6 plans of care, making maximum utilization of avail-
7 able resources, for recipients who would otherwise
8 need care in such institutions, including appropriate
9 medical treatment and other assistance; for services
10 referred to in section 3 (a) (4) (A) (i) and (ii)
11 which are appropriate for such recipients and for
12 such patients; and for methods of administration
13 necessary to assure that the responsibilities of the
14 State agency under the State plan with respect to
15 such recipients and such patients will be effectively
16 carried out; and

17 “(D) provide methods of determining the rea-
18 sonable cost of institutional care for such patients;
19 and

20 “(13) if the State plan includes assistance to or
21 in behalf of patients in public institutions for mental
22 diseases, show that the State is making satisfactory
23 progress toward developing and implementing a com-
24 prehensive mental health program, including provision
25 for utilization of community mental health centers, nurs-

1 ing homes, and other alternatives to care in public in-
2 stitutions for mental diseases.”

3 (4) Section 3 of such Act is amended by adding at
4 the end thereof (after the new subsection (d) added by
5 section 217 of this Act) the following new subsection:

6 “(e) Notwithstanding the preceding provisions of this
7 section, the amount determined under such provisions for
8 any State for any quarter which is attributable to expendi-
9 tures with respect to patients in institutions for tuberculosis
10 or mental diseases shall be paid only to the extent that
11 the State makes a showing satisfactory to the Secretary that
12 it has increased total expenditures from Federal, State, and
13 local sources for mental health services (including payments
14 to or in behalf of individuals with mental health problems)
15 under State and local public health and public welfare pro-
16 grams for such quarter over the average of the total ex-
17 penditures from such sources for such services under such
18 programs for each quarter of the fiscal year ending June 30,
19 1965. For purposes of this subsection, expenditures for
20 such services for each quarter in the fiscal year ending June
21 30, 1965, in the case of any State shall be determined on
22 the basis of the latest data, satisfactory to the Secretary,
23 available to him at the time of the first determination by
24 him under this section for such State; and expenditures for
25 such services for any quarter thereafter in the case of any

1 State shall be determined on the basis of the latest data,
2 satisfactory to the Secretary, available to him at the time
3 of the determination under this section for such State for
4 such quarter; and determinations so made shall be conclusive
5 for purposes of this subsection.”

6 (b) Section 1006 of such Act is amended by striking
7 out clauses (a) and (b) and inserting in lieu thereof the
8 following: “who is a patient in an institution for tuberculosis
9 or mental diseases”.

10 (c) Section 1406 of such Act is amended by striking
11 out clauses (a) and (b) and inserting in lieu thereof the
12 following: “who is a patient in an institution for tuberculosis
13 or mental diseases”.

14 (d) (1) Section 1605 (a) of such Act is amended to
15 read as follows:

16 “(a) For purposes of this title, the term ‘aid to the
17 aged, blind, or disabled’ means money payments to, or (if
18 provided in or after the third month before the month in
19 which the recipient makes application for aid) medical care
20 in behalf of or any type of remedial care recognized under
21 State law in behalf of, needy individuals who are 65 years
22 of age or older, are blind, or are 18 years of age or over
23 and permanently and totally disabled, but such term does not
24 include—

25 “(1) in the case of any individual, any such pay-

1 ments to or care in behalf of any individual who is an
2 inmate of a public institution (except as a patient in a
3 medical institution) ; or

4 “(2) in the case of any individual who has not
5 attained 65 years of age any such payments to or care
6 in behalf of any individual who is a patient in an institu-
7 tion for tuberculosis or mental diseases.

8 Such term also includes payments which are not included
9 within the meaning of such term under the preceding sen-
10 tence, but which would be so included except that they are
11 made on behalf of such a needy individual to another in-
12 dividual who (as determined in accordance with standards
13 prescribed by the Secretary) is interested in or concerned
14 with the welfare of such needy individual, but only with re-
15 spect to a State whose State plan approved under section
16 1602 includes provision for—

17 “(i) determination by the State agency that such
18 needy individual has, by reason of his physical or mental
19 condition, such inability to manage funds that making
20 payments to him would be contrary to his welfare and,
21 therefore, it is necessary to provide such aid through
22 payments described in this sentence;

23 “(ii) making such payments only in cases in which
24 such payments will, under the rules otherwise applicable
25 under the State plan for determining need and the

1 amount of aid to the aged, blind, or disabled to be paid
2 (and in conjunction with other income and resources),
3 meet all the need of the individuals with respect to
4 whom such payments are made;

5 “(iii) undertaking and continuing special efforts to
6 protect the welfare of such individual and to improve,
7 to the extent possible, his capacity for self-care and to
8 manage funds;

9 “(iv) periodic review by such State agency of the
10 determination under clause (i) to ascertain whether
11 conditions justifying such determination still exist, with
12 provision for termination of such payments if they do not
13 and for seeking judicial appointment of a guardian or
14 other legal representative, as described in section 1111,
15 if and when it appears that such action will best serve
16 the interests of such needy individual; and

17 “(v) opportunity for a fair hearing before the State
18 agency on the determination referred to in clause (i)
19 for any individual with respect to whom it is made.”

20 (2) Section 1605 (b) of such Act is amended by strik-
21 ing out all that follows clause (12), and inserting in lieu
22 thereof the following: “except that such term does not in-
23 clude any such payments with respect to care or services for
24 any individual who is an inmate of a public institution (ex-
25 cept as a patient in a medical institution).”

1 (3) Section 1602 (a) of such Act is amended (A) by
2 striking out “and” at the end of paragraph (14); (B) by
3 striking out the period at the end of paragraph (15) and
4 inserting in lieu thereof a semicolon; and (C) by adding
5 after paragraph (15) the following new paragraphs:

6 “(16) if the State plan includes aid or assistance
7 to or in behalf of individuals 65 years of age or older who
8 are patients in institutions for tuberculosis or mental
9 diseases, or to individuals who are patients in medical
10 institutions for more than 42 days as a result of a diag-
11 nosis of tuberculosis or psychosis—

12 “(A) provide for having in effect such agree-
13 ments or other arrangements with State authorities
14 concerned with mental diseases or tuberculosis (as
15 the case may be), and, where appropriate, with such
16 institutions, as may be necessary for carrying out
17 the State plan, including arrangements for joint
18 planning and for development of alternate methods
19 of care, arrangements providing assurance of im-
20 mediate readmittance to institutions where needed
21 for individuals under alternate plans of care, and
22 arrangements providing for access to patients and
23 facilities, for furnishing information, and for making
24 reports;

25 “(B) provide for an individual plan for each

1 such patient to assure that the institutional care pro-
2 vided to him is in his best interests, including, to
3 that end, assurances that there will be initial and
4 periodic review of his medical and other needs, that
5 he will be given appropriate medical treatment
6 within the institution, and that there will be a
7 periodic determination of his need for continued
8 treatment in the institution;

9 “(C) provide for the development of alternate
10 plans of care, making maximum utilization of avail-
11 able resources, for recipients 65 years of age or older
12 who would otherwise need care in such institutions,
13 including appropriate medical treatment and other
14 aid or assistance; for services referred to in section
15 1603 (a) (4) (A) (i) and (ii) which are appro-
16 priate for such recipients and for such patients; and
17 for methods of administration necessary to assure
18 that the responsibilities of the State agency under
19 the State plan with respect to such recipients and
20 such patients will be effectively carried out; and

21 “(D) provide methods of determining the rea-
22 sonable cost of institutional care for such patients;
23 and

24 “(17) if the State plan includes aid or assistance to
25 or in behalf of individuals 65 years of age or older who

1 are patients in public institutions for mental diseases,
2 show that the State is making satisfactory progress
3 toward developing and implementing a comprehensive
4 mental health program, including provision for utiliza-
5 tion of community mental health centers, nursing homes,
6 and other alternatives to care in public institutions for
7 mental diseases.”

8 (4) Section 1603 of such Act is amended by adding at
9 the end thereof (after the new subsection (d) added by sec-
10 tion 217 of this Act) the following new subsection:

11 “(e) Notwithstanding the preceding provisions of this
12 section, the amount determined under such provisions for any
13 State for any quarter which is attributable to expenditures
14 with respect to individuals 65 years of age or older who are
15 patients in institutions for tuberculosis or mental diseases
16 shall be paid only to the extent that the State makes a show-
17 ing satisfactory to the Secretary that it has increased total
18 expenditures from Federal, State, and local sources for mental
19 health services (including payments to or in behalf of indi-
20 viduals with mental health problems) under State and local
21 public health and public welfare programs for such quarter
22 over the average of the total expenditures from such sources
23 for such services under such programs for each quarter of
24 the fiscal year ending June 30, 1965. For purposes of this
25 subsection, expenditures for such services for each quarter in

1 the fiscal year ending June 30, 1965, in the case of any State
2 shall be determined on the basis of the latest data, satisfac-
3 tory to the Secretary, available to him at the time of the first
4 determination by him under this section for such State; and
5 expenditures for such services for any quarter thereafter in
6 the case of any State shall be determined on the basis of the
7 latest data, satisfactory to the Secretary, available to him at
8 the time of the determination under this section for such
9 State for such quarter; and determinations so made shall be
10 conclusive for purposes of this subsection.”

11 (e) The amendments made by this section shall apply
12 in the case of expenditures made after December 31, 1965,
13 under a State plan approved under title I, X, XIV, or XVI
14 of the Social Security Act.

15 INCREASED FEDERAL PAYMENTS UNDER PUBLIC ASSIST-
16 ANCE TITLES OF THE SOCIAL SECURITY ACT

17 SEC. 302. (a) Section 3 (a) (1) of the Social Security
18 Act is amended (1) by striking out, in so much thereof as
19 precedes clause (A), “during such quarter” and inserting in
20 lieu thereof “during each month of such quarter”; (2) by
21 striking out, in clause (A), “29/35”, “any month”, and
22 “\$35” and inserting in lieu thereof “31/37”, “such month”,
23 and “\$37”, respectively; and (3) by striking out clauses
24 (B) and (C) and inserting in lieu thereof the following:

25 “(B) the larger of the following:

1 “(i) (I) the Federal percentage (as de-
2 fined in section 1101 (a) (8)) of the amount
3 by which such expenditures exceed the amount
4 which may be counted under clause (A), not
5 counting so much of such excess with respect to
6 any month as exceeds the product of \$38 multi-
7 plied by the total number of recipients of old-
8 age assistance for such month, plus (II) 15 per
9 centum of the total of the sums expended dur-
10 ing such month as old-age assistance under the
11 State plan in the form of medical or any other
12 type of remedial care, not counting so much of
13 any such expenditure with respect to such
14 month as exceeds the product of \$15 multiplied
15 by the total number of recipients of old-age
16 assistance for such month, or

17 “(ii) (I) the Federal medical percentage
18 (as defined in section 6 (c)) of the amount by
19 which such expenditures exceed the maximum
20 which may be counted under clause (A), not
21 counting so much of any expenditures with re-
22 spect to such month as exceeds (a) the product
23 of \$52 multiplied by the total number of such
24 recipients of old-age assistance for such month,
25 or (b) if smaller, the total expended as old-age

1 assistance in the form of medical or any other
2 type of remedial care with respect to such
3 month plus the product of \$37 multiplied by
4 such total number of such recipients, plus (II)
5 the Federal percentage of the amount by which
6 the total of the sums expended during such
7 month as old-age assistance under the State
8 plan exceed the amount which may be counted
9 under clause (A) and the preceding provisions
10 of this clause (B) (ii), not counting so much
11 of such excess with respect to such month as
12 exceeds the product of \$38 multiplied by the
13 total number of such recipients of old-age as-
14 sistance for such month;”.

15 (b) Section 1603 (a) (1) of such Act is amended (1)
16 by striking out, in so much thereof as precedes clause (A),
17 “during such quarter” and inserting in lieu thereof “during
18 each month of such quarter”; (2) by striking out, in clause
19 (A), “29/35”, “any month”, and “\$35” and inserting in
20 lieu thereof “31/37”, “such month”, and “\$37”, respec-
21 tively; and (3) by striking out clauses (B) and (C) and
22 inserting in lieu thereof the following:

23 “(B) the larger of the following:

24 “(i) (I) the Federal percentage (as de-
25 fined in section 1101 (a) (8)) of the amount

1 by which such expenditures exceed the amount
2 which may be counted under clause (A), not
3 counting so much of such excess with respect to
4 any month as exceeds the product of \$38 multi-
5 plied by the total number of recipients of aid to
6 the aged, blind, or disabled for such months,
7 plus (II) 15 per centum of the total of the
8 sums expended during such month as aid to the
9 aged, blind, or disabled under the State plan in
10 the form of medical or any other type of re-
11 medial care, not counting so much of any such
12 expenditure with respect to such month as
13 exceeds the product of \$15 multiplied by the
14 total number of recipients of aid to the aged,
15 blind, or disabled for such month, or

16 “ (ii) (I) the Federal medical percentage
17 (as defined in section 6(c)) of the amount by
18 which such expenditures exceed the maximum
19 which may be counted under clause (A), not
20 counting so much of any expenditures with re-
21 spect to such month as exceeds (a) the product
22 of \$52 multiplied by the total number of such
23 recipients of aid to the aged, blind, or disabled
24 for such month, or (b) if smaller, the total
25 expended as aid to the aged, blind, or disabled

1 in the form of medical or any other type of
2 remedial care with respect to such month plus
3 the product of \$37 multiplied by such total num-
4 ber of such recipients, plus (II) the Federal
5 percentage of the amount by which the total
6 sums expended during such month as aid to the
7 aged, blind, or disabled under the State plan
8 exceed the amount which may be counted under
9 clause (A) and the preceding provisions of this
10 clause (B) (ii), not counting so much of such
11 excess with respect to such month as exceeds
12 the product of \$38 multiplied by the total num-
13 ber of recipients of aid to the aged, blind, or
14 disabled for such month;”.

15 (c) Section 403 (a) (1) of such Act is amended (1) by
16 striking out “fourteen-seventeenths” and “\$17” in clause
17 (A) and inserting in lieu thereof “five-sixths” and “\$18”,
18 respectively; and (2) by striking out “\$30” in clause (B)
19 and inserting in lieu thereof “\$32”.

20 (d) Section 1003 (a) (1) of such Act is amended (1)
21 by striking out, in clause (A), “29/35” and “\$35” and
22 inserting in lieu thereof “31/37” and “\$37”, respectively;
23 and (2) by striking out, in clause (B), “\$70” and insert-
24 ing in lieu thereof “\$75”.

1 (e) Section 1403 (a) (1) of such Act is amended (1)
2 by striking out, in clause (A), "29/35" and "\$35" and
3 inserting in lieu thereof "31/37" and "\$37", respectively;
4 and (2) by striking out, in clause (B), "\$70" and inserting
5 in lieu thereof "\$75".

6 (f) Sections 3, 403, 1003, 1403, and 1603 of such
7 Act are each amended by inserting after subsection (c) the
8 following new subsection:

9 " (d) The amount determined under this section for any
10 State for any quarter shall be reduced to the extent that—

11 " (1) the excess of (A) the total determined for
12 the State under the preceding provisions of this section
13 for such quarter over (B) the average of the totals
14 determined for the State under this section for each
15 quarter of the fiscal year ending June 30, 1965, is
16 greater than,

17 " (2) the excess of (A) the total expenditures for
18 such quarter for which the determination is being made
19 under the State plan approved under this title over
20 (B) the average of the total expenditures under the
21 State plan approved under this title for each quarter
22 of the fiscal year ending June 30, 1965.

23 For purposes of this subsection, expenditures under the
24 State plan of any State approved under this title, and the
25 payment determined with respect thereto under this section,

1 shall be determined on the basis of data furnished by the
2 State in the quarterly reports submitted by the State to the
3 Secretary pursuant to and in accord with the requirements
4 of the Secretary under this title; and determinations so
5 made shall be conclusive for purposes of this subsection.”

6 (g) The amendments made by this section shall apply
7 in the case of expenditures made after December 31, 1965,
8 under a State plan approved under title I, IV, X, XIV, or
9 XVI of the Social Security Act.

10 DISREGARDING CERTAIN EARNINGS IN DETERMINING NEED
11 UNDER OLD-AGE ASSISTANCE PROGRAMS

12 SEC. 303. (a) Effective January 1, 1966, section 2
13 (a) (10) (A) of the Social Security Act is amended by
14 striking out “; except that, in making such determination,
15 of the first \$50 per month of earned income the State agency
16 may disregard, after December 31, 1962, not more than
17 the first \$10 thereof plus one-half of the remainder” and
18 inserting in lieu thereof the following: “; except that, in
19 making such determination of the first \$80 per month of
20 earned income, the State agency may disregard not more
21 than the first \$20 thereof plus one-half of the remainder”

22 (b) Effective January 1, 1966, section 1602 (a) (14)
23 of such Act is amended by striking out “of the first \$50 per
24 month of earned income the State agency may, after Decem-
25 ber 31, 1962, disregard not more than the first \$10 thereof

1 plus one-half of the remainder” and inserting in lieu thereof
2 “of the first \$80 per month of earned income the State
3 agency may disregard not more than the first \$20 thereof
4 plus one-half of the remainder”.

5 AMENDMENT TO DEFINITION OF MEDICAL ASSISTANCE FOR

6 THE AGED

7 SEC. 304. (a) Section 6 (b) of the Social Security Act
8 is amended by striking out “who are not recipients of old-age
9 assistance” and inserting in lieu thereof “who are not re-
10 cipients of old-age assistance (except, for any month, for
11 recipients of old-age assistance who are admitted to or dis-
12 charged from a medical institution during such month) ”.

13 (b) Section 1605 (b) of such Act is amended by strik-
14 ing out “who are not recipients of aid to the aged, blind,
15 or disabled” and inserting in lieu thereof “who are not re-
16 cipients of aid to the aged, blind, or disabled (except, for
17 any month, for recipients of aid to the aged, blind, or dis-
18 abled who are admitted to or discharged from a medical in-
19 stitution during such month) ”.

20 (c) The amendments made by this section shall apply
21 in the case of expenditures under a State plan approved
22 under title I or XVI of the Social Security Act with respect
23 to care and services provided under such plan after
24 December 1965.

89TH CONGRESS
1ST SESSION

H. R. 1

A BILL

To provide a hospital insurance program for the aged under social security, to amend the Federal Old-Age, Survivors, and Disability Insurance System to increase benefits, improve the actuarial status of the Disability Insurance Trust Fund, and extend coverage, to amend the Social Security Act to provide additional Federal financial participation in the Federal-State public assistance programs, and for other purposes.

By Mr. KING of California

JANUARY 4, 1965

Referred to the Committee on Ways and Means

highest priority. This year, more than 3 million elderly Americans will have to go to the hospital and will be called on to pay individual health bills amounting to hundreds and even thousands of dollars. Almost one-half of these older people will have no health insurance at all and the great majority will have inadequate protection against their un-budgetable health expenses. Thus, many older Americans will have to use up meager savings—savings which, once spent, can never be restored.

Some older people will be crushed by the burden of expensive illness, their dreams for an independent old age shattered. Others will have to face the prospect of becoming dependent on their children, young people with families of their own to care for; and all too many of them will have to accept public charity and a life of poverty.

Mr. Speaker, my conviction that a hospital insurance for the aged program is needed is shared by the Advisory Council on Social Security. As Members of this body know, the Social Security Advisory Council was appointed in accordance with provisions of the 1956 social security amendments and was charged with the responsibility of reviewing and making recommendations on all aspects of the social security program, including the adequacy of benefits. The council was composed of distinguished representatives of employers, employees, self-employed people, and the general public. Only a few days ago, after more than 1½ years of intensive study, the Council reported as one of its conclusions that security in old age requires the combination of a cash benefit and insurance against a substantial part of the costs of expensive illness. The Council stated further that social insurance offers the only practical way of making sure that most older people will have hospital insurance protection. I will comment further on the Council's findings at a later point in my statement.

We can no longer permit hospital costs—or the fear of hospital costs—to deprive our elderly citizens of the security and peace of mind that should be their due after a lifetime of work. Mr. Speaker, I am confident that most of my colleagues, and most Americans, share my conviction that the only practical and effective remedy to this critical and widespread problem is hospital insurance through social security. Enactment of H.R. 1, which would provide such insurance, should be our No. 1 objective in the coming months.

PROSPECTS FOR ENACTMENT

Mr. Speaker, there is no justification for postponing approval of a social security hospital benefits program. During the many years that this proposal has been before the Congress, the major issues that have blocked passage have been resolved. The mounting evidence that has been collected over this period has clearly established that older people have not been able to adequately prepare themselves to cope with their large health costs. Everyone who has come into contact with this problem knows that the situation is widespread and

HOSPITAL INSURANCE FOR THE AGED THROUGH THE SOCIAL SECURITY SYSTEM

(Mr. KING of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. KING of California. Mr. Speaker, I am pleased to again today introduce a bill to provide a program of hospital benefits and related health benefits for the elderly through the social security system, to increase social security cash benefits by 7 percent, and make certain other needed improvements in the social security program, and to increase Federal payments toward public assistance. It is fitting that this bill is designated as H.R. 1, because its consideration and enactment are matters of the utmost urgency.

HOSPITAL INSURANCE FOR THE AGED

Social security hospital insurance for the elderly is among the proposals to which the President has accorded the

serious. The past several years of experimentation with private insurance and public welfare programs have also shown that these existing means of financing health care in old age cannot, by themselves, meet the problem.

Over the years, the American public has seen a great deal of controversy over social security hospital benefits for the elderly. They have been exposed to the informational campaigns carried out by proponents and opponents and they have considered the mounting support for the proposal by such nonpartisan groups of experts as the task force that was formed at the request of Senator JAVITS and, of course, the Advisory Council on Social Security. The American people have also considered the suggestions made during the political campaigns last year that not even the existing social security system—much less the hospital benefit plan—is acceptable and that the system should be radically changed.

The results of the November election should leave no doubt in anyone's mind over how the American voters feel about these issues. They have overwhelmingly endorsed social security and the addition of hospital insurance for the aged to the present system. The American voters have also elected to this body a membership which is clearly in favor of my proposal. We can now proceed to carry out our mandate without further delay.

SIMILARITY TO APPROVED MEASURES

With the exception of the hospital insurance provisions, the provisions of my bill are largely the same as, or similar to, those agreed to by the Committee on Ways and Means in the course of the committee's consideration of the proposed Social Security Amendments of 1964. The 7-percent benefit increase that I am proposing is somewhat larger than was agreed to by the committee, but an increase of this size is clearly needed; the last social security benefit increase was enacted in 1958 and the proposed increase is needed to bring benefits into line with current prices.

The proposed 7-percent increase, the hospital insurance program, and the other social security provisions of the bill would be financed by the contribution increases proposed in the Senate-approved bill of last year: the social security tax rate for an employee would be increased to an ultimate level of 5.2 percent—in 1971; and the amount of annual earnings subject to the tax would be raised from \$4,800 to \$5,600. You will recall, Mr. Speaker, that the proposed Social Security Amendments of 1964 were pending in a conference committee when the 88th Congress adjourned.

The hospital insurance provisions of the bill I have introduced will be familiar to my colleagues. In all major respects, the proposed hospital benefit plan is the same as the bill I have introduced on behalf of the administration in the previous Congress and which was considered by the Committee on Ways and Means during the extensive health benefit hearings of 1963 and 1964. Similarly, the proposal is much the same as the hospital insurance provisions of the proposed Social Security Amendments of 1964 as passed by the Senate last fall.

Mr. Speaker, I include in the Record immediately following my statement material describing the provisions of H.R. 1. This will include actuarial tables showing the financial status of the social security system under my bill. At this point, however, I shall summarize the hospital insurance provisions. I shall also touch briefly on some of the ways in which these have been improved. While the proposed hospital insurance plan follows the same approach as the predecessor bill, we have continued to evaluate the plan and have been able to make further improvements in it.

HOSPITAL INSURANCE PROVISIONS

Like my previous proposals, H.R. 1 would utilize the time-tested social security mechanism to enable Americans to contribute during working years toward the cost of hospitalization and related care that they will face during their later years. The proposed hospital insurance protection would be made available to virtually all people at age 65 as an earned right. My bill would accomplish this without interfering with hospital operations or the practice of medicine in any way. The proposed program would provide the following benefits:

First. Payments would be made for up to 60 days of hospital care with the patient paying a deductible amount equal to the national average cost for 1 day of hospital care. There is no provision for a choice among alternative hospital benefit plans, as under my previous proposal, because of problems of advising elderly people about the implications of various options and the dissatisfaction that would result from "wrong" choices.

Second. To encourage the appropriate use of facilities less expensive than hospitals for convalescence, payment would be made for up to 60 days of postacute care in extended-care facilities following discharge from a hospital. My new bill would clarify the nature of the post-hospital care that would be paid for under the proposed program by using the terms "posthospital extended care" and "extended care facility." In addition the bill would make it somewhat easier for these facilities to participate in the program by changing the requirement that a facility be affiliated with a hospital to one that would require only that the facility have an agreement with a hospital for the timely transfer of patients and medical information.

Third. Payment would be made for all costs above a deductible amount for outpatient hospital diagnostic services furnished within a 30-day period; the deductible amount would be equal to one-half the deductible amount for inpatient hospital benefits.

Fourth. Payment of all costs for up to 240 visits a year by visiting nurses and other health workers in the patient's own home.

In order to stimulate the supplementation of the basic plan with effective private insurance, the bill would authorize private insurance carriers to pool their resources for the purpose of making low-cost health insurance available that old-

er people could add to their social security hospital insurance.

The social security program of hospital insurance for the elderly that I propose would, like my previous proposals, rely on the traditional partnership between public insurance, private insurance, and public assistance that has worked so well in the area of income maintenance. First, basic protection against hospital costs and certain alternatives to hospitalization would be afforded the elderly on a paid-up basis through social security. Second, private protection would be built upon this base through employer plans and individually. Third, two States, relieved of a substantial portion of their welfare burden, would be placed in a far better financial position to provide adequate medical assistance to help the relatively small residual group whose special needs and circumstances make it impossible for them to meet their health costs.

FINANCIAL SOUNDNESS OF HOSPITAL INSURANCE PROVISIONS

The proposed hospital insurance would be financed on the same sound basis as the present social security program. The estimate of the cost of the proposed program was calculated only after intensive study of all available data, including the experience of private health insurance organizations. The cost of the proposed hospital insurance would be fully financed by contributions from workers—and matching payments from their employers. The maximum employee contribution rate would be less than one-half of one percent so that, for example, a worker earning \$5,600 a year, the maximum amount subject to contributions, would pay about \$25 per year toward hospital insurance; one earning \$4,800 would pay about \$22 a year; one earning the median amount of \$3,000 would pay \$13.50 a year.

Under the hospital insurance proposal, the additional contributions for hospital insurance would be automatically appropriated to a special hospital insurance trust fund, which would be kept separate and operate independently from the existing social security trust funds. All hospital insurance benefits and the administrative expenses of the proposed program would be paid only from the new hospital insurance trust fund.

IMPERATIVE NEED FOR ENACTMENT

The reasons that it is imperative to enact a program of hospital insurance for the elderly have been clearly established. Health care has become so expensive that virtually no one, not even the person who is working in a well paying job and who is at the height of his earning power, can afford to be without insurance against large health expenses. And the elderly have an even greater need for health insurance than younger people because, on the average, their health care costs are twice as high. The incidence of expensive illness increases greatly in old age. Each year, one out of every six older people is hospitalized. Practically everyone who reaches age 65 is hospitalized at least once during his later years and most older people are hospitalized two or more times. On the average, the

older person uses almost three times as much hospital care as the younger person.

It is ironic that, despite this demonstrably great need for protection against the cost of health care, the elderly have to get along without adequate health insurance coverage. Only a handful of the aged—perhaps 1 in 20—have protection against as much as 40 percent or more of their health costs. Only about one-half of the aged have any health insurance at all—even counting those with only meager \$10-per-day hospital coverage policies or one of the other inadequate plans offered to the aged. Despite the much-heralded introduction over the past 5 years of Blue Cross senior citizen plans, the State-65 plans and the commercial insurance mass enrollment plans, the number of aged people without health insurance is nearly as large as it was 5 years ago.

Over the years that the social security hospital insurance proposal has been studied, it has become increasingly clear to most informed people that the existing health insurance arrangements cannot alone meet the problem of insuring the elderly. Most people cannot afford to pay for adequate health insurance when they are old, because that is the time of life when health insurance costs are highest and when the individual's financial resources are likely to be lowest. On the average, the older family group has one-half as much income as younger families of comparable size. In all but a few cases, a person will no longer have upon retirement the advantage of employer contributions toward his health insurance premiums.

On the other hand, health insurance is much more expensive for the elderly than for others, primarily because of the high health costs associated with old age. And the health insurance premiums older people must pay are pushed even higher, because the elderly are generally not eligible for group coverage. Most of the health insurance in force in the United States is purchased for groups of employees through their place of employment. This group health insurance coverage is economical, in part because the sales and premium collection costs are less and in part because some of the administrative costs are borne by the employer, who, for example, collects the premiums, generally by a deduction from wages. When administrative costs are low, almost all of the money workers pay toward their group coverage can be returned to them in the form of health benefits.

Unfortunately, the elderly, who are generally not employed and do not belong to a group for which group health insurance could be furnished, cannot ordinarily benefit from the economies of group coverage. They can generally get health insurance only on an individual basis. Individual commercial health insurance costs, on the average, about 1½ times as much as group coverage offering the same protection. Because health costs for older people are about twice and hospital costs close to three times those of younger people, an individually written health insurance policy for an

aged person may cost three or four times as much as the same protection furnished under a group coverage plan for younger people. This can mean health insurance costs for an adequate policy of \$500 a year or more for an aged couple.

Health costs have become the most serious remaining threat to financial security in old age. It is not surprising, then, that health care costs have become the most important single reason for the continuing need for the aged to resort to public assistance.

Over one-third of public assistance expenditures for the aged are for medical costs. As short a time as 12 years ago medical costs were only 11 percent of public assistance for the aged.

A CONTINUING PROBLEM

Unless we take the steps that the people of this country have demanded, health costs are going to remain a serious threat to the security of elderly Americans for generations to come. There is little doubt but that the cost of health care will continue to rise faster than other costs for some time to come. And, of course, the cost of health insurance must follow suit. Moreover, there is every likelihood that the elderly will continue to use an increasing volume of health services as medical science advances. And as now, the future aged will have to cope with the substantial reduction in income that comes with retirement.

PUBLIC ASSISTANCE

Welfare programs do not offer an acceptable remedy to the problem older people face in meeting the costs of expensive illness. For the problem is not one faced only by the poor, the group for whom public assistance is intended. The problem of paying large health bills in old age hits hardest at the great majority of older people—those who are neither rich nor very poor. These are the people who risk the loss of their financial independence. Giving assistance to people who are already reduced to poverty is necessary, but the prevention of dependency is certainly more in line with the aspirations of the American people.

Also, getting help through public assistance always depends on meeting a means test—and that of course involves an investigation of the individual's personal financial situation. If there is one attitude Americans have in common it is the desire to maintain individual dignity and privacy. Most people find it humiliating to undergo a scrutiny of their personal affairs and how they spend their money. In some cases, the means-test investigation takes place while the elderly person is lying helpless in a hospital bed. Even the resources of their children may be investigated.

Many of our senior citizens would rather forgo needed medical care—to the detriment of their health—than go before a public welfare agency and admit what they think amounts to social and financial failure. How can we permit this to happen to a retired person who has worked hard and been self-supporting all his life, when he finds that he has a big hospital bill. We, as a moral

people, cannot consign all these people to the welfare rolls. We must adopt the much more suitable alternative of social security hospital insurance. And there are other problems with depending upon public assistance as the basic public program to meet this problem.

While a few States have fairly liberal Kerr-Mills programs of medical assistance for the aged, a few States have no Kerr-Mills program at all and most States have very stringent ones. Of the States with programs, the majority have established their programs so as to benefit only older individuals whose annual incomes fall below \$1,500. Also, the State plans generally give no help to those with very modest bank accounts. Many States do not provide aid if the relatives cannot show they are too poor to help.

It is not surprising, then, that while the Kerr-Mills provisions were intended to help older people who are ordinarily self-supporting, most of the aged who have actually met the eligibility requirements were so poor that they met all the requirements for old-age assistance. In other words, essentially none but the very poor have been aided by the Kerr-Mills legislation. Even then the scope of care available is often quite limited. In some States, for example, medical care is provided under Kerr-Mills only where the applicant's life or sight is endangered, rather than whenever medically required. In a number of States payment for hospital care under MAA is very limited—to as few as 15 days.

THE SOCIAL SECURITY APPROACH

For most Americans, what is needed is not more lenient welfare programs but rather an insurance system under which all workers can, during their productive years, pay contributions toward protection against the high health costs that will beset them in later years. Social security, and only social security, would make this desirable, self-help arrangement available to practically everybody.

Unlike public assistance, social security hospital insurance would help prevent indigency by helping older people meet their health costs before they have been reduced to indigency. The hospital insurance would be financed through a system which older people have helped to support by their specific earmarked social security contributions. Thus, unlike public assistance, there would be no humiliating and degrading needs tests; the hospital benefits would be paid as an earned right—the way that preserves individual dignity and privacy.

Further, the details of the proposed hospital insurance would be spelled out by statute so that workers would know what they would get in return for their contributions. Since the funds needed to finance the proposed insurance would be provided in advance, older people would be certain of having the proposed protection when they reach age 65. There would not be the problem that public assistance administrators face of having, every so often, to cut back the medical care provided the needy because of insufficient funds.

Unlike voluntary insurance, the social security mechanism would make

health benefit protection available to retired people on a group basis—a kind of coverage that is ordinarily only available to working people. Like the group insurance available to the young, there would be no waiting periods, no exclusion of preexisting conditions, no higher premiums for poorer health risks, nor other devices that now deprive those older people who need it most of hospital insurance protection. Individually purchased health insurance plans, on the average, provide less than 60 cents worth of protection in return for each dollar of premiums the individual pays, while social security hospital insurance would return 97 cents on the dollar. Social security hospital insurance would have no fixed dollar benefits that get out of date. And employer contributions, which are not generally available to the aged who buy insurance, would help finance the program.

The social insurance mechanism also offers a truly conservative approach to meeting basic costs of illness in old age. The scope of the health insurance protection that would be provided would be clearly defined and limited by law, the longrun cost of the program would be actuarially calculated, and revenue sufficient to finance the program would be provided.

RECOMMENDATION OF THE ADVISORY COUNCIL ON SOCIAL SECURITY

Before concluding my statement, I would like to call attention to a few of the specific conclusions about the health insurance needs of the elderly that the Advisory Council on Social Security reached after its thorough review of all the evidence. The council concluded that monthly cash benefits are not sufficient to provide the economic security in old age that the social security program is intended to provide. In the council's opinion, monthly cash benefits can meet regularly recurring expenses such as those for food, clothing and shelter, but monthly cash benefits are not a practical way to meet the problem of high and unpredictable costs of health care, and costs that may run into the thousands of dollars for some and amount to very little for others. The council believes that the time has come to apply the method of social insurance to this problem in order to assure the continuing effectiveness of retirement protection. The council's report recommends the adoption of a program under which workers and their employers and the self-employed could make contributions during their working years in order to have protection against the cost of hospital care and related services in old age. Only one member dissented from this recommendation.

I am delighted that the Advisory Council has made this recommendation. Their recommendation lends additional authoritative support to the cause I have been championing for years. I should mention that the hospital insurance program proposed by the Advisory Council goes beyond the proposal in my bill by recommending that totally and per-

manently disabled people should have the same hospital insurance protection as the elderly. I commend to Members of this body the thoughtful and thorough report of this knowledgeable and distinguished Council.

CONCLUSION

Mr. Speaker, as I have said, the bill I have just introduced is basically the same as the hospital insurance amendment that the Senate added last year to the proposed Social Security Amendments of 1964. In approving the previous version of the bill, that body endorsed the idea that workers should have the opportunity to pay in advance, and over their working years, toward the basic hospital insurance they will need during their later years. There is no question in my mind but that most of the Members of this body share that view. We in the Congress will reach agreement on this logical extension of the retirement protection offered by social security this year, and we will be able to take great pride in having had a hand in bringing financial security and peace of mind to millions of older Americans.

As was true of previous proposals on this subject, H.R. 1 will represent less than many might wish to have included, but at the same time it represents far more than others wish to include. There has been an opportunity to add further refinements and to make changes and improve this proposal. I might point out that there certainly has been ample opportunity during the past years for all interested individuals to thoroughly consider what is involved. I see no reason why there should not be expeditious consideration and favorable action at an early date.

Mr. Speaker, I am gratified to note the number of Members who have indicated their desire to cosponsor H.R. 1 at the commencement of this Congress:

EUGENE J. KEOGH, of New York; FRANK M. KARSTEN, of Missouri; AL ULLMAN, of Oregon; JAMES A. BURKE, of Massachusetts; MARTHA W. GRIFFITHS, of Michigan; GEORGE M. RHODES, of Pennsylvania; DAN ROSTENKOWSKI, of Illinois.

Congressmen from California include: CHET HOLIFIELD, GEORGE MILLER, JOHN MOSS, JAMES ROOSEVELT, B. F. SISK, JOHN MCFALL, JEFFERY COHELAN, HAROLD JOHNSON, JAMES C. CORMAN, GEORGE E. BROWN, PHILLIP BURTON, RONALD B. CAMERON, DON EDWARDS, RICHARD HANNA, AUGUSTUS F. HAWKINS, ROBERT L. LEGGETT, EDWARD R. ROYBAL, LIONEL VAN DERLIN, CHARLES H. WILSON, KEN W. DYAL, and JOHN V. TUNNEY.

PETER W. RODINO, Jr., of New Jersey; JOHN D. DINGELL, of Michigan; HENRY S. REUSS, of Wisconsin; SEYMOUR HALPERN, of New York; BENJAMIN S. ROSENTHAL, of New York; CARLTON R. SICKLES, of Maryland; LYNN E. STALBAUM, of Wisconsin; DOMINICK V. DANIELS, of New Jersey; JOSEPH P. ADDABO, of New York; JACOB H. GILBERT, of New York.

CLEMENT J. ZABLOCKI, of Wisconsin; JOHN R. HANSEN, of Iowa; JOSEPH P. VIGORITO, of Pennsylvania; ROMAN C.

PUCINSKI, of Illinois; CLAUDE PEPPER, of Florida; LEONARD FARBSTEIN, of New York; J. OLIVA HUOT, of New Hampshire; RAY CLEVINGER, of Michigan; SPARK M. MATSUNAGA, of Hawaii.

THOMAS C. McGRATH, Jr., of New Jersey; JOHN CONYERS, Jr., of Michigan; EDWARD PATTEN, of New Jersey; WILLIAM R. ANDERSON, of Tennessee; LLOYD MEEDS, of Washington; PATSY T. MINK, of Hawaii; JAMES H. SCHEUER, of New York; LESTER L. WOLFF, of New York; ARNOLD OLSEN, of Montana; WILLIAM F. RYAN, of New York; THADDEUS J. DULSKI, of New York.

Income and outgo under H.R. 1, by calendar years

OLD-AGE AND SURVIVORS INSURANCE TRUST FUND

| Calendar year | Income | Outgo | Net income | Fund at end of year |
|---------------|----------|----------|------------|---------------------|
| 1964..... | \$15,840 | \$15,610 | +230 | \$18,710 |
| 1965..... | 16,380 | 17,590 | -1,210 | 17,500 |
| 1966..... | 18,750 | 18,530 | +220 | 17,720 |
| 1967..... | 19,520 | 19,350 | +170 | 17,890 |

DISABILITY INSURANCE TRUST FUND

| Calendar year | Income | Outgo | Net income | Fund at end of year |
|---------------|---------|---------|------------|---------------------|
| 1964..... | \$1,200 | \$1,420 | -\$220 | \$2,010 |
| 1965..... | 1,230 | 1,630 | -400 | 1,610 |
| 1966..... | 1,700 | 1,700 | ----- | 1,610 |
| 1967..... | 1,850 | 1,750 | +100 | 1,710 |

HOSPITALIZATION INSURANCE TRUST FUND

| Calendar year | Income | Outgo | Net income | Fund at end of year |
|---------------|---------|-------|------------|---------------------|
| 1965..... | | | | |
| 1966..... | \$1,310 | \$800 | +\$510 | \$510 |
| 1967..... | 1,980 | 1,780 | +200 | 710 |

Actuarial balance under H.R. 1, expressed as percentages of taxable payroll

COMPUTATIONS ON PERPETUITY BASIS

| Item | OASDI | Hospitalization insurance | Total |
|--|-------|---------------------------|-------|
| Actuarial balance of present system..... | -0.24 | ----- | -0.24 |
| Earnings base of \$5,000..... | +0.31 | ----- | +0.31 |
| Revised contribution schedule..... | +0.20 | +0.89 | +1.09 |
| Extensions of coverage..... | +0.03 | ----- | +0.03 |
| Benefit increase of 7 percent ¹ | -0.60 | ----- | -0.60 |
| Hospitalization and related benefits..... | ----- | 2-0.84 | -0.84 |
| Total effect of changes..... | -0.06 | +0.05 | -0.01 |
| Actuarial balance under proposal..... | -0.30 | +0.05 | -0.25 |

COMPUTATIONS ON 75-YEAR COST BASIS*

| Item | OASDI | Hospitalization insurance | Total |
|--|-------|---------------------------|-------|
| Actuarial balance of present system..... | +0.01 | ----- | +0.01 |
| Earnings base of \$5,000..... | +0.31 | ----- | +0.31 |
| Revised contribution schedule..... | +0.20 | +0.89 | +1.09 |
| Extensions of coverage..... | +0.03 | ----- | +0.03 |
| Benefit increase of 7 percent ¹ | -0.58 | ----- | -0.58 |
| Hospitalization and related benefits..... | ----- | 2-0.84 | -0.84 |
| Total effect of changes..... | -0.04 | +0.05 | +0.01 |
| Actuarial balance under proposal..... | -0.03 | +0.05 | +0.02 |

¹ The 7-percent increase applies only on the first \$400 of average monthly wage.

² Following is a breakdown of the 0.84 percent cost of the health benefits:

| | Percent |
|--------------------------------------|---------|
| Hospitalization benefits..... | 0.78 |
| Extended care benefits..... | 0.02 |
| Out-patient diagnostic services..... | 0.01 |
| Home nursing care..... | 0.03 |
| Total..... | 0.84 |

* Basis recommended by Advisory Council on Social Security.

Mr. ROOSEVELT. Mr. Speaker, will the gentleman yield?

Mr. KING of California. I am pleased to yield to the gentleman from California.

Mr. ROOSEVELT. I congratulate my distinguished colleague for the introduction H.R. 1. I wish to tell him I am sure there are many of us who hope that at long last this measure will come to a vote in this House.

Mr. KING of California. I thank the gentleman.

Mr. MILLER. Mr. Speaker, will the gentleman yield?

Mr. KING of California. I yield to the gentleman from California.

Mr. MILLER. I wish to join in what the gentleman from California has said with respect to this bill.

Mr. KING of California. I thank the gentleman.

Mr. FARBSTEIN. Mr. Speaker, will the gentleman yield?

Mr. KING of California. I yield to the gentleman from New York.

Mr. FARBSTEIN. I also desire to join with the two gentlemen who have previously spoken in congratulating the gentleman for introducing this bill.

Mr. KING of California. I thank the gentleman.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. KING of California. I yield to the gentleman from Florida.

Mr. PEPPER. I wish to join heartily in what has been said by the able gentlemen, and to add that we entertain the fondest hopes that at long last this great measure will pass.

Mr. KING of California. I thank the gentleman.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 20

January 4, 1965

THE SOCIAL SECURITY AMENDMENTS OF 1965

To Administrative, Supervisory,
and Technical Employees

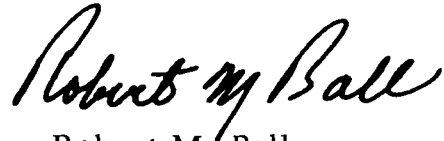
Representative Cecil R. King of California today introduced a bill-- expected to be H. R. 1--to provide hospital insurance under the social security program and an increase in social security cash benefits. Senator Clinton P. Anderson of New Mexico will introduce a companion bill--expected to be S. 1--within a few days. The bills contain a number of provisions which were extensively considered by the Congress in 1964.

The major provisions of the bills are:

1. Hospital insurance under social security (provisions similar to those included in last year's Senate-passed bill but modified in the direction of the recommendations of the Advisory Council on Social Security);
2. A 7-percent benefit increase (a 5-percent increase was approved by the House and a \$7 increase in primary benefit amounts was approved by the Senate last year);
3. A \$5, 600 contribution and benefit base (as in the Senate-passed bill);
4. Tax rate increases (similar to Senate-passed bill);
5. Coverage of doctors (as in the House-passed bill);
6. Coverage of tips (similar to House-passed bill);
7. Extension of the period for filing proof of support and filing application for lump-sum death payment (as in the Senate-passed bill);

8. Automatic recomputation of benefits (as in the bill passed by both Houses); and
9. Welfare amendments (as in the Senate-passed bill).

Enclosed is a brief summary of the major provisions of the proposal.

A handwritten signature in black ink that reads "Robert M. Ball". The signature is written in a cursive style with a large, prominent initial "R".

Robert M. Ball
Commissioner

Enclosure

BRIEF SUMMARY OF "HOSPITAL INSURANCE, SOCIAL SECURITY, AND
PUBLIC ASSISTANCE AMENDMENTS OF 1965"

Title I--Hospital Insurance Act of 1965

Persons Entitled

People age 65 and over who are entitled to monthly benefits under the old-age and survivors insurance program or under the railroad retirement system would be provided protection beginning July 1, 1966 (January 1, 1967, for post-hospital extended care) against the cost of inpatient hospital services, outpatient hospital diagnostic services, post-hospital extended care, and home health services. The number of people past 65 who would be included in this way is estimated at 16 2/3 million as of July 1, 1966.

In addition, the bill would make it possible for essentially all people who are now 65 and over, or who will reach 65 in the next few years but who are not eligible for social security or railroad retirement benefits, to have the same protection. (This provision would not apply to aliens with relatively short residence in the United States or to active or retired Federal employees who already have the opportunity for protection under Federal employee health insurance plans.) The cost of this provision would be met from general revenues. Men and women who will reach age 65 before 1968 and who do not meet the regular insured status requirements of the social security system would be deemed insured for the hospital and related benefits. Uninsured people who reach age 65 after 1967 would need, to be insured for these benefits, 3 quarters of coverage for each year elapsing after 1965 and before age 65. The provision would not apply to women who reach age 65 in 1972 (or later) and men who reach age 65 in 1974 (or later) since in those years the number of quarters that would be required to qualify for hospital benefits would be the same as, or greater than, the number required for social security cash benefits. About 2 million persons would be covered in this way as of July 1, 1966.

Scope and Duration of Benefits Provided

The services for which payment would be made under the bill include:

- (1) inpatient hospital services for up to 60 days with a modest deductible amount equal to the average cost of one day of hospital care; hospital services would include all those customarily furnished by a hospital for its inpatients; payment would not be made for the hospital services of physicians except those in the fields of pathology, radiology, physical medicine, and anesthesiology provided by or under arrangements made by the hospital, or services provided by an intern or resident-in-training under an approved teaching program;
- (2) post-hospital extended care (in a facility having an arrangement with a hospital for the timely transfer of patients and medical information about patients) after the patient is transferred from a hospital, for up to 60 days;

- (3) outpatient hospital diagnostic services, as required, subject to a deductible amount equal to the average cost of 1/2 day of hospital care for diagnostic services furnished within a 30-day period;
- (4) home health services for up to 240 visits during a calendar year (120 visits in 1966) for a home-bound person in the care of a physician and under a plan established by a physician for the use of such services; these services would include intermittent nursing care, therapy, and the part-time services of a home health aide.

No service would be covered as post-hospital extended care or outpatient diagnostic or home health services if it could not be covered as an inpatient hospital service.

An individual would be eligible for 60 days of hospital care and 60 days of post-hospital extended care in each benefit period. A new benefit period could not begin until 90 days had elapsed in which the patient was neither in a hospital nor in an extended care facility. The 90 days need not be consecutive, but they must fall within a period of not more than 180 consecutive days.

Free Choice of Physician and Hospital

Under the bill, no change would be made in the freedom of choice of physician and hospital. No service performed by any physician at either home or office, and no fee he charges for such services, would be involved or affected. No supervision or control over the practice of medicine by any physician or over the manner in which services are provided by any hospital is permitted.

Basis of Reimbursement

Payment of bills for hospital and related services would be made in generally the same manner as is now customary in Blue Cross plans. Payments to the providers of service would be made on the basis of the reasonable cost incurred in providing care for beneficiaries. A provider of services could not charge the beneficiary for services which would be covered under the program, except, of course, that the provider could charge the patient the deductible amounts and extra charges for a private room, unless medically necessary, or private duty nursing.

Administration

Responsibility for administration of the program (except for railroad retirement annuitants and pensioners) would rest with the Secretary. But the Secretary would use appropriate State agencies and private organizations to assist in administration. Provision would be made for the establishment of an Advisory Council which would advise the Secretary on policy matters in connection with administration.

The administration of provisions for determining the eligibility of providers of services to participate in the program would be divided among the Federal Government, the States, and private agencies. Under the bill, conditions of participation for providers of services related to health and safety, in addition to those spelled out in the proposal, could be established. Before formulating any such conditions the Secretary would consult with appropriate State agencies and recognized national accrediting bodies. In any case, these conditions for hospitals could not be more strict than those required for accreditation by the Joint Commission on Accreditation of Hospitals. Accreditation by the Joint Commission would be accepted as meeting all requirements for hospital participation save the requirement that it have a utilization review plan. State agencies would be used in the administration to inspect the providers of service to determine whether or not they meet the specified conditions and are eligible to participate.

Role of Private Organizations

Any group of hospitals--or group of other providers of covered services--could designate a private organization of their own choice, such as Blue Cross, to receive bills for services and to pay these bills for whichever of their members prefer such an arrangement. The Secretary would be able to delegate administrative functions involving relationships with hospitals.

Financing

A special hospital insurance trust fund would be established for the program. Into the trust fund would be allocated 0.60 percent of taxable wages paid in 1966; 0.76 percent of taxable wages paid in 1967 and 1968; and 0.90 percent of taxable wages paid thereafter. Allocations of 0.45, 0.57 and 0.675 percent of self-employment income taxable under social security would be made, respectively, in the taxable years 1966, 1967-68, and 1969 and thereafter.

The following examples illustrate the cost of the hospital insurance for the aged program to the employee in 1969 and thereafter (his employer would pay an equal amount): An employee earning \$3,000, the average taxable wage per employee, would pay \$13.50 a year; an employee earning \$4,000 would pay \$18.00 a year; one earning \$4,800 would pay \$21.60 a year; and an employee earning \$5,600 a year, the maximum earnings subject to contributions under the bill, would pay \$25.20 a year.

The cost of providing hospital and related benefits to people who do not meet the regular social security insured status requirement would be met from general revenues.

Complementary Private Insurance

The bill authorizes creation of associations of private insurance carriers, exempt from anti-trust laws, to sell, on a nonprofit basis, approved policies covering health costs not covered under the social security hospital insurance program.

Title II--Social Security Amendments of 1965

Seven-Percent Benefit Increase

The bill would provide a 7 percent across-the-board benefit increase, effective with respect to all social security insurance benefit payments which would be due for months after December 1964. Increases would thus go to each of the more than 20 million social security beneficiaries on the rolls.

The maximum benefit amount for a family would be increased to \$312 per month when the increase in the earnings base (now \$4,800) to \$5,600 would have its full effect on benefits. Also, in the future, the maximum individual benefit (now \$127) would be increased to \$149.90, because of the combined effect of the 7 percent across-the-board increase and the increase in the earnings base.

Contribution and Benefit Base

Under the bill the contribution and benefit base would be increased from \$4,800 to \$5,600 (effective for any calendar year after 1965).

Tax Rate

The tax rate schedule under existing law and the revised schedule that would be provided by the bill follow:

| <u>Years</u> | <u>Employee-Employer Rate (Each)</u> | | <u>Self-Employed Rate</u> | |
|-------------------|--------------------------------------|-----------------|---------------------------|-----------------|
| | <u>Present Law</u> | <u>Proposal</u> | <u>Present Law</u> | <u>Proposal</u> |
| 1966-67 | 4.125 | 4.25 | 6.2 | 6.4 |
| 1968-70 | 4.625 | 5.0 | 6.9 | 7.5 |
| 1971 and after | 4.625 | 5.2 | 6.9 | 7.8 |

Improvement of Actuarial Status of Disability Insurance Trust Fund

The financing of the disability insurance trust fund would be strengthened by allocating an additional 0.17 percent of taxable wages (and a corresponding proportion of taxable self-employment income) to it. Such a reallocation of contribution income between the disability insurance trust fund and the old-age and survivors insurance trust fund would not affect the over-all actuarial balance of the program, but rather it would provide a more reasonable distribution of such income between the two trust funds.

Automatic Annual Recomputation of Benefits

The bill would provide for annual automatic recomputation of benefits to take account of earnings after entitlement.

Coverage Provisions

The bill would make several changes in existing law with respect to coverage requirements, so as to expand the coverage of the existing social security program in the direction of more universal coverage of all individuals.

Doctors of Medicine and Interns: The bill would remove the exclusion in existing law with respect to self-employed doctors of medicine and interns. Thus, about 170,000 such individuals who are presently excluded would be covered under the system, effective with taxable years ending after December 31, 1965.

Cash Tips and Gratuities: The bill would provide for the coverage, as wages, of cash tips received by an employee in the course of his employment; however, tips received by an employee which do not amount to a total of \$20 a month in connection with his work for any one employer would not be covered. The employee would be required to report to his employer in writing the amount of tips received and the employer would report the employee's tips along with the employee's regular wages.

The employer would be required to withhold the employee's social security taxes and pay the employer tax only on tips reported by the employee to him. He would **also** be required to withhold income tax on such reported tips. If the employee did not report his tips to his employer within 10 days after the end of the month involved, the employer would have no liability. In such a case the employee alone would be liable for the amount of the combined tax (employee and employer) which should be paid. This amendment would apply only with respect to taxable years ending after December 31, 1965.

Extension of period for filing proof of support and application for lump-sum death benefit

The proposal would remove the present two-year limit on the additional period within which proof of support and application for the lump-sum death payment can be filed when there is good cause for failure to file within the basic two-year period.

TITLE III--Public Assistance Amendments of 1965

Increased Federal Payments

The matching formula for the needy aged, blind, and disabled (and for the combined program, title XVI) would be revised to provide a Federal share of \$31 out of the first \$37 (now 29/35ths of the first \$35) of average monthly assistance per recipient and the maximum average matched would be increased to \$75 (now \$70). The bill would also revise the matching formula for aid to families with dependent children so as to provide a Federal share of 5/6ths of the first \$18 (now 14/17ths of the first \$17) and would increase the maximum matched to \$32 (now \$30). A provision is included so that States will not receive additional Federal funds except to the extent they pass them on to individual recipients.

Earnings Under OAA

The earnings which may be excluded in determining eligibility of the aged for cash assistance would be increased so that a State may, at its option, exempt the first \$20 (now \$10) and one-half of the next \$60 (now \$40) of a recipient's monthly earnings.

Removal of Mental Disease and Tuberculosis Limitations

The bill would remove the exclusion from Federal matching in old-age assistance and medical assistance for the aged programs (and for the combined program, title XVI) as to aged individuals who are patients in institutions for tuberculosis or mental diseases, or who have been diagnosed as having tuberculosis or psychosis and, as a result, are patients in a medical institution. As a condition of Federal participation in such payments to, or for, mental patients, certain agreements and arrangements to assure that better care results from the additional Federal money would be required. The bill provides that States will receive no more in Federal funds under this provision than they increase their expenditures for mental health purposes under public health and public welfare programs.

Eligibility for MAA

The bill would modify the eligibility requirements for medical assistance for the aged so as to allow Federal sharing in MAA with respect to aged recipients of cash assistance in the same month provided it was a month in which they were admitted to or discharged from a medical institution.

Protective Payments

The bill would add a provision under which, for protective purposes, payments could be made to third persons on behalf of old-age assistance recipients (and recipients under the combined title XVI program) rather than directly to the recipients when these recipients are unable to manage their money because of physical or mental incapacity.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1965

Mr. ANDERSON (for himself, Mr. GORE, Mr. JAVITS, Mr. McNAMARA, Mr. BARTLETT, Mr. BAYH, Mr. BIBLE, Mr. BREWSTER, Mr. BURDICK, Mr. CASE, Mr. CHURCH, Mr. CLARK, Mr. DODD, Mr. DOUGLAS, Mr. GRUENING, Mr. HARTKE, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York, Mr. KUCHEL, Mr. LONG of Missouri, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MONRONEY, Mr. MONTOYA, Mr. MORSE, Mr. MOSS, Mr. MUSKIE, Mrs. NEUBERGER, Mr. PASTORE, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide a hospital insurance program for the aged under social security, to amend the Federal Old-Age, Survivors, and Disability Insurance System to increase benefits, improve the actuarial status of the Disability Insurance Trust Fund, and extend coverage, to amend the Social Security Act to provide additional Federal financial participation in the Federal-State public assistance programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, with the following table of contents, may be
4 cited as the "Hospital Insurance, Social Security, and Pub-
5 lic Assistance Amendments of 1965".

Note: Companion bill to H.R. 1

Executive hearings were held by the House Ways and Means Committee on H.R. 1 and other proposals for medical care for the aged during January and February 1965.

89TH CONGRESS
1ST SESSION

S. 1

A BILL

To provide a hospital insurance program for the aged under social security, to amend the Federal Old-Age, Survivors, and Disability Insurance System to increase benefits, improve the actuarial status of the Disability Insurance Trust Fund, and extend coverage, to amend the Social Security Act to provide additional Federal financial participation in the Federal-State public assistance programs, and for other purposes.

By Mr. ANDERSON, Mr. GORE, Mr. JAVITS, Mr. MCNAMARA, Mr. BARTLETT, Mr. BAYH, Mr. BIBLE, Mr. BREWSTER, Mr. BURDICK, Mr. CASE, Mr. CHURCH, Mr. CLARK, Mr. DODD, Mr. DOUGLAS, Mr. GRUENING, Mr. HABTKE, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York, Mr. KUCHEL, Mr. LONG of Missouri, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MONBONEY, Mr. MONTOYA, Mr. MORSE, Mr. MOSS, Mr. MUSKIE, Mrs. NEUBERGER, Mr. PASTORE, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio

JANUARY 6, 1965

Read twice and referred to the Committee on Finance

HOSPITAL CARE FOR THE AGED

Mr. ANDERSON. Mr. President, for myself, Mr. GORE, Mr. JAVITS, Mr. MCNAMARA, Mr. BARTLETT, Mr. BAYH, Mr. BIBLE, Mr. BREWSTER, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. CHURCH, Mr. DODD, Mr. DOUGLAS, Mr. GRUENING, Mr. HARTKE, Mr. INOUE, Mr. JACKSON, Mr. KENNEDY of Massachusetts, Mr. KUCHEL, Mr. LONG of Missouri, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MORSE, Mr. MOSS, Mr. MUSKIE, Mrs. NEUBERGER, Mr. PASTORE,

Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio I send to the desk, for appropriate reference, a bill to provide a hospital insurance program for the aged under social security, to increase social security cash benefits and to make other needed improvements in the social security program. I ask unanimous consent that the bill be permitted to lie on the desk for 3 days so that Senators who wish to do so may join as cosponsors.

The PRESIDENT pro tempore. The bill will be received and appropriately referred and, without objection, the bill will lie at the table for 3 days, as requested by the Senator from New Mexico.

The bill (S. 1) to provide a hospital insurance program for the aged under social security, to amend the Federal old-age, survivors, and disability insurance system to increase benefits, improve the actuarial status of the disability insurance trust fund, and extend coverage, to amend the Social Security Act to provide additional Federal financial participation in the Federal-State public assistance programs, and for other purposes; introduced by Mr. ANDERSON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Finance.

Mr. ANDERSON. Mr. President, I feel certain that historians will mark this year as the turning point in our long struggle to solve the major part of what has become one of the most urgent issues of public policy—the problem of financing the costs of hospital care for the aged, costs which now represent the major remaining cause of personal financial disaster among our aged citizens. It is, therefore, entirely appropriate that my bill is designed S. 1, for as one of the major pieces of unfinished business of the previous Congress, social security hospital insurance has moved to the forefront of public policy debate, and has unquestionably become a major legislative item on the agenda of this Congress.

As Senators will immediately recognize, the bill I have introduced is substantially the same bill which the Senate passed last September 2, by a vote of 49 to 44. I am again proposing the social insurance approach because the need of the aged for adequate insurance protection against the costs of expensive illness has not diminished; if anything, the need grows greater and more urgent with each passing day. As the proportion of the aged in the population continues to rise, the problem increases in dimension and the plight of our aged citizens becomes increasingly a humiliation for our society.

Every month that we delay in providing the needed protection means that more and more elderly persons will be forced to look to public welfare programs for help in getting the health care they need. Such programs necessarily do little to relieve indigency because they help older people meet their health care costs only after they have used up most of the financial resources they may have, and sometimes only after their children have demonstrated that they cannot help further. The tragedy is not just that the older person must sacrifice his pride and

prove he can no longer pay his own way. The real tragedy is the hopelessness of his situation, for once an aged person has exhausted his resources to the point where he can qualify for assistance, it is practically impossible for him to replenish them and again become self-reliant.

Nostalgic statements about the virtues of individual responsibility for all of one's needs, about the rewards and joys of old age are no substitutes for concrete facts and reasoned programs. For those aged Americans who must face the harsh reality that they may well be reduced to a state of destitution as a result of a prolonged illness—which experience demonstrates that most aged people can expect to occur—benign assurances of those who urge greater thrift or sole reliance on public assistance and those who tell us private insurance alone can do the job, have a hollow ring.

The problem which confronts our senior citizens requires little further documentation—this problem has probably attracted more public attention and intensive study than any other current domestic issue. Since 1946, the average cost for 1 day of hospital care has risen from \$9 to nearly \$40. This situation is compounded by the fact that the aged hospital patient, on the average, spends three times as long in the hospital as a younger person. To make things worse, 55 percent of these aged have annual incomes of less than \$1,000.

In their working years, when sickness is less frequent, workers can generally meet costs of current care for themselves and their families—directly or through insurance—out of their current employment income. The aged, however, generally cannot do this because the higher costs associated with old age occur at the very time income is greatly reduced because of retirement.

Private health insurance, which has made large health costs manageable for people in the working groups, has not proved to be an effective means of protecting older people against financial ruin. Despite great efforts and much ingenuity on the part of the voluntary insurance organizations, today only a relatively few older people—perhaps 1 in 20—have insurance covering as much as 40 percent of their average health costs. Almost half of the elderly have no health insurance at all—not even inadequate coverage. The number of older people without any health insurance protection at all is nearly as large as it was 5 years ago.

Most of the aged who now have some form of health insurance are those who are still working, those in good health, and those in the higher income group. Thus, it is extremely unlikely that many of the elderly people who are not now insured will ever have meaningful health insurance protection through private sources.

While the much higher hospital costs of older people as compared with younger people is the major reason why hospital insurance rates are higher for the aged, the cost of such insurance is further increased for most older people because of the high cost of selling and administering insurance on an individual basis.

The result is that an individually written policy for the aged may cost four times as much as comparable protection furnished under a group coverage plan to younger people.

The conclusion appears inescapable. The only solution is to provide a system under which people can contribute from earnings during their working years to help pay for hospital care and related services that will be needed later on when the risk is higher and income curtailed. The only way such a system can be set up to guarantee that practically everyone will have hospital insurance protection in old age is by applying the social insurance method. This is the system that has proved its effectiveness over 3 decades of the social security retirement program.

Mr. President, this week the Advisory Council on Social Security, a distinguished group of business, labor and professional leaders, including a former member of President Eisenhower's Cabinet and a former high official in that Republican administration, recommended a Government program of hospital and hospital-related-care insurance.

I am in complete agreement with the Advisory Council on Social Security that social insurance should not cover all the costs of illness during old age. The American approach to income security has traditionally involved a cooperative partnership of private effort and governmental measures. Old-age, survivors, and disability insurance, for example, is supplemented by employer and trade union plans, by private insurance, and by individual savings and investments, and all contribute to the common goal of personal and economic independence throughout the later years. Backing up this combination of measures for individual self-support are the Federal-State public assistance programs which aid those who have needs which are still unmet.

I believe that this same pluralistic approach can be used effectively in meeting the costs of major illness in old age. With social insurance meeting, on the average, at least half the costs associated with the most expensive illnesses—that is, meeting the costs of hospitalization—the older person will be in a much better position than he is today to meet, on his own and through private insurance, the costs of physician services, drugs, and other medical supplies and services. Also, with social insurance providing basic protection, it should be practicable to improve the Federal-State public assistance programs so as to meet more fully the health costs incurred by older people whose needs are not fully met in other ways, the Advisory Council on Social Security declared.

ELEMENTS OF THE PLAN

The hospital insurance plan embodied in my bill places primary emphasis on the coverage of hospital care. The reason for this emphasis is clear in the Advisory Council's report:

The cost of hospitalization affects practically all older people. Of every 10 persons who reach age 65, 9 will be hospitalized at least once during their remaining years and most will be hospitalized two or more times. In the case of aged couples, the

chances are about even that the husband and wife will each be hospitalized two or more times.

Not only is hospitalization a virtually universal occurrence among older people but there is a high correlation between hospitalization and large total medical expenses. Older people who are hospitalized in a given year are the ones who have the big expenses. While medical care costs for all aged couples averaged about \$442 in 1962, the medical expenses of aged couples with one or both members hospitalized averaged \$1,220; for nonmarried elderly people, average medical expenses for the year were \$270, whereas for those who were hospitalized, the average was \$1,038. Both the averages and the differentials would be even higher now.

While the greater part of the benefit cost of the program would be for hospital benefits, the proposal also provides coverage for three additional types of services: First, extended care following hospital care in an institution which is equipped to provide high quality convalescent services and which has an arrangement with a hospital for a timely transfer of patients and needed medical information; second, home health care services which are furnished by qualified nurses and other specialized medical personnel under a plan established by a physician covering the use of such services; and third, hospital outpatient diagnostic services covering the full use of the hospital's facilities and personnel but not covering the diagnostic services of the patient's private physician.

A major consideration that guided the selection of services to be covered by the plan was that the program should support the principle that, in each case, health services should be tailored to the health needs of the patient. Provision for the aforementioned four types of benefits—hospital care, extended care outside the hospital, organized home nursing care, and hospital outpatient diagnostic services—would make available to the older person the kinds of services appropriate for his individual situation. The benefit structure would thus offer a continuum of institutional and home nursing services and would permit the progressive care of individuals who require extended care of a somewhat lesser degree of intensity than that provided for hospital inpatients.

Particularly for the aged, the next step in the care of a person who had been hospitalized for a serious illness may be a period of medically supervised treatment in an extended-care facility rather than the intensive care furnished to hospital inpatients. The coverage of important alternatives to hospitalization would remove some of the undesirable financial considerations from the decision, shared in by the doctor, patient, patient's family and institution, on whether inpatient hospital care or another form of care would be best for the patient. The benefits provided in the bill would give financial support to the provision of institutional and noninstitutional services at the most appropriate level of intensity for patients who require care of extended duration. Covering each of the stages of required care is conducive to careful planning of the long-range treatment of those suffering serious illnesses.

Mr. President, the hospital insurance program provided for in my bill is the culmination of years of serious study.

A great many people, including those who have had objections to one or another element of the original proposal, have made a constructive contribution to public understanding of the issues and the formulation of my bill. I have had the benefit of extensive research and study by many experts, within and without the Government. Independent groups of responsible and knowledgeable representatives of all segments of our community, like the National Committee on Health Costs of the Aged, sponsored by my colleague, Senator JAVITS, and directed by Dr. Arthur Flemming, a former Secretary of Health, Education, and Welfare, have contributed greatly to the fund of knowledge from which I have drawn heavily in preparing my proposal.

Moreover, as everyone knows, my proposal has been subjected to thorough scrutiny by public and private experts in insurance, medical economics, and medical care, by committees in both the House and Senate in public hearings and executive sessions, on the floor of the Senate and in conference committee. It has been so shaped and molded in this process that it is fair to say that my bill is the product of an extended, and I believe fruitful, joint effort of scientific research, professional study, and public discussion. It is medically, socially, and financially sound. The list of sponsors and supporters shows it is bipartisan.

Mr. President, even though my proposal has now gained such widespread support that I believe its enactment this session is virtually assured, I must say that we have never ceased trying to perfect the proposal. Throughout the years of study and deliberation we have sought to preserve an open mind on all elements of the proposal, and we have welcomed constructive comments and criticisms from any source whatever. I believe that our hopes for a sound and just solution are more likely to be realized because we have taken nothing for granted, left no stone unturned in our search for a sound and meaningful solution to the problem. The few changes which have been made in the present bill are a result of recommendations which emerged from the deliberations of the Advisory Council on Social Security and the advice of professional people whose sole interest is to improve the proposal.

The bill, as I have indicated, provides coverage for services furnished in extended care facilities. I agree with the Advisory Council on Social Security that it is necessary to assure the coverage of facilities which are designed primarily to render convalescent services. Services of this kind are essential in the overall treatment of many illnesses, including terminal illnesses, following their acute stage and prior to the time when a person can be transferred to his home or to a custodial institution. The bill also provides, as recommended by the Advisory Council, for coverage of hospital care for up to 60 days without a beneficiary option. A change has also been made in

the utilization review provision to make it clear that reviews conducted by a group established by a local medical society would be acceptable as an alternative to hospital staff review.

In addition, the bill incorporates the proposal to authorize the creation of associations of private insurers to encourage the development of policies covering costs—primarily physician's fees—not met under the Government program. I have always tried to assure ample room for private complementary insurance and to provide encouragement for private insurers to assume that role. This suggestion is therefore a welcome and beneficial addition to the bill.

Mr. President, I ask for unanimous consent to have printed in the RECORD immediately following my statement material describing the provisions of S. 1. This will include actuarial tables showing the financial status of the social security system under my bill.

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

(See exhibit 1.)

Mr. ANDERSON. Mr. President, our social insurance system has shown a remarkable facility for improvement. It has effectively met the successive challenges involved in the monumental task of providing Americans with protection against some of the major threats to their financial security—loss of income due to old age, death, or disability. Our social insurance system is a true product of the American temper—flexible, humane, responsive to the changing needs of our people and fiscally sound. Despite the anxieties that were expressed in the early days of social security and as improvements were proposed, the program has performed well every task assigned to it. When the disability program was initiated we took another step toward preserving individual independence and security in the face of the severest catastrophes in life. As one physician has said:

The fear of insecurity in old age today has supplanted the fear of death in 1900.

We in this Congress must take the remaining major step to relieve insecurity in old age without imposing Federal control over the practice of medicine. Providing a social security hospital insurance program for the aged is the only way that we can effectively combine the special contributions of different elements of the community, public and private, to meet this goal.

Mr. President, in addition to hospital insurance for the aged, S. 1 provides for a 7-percent increase in monthly case benefits for some 20 million social security beneficiaries. Had the conference committee reached agreement last October on hospital insurance, these beneficiaries would have received increased benefits beginning January 1, 1965. My bill provides that on passage monthly benefits would be retroactive to that date. In this way, those of us who would not accept a social security bill in conference that did not include hospital insurance and thus barred an increase in cash benefits will be keeping faith with America's aged. They will not have

been financially hurt by the deadlocked conference.

EXHIBIT 1

SUMMARY OF MAJOR PROVISIONS OF HOSPITAL INSURANCE, SOCIAL SECURITY, AND PUBLIC ASSISTANCE AMENDMENTS OF 1965

A. HOSPITAL INSURANCE FOR THE AGED

1. Eligibles:

(a) Persons age 65 and over who are eligible for social security or railroad retirement benefits (numbering about 16 $\frac{2}{3}$ million).

(b) Other persons who are age 65 and over (about 2 million) or who will reach age 65 within the next few years, but with the cost for them being paid from general revenues.

2. Benefits (payable July 1, 1966, except for extended care):

(a) Hospital inpatient services for 60 days in a benefit period, with a "deductible" of the national average cost of 1 day of care to be paid by the patient.

(b) Posthospital extended care (in a facility having an arrangement with a hospital for timely transfer of patients and medical information about patients) for 60 days in a benefit period. The services would be covered only in the case of transfer from a hospital. (Effective January 1, 1967.)

(c) Home health services (such as a visiting nurse) up to 240 visits a year.

(d) Outpatient hospital diagnostic services (such as X-ray and laboratory services) with a deductible for services in any one month, equal to one-half of the deductible for inpatient hospital services, to be paid by the patient.

3. Financing:

(a) A completely separate hospital insurance trust fund established in the Treasury. This trust fund would be separate from the old-age and survivors insurance trust fund and the disability insurance trust fund. An earmarked allocation from the social security contributions would be made to the separate hospital insurance fund.

(b) Allocations to the fund: Amounts equal to the following percentages of earnings would be allocated to this separate fund:

[In percent]

| Year | Em- ployer | Em- ployee | Total, Er and So | Self- employ- ment |
|------------------------|---------------|---------------|------------------------|--------------------------|
| 1966..... | 0.30 | 0.30 | 0.60 | 0.45 |
| 1967-68..... | .38 | .38 | .76 | .57 |
| 1969 and after..... | .45 | .45 | .90 | .675 |

The allocation for 1966 would enable a fund to be built up before benefits became payable. It is estimated that the fund would be about \$600 million as of July 1, 1966.

(c) Actuarial status of the fund: The allocation of contributions provided in the bill have been determined by the Chief Actuary of the Social Security Administration to be sufficient to cover all the costs of the benefits (and administration) for persons entitled to social security benefits. The actuarial estimates are based on the assumptions recommended by the Advisory Council on Social Security that hospital costs will continue to rise faster than earnings for the next 10 years.

(d) Illustrative costs: The amount allocated during 1967-68 and during 1969 and later years for hospital insurance—0.38 of 1 percent and 0.45 of 1 percent, respectively, on the employee—amounts to the following for employees earning the annual amounts shown:

| Annual earnings | Hospital insurance cost (1967-68) | | | Hospital insurance cost (1969 and after) | | |
|-----------------|-----------------------------------|---------|----------|--|---------|----------|
| | Weekly | Monthly | Annually | Weekly | Monthly | Annually |
| \$4,000..... | \$0.29 | \$1.27 | \$15.20 | \$0.35 | \$1.50 | \$18.00 |
| \$4,800..... | .35 | 1.52 | 18.24 | .42 | 1.80 | 21.60 |
| \$5,000..... | .37 | 1.58 | 19.00 | .43 | 1.88 | 22.50 |
| \$5,600..... | .41 | 1.77 | 21.28 | .48 | 2.10 | 25.20 |

4. Administration: By the Secretary of Health, Education, and Welfare through the social security program. Hospitals could elect to be represented by a private organization (such as Blue Cross) to negotiate their contracts. The Secretary could also delegate to such organization the functions of receiving payments from the social security program.

Payments would be made to hospitals and other providers of services on a cost basis. The cost of hospital services would be based on semiprivate accommodations (two, three, or four-bed rooms).

5. Complementary private insurance: The bill includes the Javits amendment (modified somewhat) to authorize creation of an association of private insurance carriers to sell, on a nonprofit basis, approved policies covering health costs not covered under the social security plan. Participating carriers would be exempt from antitrust laws.

B. SOCIAL SECURITY AMENDMENTS

1. A 7-percent benefit increase to the 20 million social security beneficiaries equal to about \$1.3 billion a year; the same increase over present law would be given to those who become beneficiaries in the future. The minimum primary benefit would thereby be increased from \$40 per month at present to \$42.80; the maximum from \$127 to \$135.90. The average primary benefit, which is currently about \$77.50, would be increased to about \$83.

2. Benefit increases would be paid retroactively to January 1, 1965. If the law is enacted in June 1965, this would result in retroactive payments of about \$750 million in the fall of 1965.

3. The maximum annual earnings on which taxes and benefits are computed would be increased from \$4,800 to \$5,600 a year, effective January 1, 1966. The maximum primary benefit would thereby be further increased to \$149.90 and maximum benefit for a family would be increased from \$254 at present to \$312.

4. The social security contribution schedule (combined for social security and hospital benefits) would be changed to be as follows:

[In percent]

| Year | Employer | Employee | Self- employed |
|---------------------|----------|----------|-------------------|
| 1966-67..... | 4.25 | 4.25 | 6.4 |
| 1968-70..... | 5.0 | 5.0 | 7.5 |
| 1971 and after..... | 5.2 | 5.2 | 7.8 |

5. Self-employed physicians and tips are covered.

C. WELFARE AMENDMENTS

The public assistance titles of the Social Security Act would be amended as follows:

1. The Federal share under all State public

assistance programs is increased a little more than \$2.50 a month for the needy aged, blind, and disabled and about \$1.25 for needy children effective January 1, 1966. Cost: from general revenues, for the last 6 months of the fiscal year 1966, about \$75 million.

2. Federal funds to the States would be authorized for aid for the needy aged in mental or tuberculosis institutions. Cost: about \$38 million from general revenues for the last 6 months of fiscal year 1966.

3. Earned income to the needy aged which is disregarded is increased slightly. Cost: about one-half million dollars for fiscal year 1966 from general revenues.

4. Amendment to Kerr-Mills program relating to the Federal share being paid for both cash and medical services to needy aged in the first and last month of care in a medical institution. Cost: \$1 million in fiscal year 1966 from general revenues.

Employee and employer contributions

| Average annual earnings | Under present law | Under King-Anderson bill | | |
|-------------------------|-------------------|--------------------------|--------------------|---------|
| | | OASDI | Hospital insurance | Total |
| 1966: | | | | |
| \$2,000..... | \$82.50 | \$79.00 | \$6.00 | \$85.00 |
| \$3,000..... | 123.75 | 118.50 | 9.00 | 127.50 |
| \$4,000..... | 165.00 | 158.00 | 12.00 | 170.00 |
| \$4,800..... | 198.00 | 189.60 | 14.40 | 204.00 |
| \$5,600 plus..... | 198.00 | 221.20 | 16.80 | 238.00 |
| 1967: | | | | |
| \$2,000..... | 82.50 | 77.40 | 7.60 | 85.00 |
| \$3,000..... | 123.75 | 116.10 | 11.40 | 127.50 |
| \$4,000..... | 165.00 | 154.80 | 15.20 | 170.00 |
| \$4,800..... | 198.00 | 185.76 | 18.24 | 204.00 |
| \$5,600 plus..... | 198.00 | 216.72 | 21.28 | 238.00 |
| 1968: | | | | |
| \$2,000..... | 92.50 | 92.40 | 7.60 | 100.00 |
| \$3,000..... | 138.75 | 138.60 | 11.40 | 150.00 |
| \$4,000..... | 185.00 | 184.80 | 15.20 | 200.00 |
| \$4,800..... | 222.00 | 221.76 | 18.24 | 240.00 |
| \$5,600 plus..... | 222.00 | 258.72 | 21.28 | 280.00 |
| 1969-70: | | | | |
| \$2,000..... | 92.50 | 91.00 | 9.00 | 100.00 |
| \$3,000..... | 138.75 | 136.50 | 13.50 | 150.00 |
| \$4,000..... | 185.00 | 182.00 | 18.00 | 200.00 |
| \$4,800..... | 222.00 | 218.40 | 21.60 | 240.00 |
| \$5,600 plus..... | 222.00 | 254.80 | 25.20 | 280.00 |
| 1971 and after: | | | | |
| \$2,000..... | 92.50 | 95.00 | 9.00 | 104.00 |
| \$3,000..... | 138.75 | 142.50 | 13.50 | 156.00 |
| \$4,000..... | 185.00 | 190.00 | 18.00 | 208.00 |
| \$4,800..... | 222.00 | 228.00 | 21.60 | 249.60 |
| \$5,600 plus..... | 222.00 | 266.00 | 25.20 | 291.20 |

Income and outgo under H.R. 1, by calendar years

OLD-AGE AND SURVIVORS INSURANCE TRUST FUND

| Calendar year | Income | Outgo | Net income | Fund at end of year |
|---------------|----------|----------|------------|---------------------|
| 1964..... | \$15,840 | \$15,610 | +\$230 | \$18,710 |
| 1965..... | 16,380 | 17,590 | -1,210 | 17,500 |
| 1966..... | 18,750 | 18,530 | +220 | 17,720 |
| 1967..... | 19,520 | 19,350 | +170 | 17,890 |

DISABILITY INSURANCE TRUST FUND

| Year | Income | Outgo | Net | Fund |
|-----------|---------|---------|--------|---------|
| 1964..... | \$1,200 | \$1,420 | -\$220 | \$2,010 |
| 1965..... | 1,230 | 1,630 | -400 | 1,610 |
| 1966..... | 1,700 | 1,700 | 0 | 1,610 |
| 1967..... | 1,850 | 1,750 | +100 | 1,710 |

HOSPITAL INSURANCE TRUST FUND

| Year | Income | Outgo | Net | Fund |
|-----------|---------|-------|--------|-------|
| 1965..... | \$1,310 | \$800 | +\$510 | \$510 |
| 1966..... | 1,980 | 1,780 | +200 | 710 |

Actuarial balance under H.R. 1, expressed as percentages of taxable payroll
COMPUTATIONS ON PERPETUITY BASIS

| Item | OASDI | Hospital insurance | Total |
|--|-------|--------------------|-------|
| Actuarial balance of present system..... | -0.24 | ----- | -0.24 |
| Earnings base of \$5,600..... | +0.31 | ----- | +0.31 |
| Revised contribution schedule..... | +0.20 | +0.89 | +1.09 |
| Extensions of coverage..... | +0.03 | ----- | +0.03 |
| Benefit increase of 7 percent ¹ | -0.60 | ----- | -0.60 |
| Hospitalization and related benefits..... | ----- | +0.84 | +0.84 |
| Total effect of changes..... | -0.06 | +0.05 | -0.01 |
| Actuarial balance under proposal..... | -0.30 | +0.05 | -0.25 |

COMPUTATIONS ON 75-YEAR COST BASIS²

| Item | OASDI | Hospital insurance | Total |
|--|-------|--------------------|-------|
| Actuarial balance of present system..... | +0.01 | ----- | +0.01 |
| Earnings base of \$5,600..... | +0.31 | ----- | +0.31 |
| Revised contribution schedule..... | +0.20 | +0.89 | +1.09 |
| Extensions of coverage..... | +0.03 | ----- | +0.03 |
| Benefit increase of 7 percent ¹ | -0.58 | ----- | -0.58 |
| Hospitalization and related benefits..... | ----- | +0.84 | +0.84 |
| Total effect of changes..... | -0.04 | +0.05 | +0.01 |
| Actuarial balance under proposal..... | -0.03 | +0.05 | +0.02 |

¹ The 7-percent increase applies only on the first \$400 of average monthly wage.
² Following is a breakdown of the 0.84-percent cost of the health benefits:

| | Percent |
|-------------------------------------|---------|
| Hospitalization benefits..... | 0.78 |
| Extended care benefits..... | .02 |
| Outpatient diagnostic services..... | .01 |
| Home nursing care..... | .03 |
| Total..... | .84 |

³ Basis recommended by Advisory Council on Social Security.

Mr. McGOVERN. Mr. President, I am pleased to join with the Senator from New Mexico [Mr. ANDERSON] and others in cosponsoring this bill, S. 1 providing hospital and nursing home care for older citizens. It very rightly has priority in the legislative work of the 89th Congress because it presents a reasonable and practical solution to the health problems and worries of senior Americans.

This bill offers a workable combination of social security protection, private insurance help, and Federal Government backing. It is based on the sound concept of insurance programs—that an individual pays a relatively small amount regularly—no more than 5.2 percent of his earnings for all social security coverage including the added medical benefits—throughout his working life. His employer pays the same amount. Then when he retires, he has what amounts to a paid-up insurance policy to cover the hospital expenses that may arise later in life when his income will be smaller but his health expenses will probably be greater. This pay-as-you-go insurance program is a typical example of the practical approach to national problems which has characterized American growth from earliest pioneer days. It offers people a chance to be self-sufficient without denying them the opportunity to select their own doctors, their own hospitals, and their own private insurance to supplement the basic social security payments if they wish.

This approach was enthusiastically endorsed by the Advisory Council on Social Security in its recent report. With only one dissenting voice, the com-

mittee concluded that the monthly cash payments now provided by social security are not enough to provide real protection against high and unpredictable costs of health care. They recommended an insurance program, under social security, to help Americans pay their health bills by paying their premiums during the years when they are best able to do so.

The fact is that expensive illnesses are much more likely and frequent in old age. Every year, one out of six persons over 65 is hospitalized. Nearly everyone who reaches age 65 is hospitalized at least once during his later years and most are hospitalized two or more times. On the average, an older person requires almost three times as much hospital care as a younger one.

Yet, over the last decade, costs of medical care have risen 36 percent and hospitalization expenses have risen 65 percent. The median income of aged couples in 1962 was only \$2,875. Many people, especially in rural areas, must get along on a fraction of that amount. For them, a major illness or even a fall or similar accident can wipe out the savings of a lifetime because they are no longer able to go to work and use their earning power to replenish savings.

Today there are over 18 million persons age 65 or older in the United States. These senior citizens deserve and are entitled to the best health care in their later years that our Nation can give them. These citizens are able and willing to pay for such care—not in sudden catastrophic medical bills, during their later years but in regular annual insurance payments, through their working years, under the social security system.

That is the approach that this bill offers. It has been carefully studied, revised, and improved over the last few years. Now, I believe it is a sound plan to help people help themselves, to reduce dependence on welfare and means tests, and to provide better health care for our senior citizens. I am very glad to cosponsor S. 1.

THE PRIVATE SECTOR OF MEDICARE

Mr. JAVITS. Mr. President, I assure Senators that I shall take only a moment. I appreciate the presence in the Chamber of the Senator from New Mexico [Mr. ANDERSON], because today he introduced the administration's bill for medical care for the aged, in which I feel it an honor to have joined with my colleagues the Senator from New Jersey [Mr. CASE], and the Senator from California [Mr. KUCHEL].

Mr. President, as introduced, the bill contains the private sector amendment which has been identified with my name. I believe that that fact has not been adequately noted in respect to the introduction of the bill today. I believe that it should be very carefully noted because it is a critically important part of the bill. The reason is the following:

First, the bill originally, as the King-Anderson bill, provided a limited amount of health care—with nothing more—in the form of hospitalization, and con-

cerned many people who might otherwise have supported it on the ground that the process of political "bidding up" might cause a far greater intrusion, in their view, into the health field by the government than would be justified either by the social security taxes which were being paid or by the preservation of the integrity of the doctor-patient relationship.

The private sector amendment would provide a built-in guarantee that at every stage an effort would be made to do that. The private enterprise system can compete in carrying the additional responsibility, and it seems to me that that is one of the surest guarantees and assurances to those who might have some doubts on the question as to whether the tendency will be to limit the Federal Government's role very strongly to the hospitalization provision.

Second, the provision would follow the concept of self-help, because 80 percent of the aged, based upon their incomes, could pay a reasonable premium for health care coverage—and these are the important words—when it is added to the hospitalization feature under social security, which is the most expensive element of the whole program.

Then, at a modest cost, a possibility would be opened. A great committee which I inspired, which was headed by Arthur Flemming, former Secretary of Health, Education, and Welfare, spent a year studying the subject and reported a cost in the area of \$2 per person per month, which would come within the competence of 80 percent of the aged, leaving the other 20 percent to the possibility of the Kerr-Mills bill, if need be.

In that way, in the bill introduced by the Senator from New Mexico [Mr. ANDERSON] and many other Senators there would be presented a complete program for health care for the aged with a magnificent role for the private sector.

Here is the important point, and upon this note I wish to conclude: In my judgment, the proposal offers one of the most challenging opportunities ever extended to the insurance companies of the United States. The Senator from New Mexico [Mr. ANDERSON] is himself in the insurance business and is fully cognizant of it. Something must be done about the problem of medical care for the aged. If we are to keep Government within reasonable limits, and if we are to keep the social security tax within reasonable limits, only a relatively modest amount can be done by Government. That amount is estimated at about 30 percent of the total cost of health care for the aged.

The overwhelming bulk of it must be done by the private enterprise system. I say to all Senators, especially to the Senator from New Mexico [Mr. ANDERSON], that at the time when we consider the measure—and I have no doubt that this is the most auspicious time we have ever had for its consideration—I shall do everything I can, and I hope other Senators will feel exactly the same way—to bring about a situation in which, when the measure is passed, we shall have before us at one and the same time a proposal from the great insurers

of the United States to pick up the private sector option and really make the bill operative, so as to provide not only limited health care and hospitalization, but total health care, that the overwhelming bulk of the older people, especially people over 65 years of age, can pay for.

Mr. ANDERSON. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. ANDERSON. I say to the Senator from New York that the panel which he inspired, organized, and had established was a helpful group.

Many of us had tried to find a solution to this problem by seeking a way to encourage insurance companies to participate in the medical care program. It was very difficult; but the panel which the able Senator from New York assembled, including Marion B. Folsom, Arthur Larsen, and Arthur Flemming—many of them of a different political belief from my own—have devised a wonderful program, made great contributions, and reached conclusions with which, although I may not finally agree with them, were the result of a search for a good solution.

Many times I have commended privately, and also in public, the able senior Senator from New York for bringing together this group of men, to make certain that their contributions were ready. Since they were ready, we tried to draft a bill this year, and we hope that when the bill is finally passed, it will contain the very fine provisions that the Javits panel has worked out.

Mr. JAVITS. I am grateful to the Senator from New Mexico.

Mr. President, I ask unanimous consent to have printed as a part of my remarks a statement issued by the Senator from New Jersey [Mr. CASE], the Senator from California [Mr. KUCHEL], and myself on yesterday with reference to our cosponsorship.

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

JOINT STATEMENT BY SENATORS CASE, JAVITS,
AND KUCHEL TO COSPONSOR MEDICARE BILL

We are proposing to cosponsor the administration's bill for medical care for the aged because we believe it is in substance the plan which passed the Senate in the last session. It contains a major role for the private sector in affording not only limited hospital care under social security financing, but providing the opportunity for total health care for all aging citizens. We consider this plan to be creative and constructive. Such a major role in medical care for the aging on the part of the private sector was the basis of the Republican initiative taken in the introduction of our public-private medical care for the aging bill in the last Congress.

The private sector provision of the current bill allows private insurance carriers and health service groups to cover medical and surgical costs on a nonprofit basis over and above the limited hospital insurance of the King-Anderson bill, and on a basis of cost low enough to be available to the overwhelming majority of our aging citizens. This private sector provision also acts as a built-in Governor against unlimited Federal expansion in the medical care for the aging field.

The four points which we have long felt should be included in an acceptable medical

care plan for the aging are incorporated in the bill which we will cosponsor. They are: (1) inclusion of the estimated 2½ million Americans over 65 not covered by the social security system; (2) provision for participation by the private insurance industry to make up total health care; (3) provision for use of approved private organizations and State bodies in the administration of the program; and (4) establishment of a separate health insurance trust fund into which all Federal health care funds shall be deposited.

We consider the chances for passage of this bill to be auspicious in this session. We consider the effort to be bipartisan, as it was the private sector provision which provided that Republican support in 1964 and provided the margin required to pass the Anderson-Gore-Javits amendment in the Senate.

We believe this is the time to provide an effective program for medical care for the aging fully consistent with the encouragement of private enterprise, the satisfaction of the national need and the protection against excesses. We believe also that the fundamental structure which this bill provides is the sound basis upon which private sector interest in medical care for the aging can be enlisted in the total effort.

Other Republican Senators are also giving consideration to cosponsoring this measure.

Mr. MONRONEY. I thank the distinguished Senator from New York for his thoughtful approach to this subject. It does much to provide a good bill and affords an opportunity to the medical profession to have a privately operated program that can function in harmony with the proposal which will be made in the Gore amendment to modify the King-Anderson bill.

STATEMENT
by
Anthony J. Celebrezze
Secretary of Health, Education, and Welfare
before the Committee on Ways and Means
on H.R. 1
Hospital Insurance, Social Security, and
Public Assistance Amendments of 1965
Wednesday, January 27, 1965

Mr. Chairman:

H.R. 1, introduced by the distinguished gentleman from California, Mr. King, incorporates the recommendations of the Administration for changes in the Social Security Act.

The bill would establish a program of social insurance for hospital and related care for the aged; it would provide a 7 percent increase in cash benefits and otherwise improve the benefit and coverage provisions and the financing structure of the Federal Old-Age, Survivors, and Disability Insurance system; and it would provide for improvements in the Federal-State public assistance programs.

This Committee has heard many hours of public testimony on the proposed hospital insurance in the last 15 months. And there have been a number of studies of the problem by advisory groups, most recently by the Advisory Council on Social Security.

Therefore, I will not go into great length on the data substantiating the need for a program of hospital insurance for the aged. Rather, I will summarize the reasons why we support the plan. Basically we urge this program because most elderly people have such modest financial resources that they can neither afford to pay the large expenses accompanying the serious illnesses often occurring in old-age nor afford the cost of adequate insurance against large health expenses. Their incomes are typically one-half as large as the incomes of people under 65 in families of the same size whereas the reduction in the cost of living in retirement is only about 10 to 15 percent.

While their incomes are low, the health expenditures of people past 65 are very high--twice as high as those of younger people. In the case of expenditures for hospitalization, the ratio is 2-3/4 to one. Because of their high health costs and because it must usually be sold on an individual rather than a group basis, health insurance for the elderly is necessarily expensive. This can be seen from the rates charged by the "State-65" plans which are now available in eight states. Under the State-65 policies, administrative and other nonbenefit costs are kept as low as possible. Yet the policies that provide relatively broad coverage--perhaps 40 percent of all health costs of the aged are covered under these policies compared with perhaps 20 percent under many widely held commercial policies--are very expensive. Under these plans the cost ranges from \$420 per year for an elderly couple in Massachusetts to \$540 in California, Ohio and New York, amounts which equal 15 to 20 percent of the total income of the typical older couple. In most States, this type of relatively comprehensive protection furnished in as economical a manner as possible is not available at all.

In view of the disparity between their incomes and health insurance costs, it is not surprising that only a little over half of the elderly have any health insurance at all and that many of those who do have some protection have very inadequate protection covering, say, only 50 to 60 percent of hospital charges plus partial allowance for physicians' service in a hospital.

Over the past several years, a large and growing proportion of those applying for public aid have been forced to do so only because they cannot meet their health costs. Some three-fifths of the aged going on public assistance--Old Age Assistance (OAA) and Medical Assistance for the Aged (MAA) together--do so because of health costs. Today over one-third of all public assistance expenditures for the aged are for health costs.

We believe that prevention of dependency and destitution through social insurance is greatly to be preferred to confining governmental effort to the relief of poverty after older people, and in many cases their children, have demonstrated that they are no longer able to get along on their own. It seems to us that this principle--the preference for the prevention of poverty--applies as well to providing protection against the high and unpredictable costs of hospital and related care as it does to the provision of regular cash benefits under social security.

The proposed program would follow the social security approach. People would contribute from earnings during their working years, when their incomes are highest, and have protection against the costs of hospital and related services after age 65 without having to pay contributions at the time when income is generally curtailed.

The proposal is a necessary extension of the monthly cash benefits of social security and adding this protection to cash benefits is the only practical way that economic security can be furnished in old age. Monthly cash benefits alone cannot do the whole job. Such benefits can be effective in helping the elderly to meet the regular, recurring expenses of food, clothing, and shelter but monthly cash benefits cannot practically be made high enough to meet the unbudgetable cost of expensive illness. For this purpose it is necessary to have an insurance program aimed directly at the cost of illness.

While neither private insurance nor public assistance, alone or together, can meet the pressing need the aged have for protection against the cost of expensive illness, the proposed program contemplates an important role for both. The proposed program will serve as a foundation on which people can build greater protection through private health insurance and employer retirement plans, just as the present social security cash benefit system is serving as a base on which people build additional protection through private means. With basic protection furnished under social security, and taking into account the role of private insurance, public assistance will be able to assume the role most appropriate for it--that of a program intended for members of

the relatively small group whose hospital needs and circumstances are such that they are unable to meet their health costs through a combination of social and private insurance and individual savings.

Hospital Insurance Provisions

The hospital insurance provisions of H. R. 1 are largely the same as those in the proposed Social Security Amendments of 1964 as passed last year by the Senate. The proposal however has been subjected to continuing study both within and outside Government. Helpful suggestions, leading to a number of changes, were made during the legislative consideration of the bill last year as well as by the Advisory Council on Social Security and other groups and individuals.

The current proposal follows a recommendation of the Advisory Council in providing a single package of benefits rather than having older people make a choice among alternative hospital benefit plans with different duration and deductible provisions. Two of the options previously included had deductibles and one did not; in this bill there is a flat deductible for hospital insurance equal to the national average daily cost of hospital care and a deductible of one-half that amount for outpatient diagnostic services. The maximum number of days provided for hospital care in this bill also follows the Advisory Council recommendation for a 60-day maximum.

The bill follows another recommendation of the Council in providing for financing that would cover a substantially larger increase in hospital costs in the next 10 years than had been contemplated in our previous discussion with this Committee.

The current bill, through the device of designating the care as "post-hospital extended care," would also more clearly differentiate the post-hospital skilled nursing and rehabilitative care that is intended to be covered from the long-term custodial care furnished in many nursing homes. The bill would make it easier for these facilities to participate in the program. It would do so by substituting for the requirement of affiliation with a hospital a new provision that would require only that the extended care facility have an agreement for the timely transfer of patients and medical information. The cost-sharing provision contained in the Senate bill last year has not been included in the new bill.

A new provision has been included that would result in the separate identification of the contributions made toward hospital insurance. Under this provision the W-2, or such other receipt as is required, would show the proportion of social security contributions going into the hospital insurance fund so that each employee would know the cost of the hospital coverage to him.

I would like now to discuss with you the major provisions of the hospital insurance title of H. R. 1.

Eligibility

Under the bill, hospital insurance protection would be provided for all people who are age 65 and over and entitled to monthly social security benefits or to benefits under the Railroad Retirement Act. In addition, with the cost borne by general revenues, protection would be provided under a special transitional provision of the

plan for people now nearing or past age 65 who are not eligible for benefits under these systems. Congress has already provided a health benefit plan for both active and retired Federal employees so that these employees would not be included in this special provision. The few others not included in the transitional plan are aliens with less than 10 years of residence in the United States and members of subversive organizations. Of the 19 million people over 65 in July 1966, just about all, therefore, would be protected against hospital costs: about 16 2/3 million would be covered as persons eligible under the old-age and survivors insurance or railroad retirement programs, about 400,000 would be eligible for protection under the Civil Service Retirement plan and about 2 million would be covered under the general revenue provisions in H. R. 1.

Benefits

The major focus of the protection under the bill is on the cost of hospitalization. In addition the bill provides protection against the cost of three other types of services, which can in many cases be a less expensive substitute for inpatient hospital care. The four types of benefits that would be payable under the bill are:

- (1) inpatient hospital services for up to 60 days in a benefit period, subject to a flat deductible amount equal to the national average daily cost of hospital care--about \$40 at the beginning, with provision being made to adjust this to keep a constant relationship between the deductible and hospital costs;
- (2) post-hospital extended care benefits for up to 60 days following hospitalization;
- (3) organized home health services for up to 240 visits in a year to a homebound patient; and
- (4) hospital outpatient diagnostic services furnished in a thirty-day period, subject to a deductible equal to one-half the deductible amount for inpatient hospital services--about \$20 initially.

The provision of these four types of benefits will enable the aged beneficiary to have the kinds of services and levels of care most appropriate to his needs and will not create an economic incentive to use hospital bed care unduly. Coverage of extended care will help to achieve prompt hospital discharges because the next appropriate step in the care of a person who has been hospitalized for a serious illness may be a period of convalescence and rehabilitation in an extended care facility rather than continued occupancy of a high-cost bed normally used by an acutely ill hospital patient.

In essence, the coverage of important alternatives to inpatient hospital care would help subordinate financial considerations to medical considerations in decisions on whether inpatient hospital care or some other form of care would be best for the patient.

One of the keys in determining the nature of the health services that will be paid for under the bill is the type of institution which may participate in the program. The requirements for hospital participation are fully in accord with the established principles and objectives of professional hospital organizations. Hospitals accredited by the Joint Commission on Accreditation of Hospitals--an organization composed of representatives of the American Hospital Association, the American Medical Association, American College of Surgeons and the American College of Physicians--would be conclusively presumed to meet all the statutory conditions for participation,

save that for utilization review. Moreover, if the Joint Commission should adopt a requirement for utilization review, accredited hospitals could be presumed to meet all the statutory conditions.

Unaccredited hospitals, mostly the smaller institutions, could also participate in the program on meeting certain conditions. They would have to meet the conditions set forth in the bill, which constitute the kind of minimum definition of what a hospital is that is used by the American Hospital Association for listing purposes rather than accreditation purposes, and any additional requirements found necessary with respect to health and safety. These health and safety requirements could be no more strict than those used by the Joint Commission on Accreditation. Linking the conditions for participation to the requirements of the Joint Commission provides assurance that only professionally established conditions would have to be met by providers of health services which seek to participate in the program.

The proposed program would not cover services furnished in nursing homes generally, many of which are not aimed at providing medical services for curing or rehabilitating the patient but at giving the patient custodial care. The benefits of this program are intended to cover medical services rather than personal care or housing. Participating extended care facilities would therefore have to have adequate nursing care and physician supervision or care as well as to meet necessary health and safety conditions. Extended care facilities would also have to agree with a hospital for the timely transfer of patients and the timely interchange of medical and other information about patients transferred between the institutions. This would help to assure the proper level of care as the patient's needs change.

All of the institutions and agencies would have to meet State and local licensing requirements in order to be eligible for participation in the program.

Hospitals and extended care facilities would have to provide for the review, on a sample or other basis, of their admissions and lengths of stay. In addition, all long stays in a hospital or extended care facility would have to be reviewed. This review would serve the purpose of promoting the most efficient use of services and facilities. The utilization review required is the kind which has been recommended by private groups, such as Blue Cross, State and national medical societies--including the American Medical Association and the American Osteopathic Association--and State agencies. The utilization review could be conducted by the staff of the hospital. Alternatively, other utilization--review arrangements would be acceptable--review by the local medical society, for example. Moreover, a physician would have to certify, and recertify at times, the medical necessity of the services provided to the patient.

Administration

Over-all responsibility for administration of the hospital insurance program would rest with the Secretary of Health, Education, and Welfare. The bill provides for the establishment of a 16-member Advisory Council, appointed by the Secretary, to advise him on administrative policy matters. The Secretary would also be required to consult with appropriate State agencies, national and State associations of providers of services, and recognized national accrediting bodies. These efforts would be especially oriented to the development of policies, operational procedures and administrative arrangements of mutual satisfaction to all parties interested in

the program. This consultation at the local and national levels will provide assurance that varying conditions of local and national significance are taken into account.

There would be significant roles for State and private agencies in the administration of the proposed program. State governments license health facilities and State public health authorities generally inspect these facilities to determine whether they are conforming with the requirements of the State licensure law. State agencies could, therefore, very appropriately assist the Federal Government in determining what providers of health services meet the appropriate definitions and in furnishing needed consultative services to an institution or agency that has not yet qualified.

Private organizations will also play an important role in the administration of the program. Groups of providers, or associations of providers on behalf of their members, could designate an organization, such as Blue Cross, to act as a fiscal intermediary between providers and the Federal Government. The Secretary is authorized to use these agencies for such operations as receiving and reviewing provider bills, determining the amount of payment due and making the payments to the providers of services. In addition, the Secretary could contract with such an organization to perform added administrative duties--for example, auditing provider records and assisting hospitals in the application of utilization safeguards, where there was resultant advantage from simplified operations.

Financing

The hospital insurance program would be financed by allocating six-tenths of one percent of covered wages paid in 1966; 0.76 of one percent of covered wages paid in 1967 and 1968; and 0.90 of one percent of taxable wages paid thereafter, to a special hospital insurance trust fund that would be established for the program. The allocations would be 0.45, 0.57, and 0.675 of one percent in the case of self-employment income. Contributions would be paid on annual earnings up to \$5,600--the proposed new contribution base.

The cost of the benefits for persons not insured under the social security or railroad retirement systems would be borne by general revenues. In the first full year of the program, 1967, the cost of benefits to the uninsured is estimated to amount to \$255 million, but the Federal savings in MAA & OAA, resulting from hospital benefits to both the insured and uninsured is about \$200 million so that the net Federal general revenue cost is about \$55 million.

Benefits would be payable for covered hospital and related health services furnished beginning July 1, 1966, except for post-hospital extended care, for which the effective date would be January 1, 1967, in order to allow additional time for the provision of these benefits.

The allocations to the hospital insurance trust fund from social security contributions would begin on January 1, 1966. The allocation basis for 1966 would thus enable a contingency fund to be built up before benefits become payable in order to assure that from the very beginning the benefits can be paid as they become due.

Under the bill there would be a separate trust fund for the hospital insurance program, in addition to the present old-age and survivors insurance trust fund and the disability insurance trust fund. Under the bill, hospital insurance benefits could be paid only from the hospital insurance trust fund.

These financing provisions would cover fully the cost of the proposed program estimated on a basis which makes allowance for future increases in the cost of hospital care. The assumptions underlying the cost estimates are more conservative than those used in estimating the cost of the hospital insurance bill discussed in the executive sessions of this Committee last year or the bill passed by the Senate last year. We are following assumptions suggested by the Advisory Council on Social Security, which allow for a full 10 years of substantially greater increases in hospital costs than in wages and also for substantially greater increases in hospital costs than other prices indefinitely.

I would like to point out that the assumption underlying the cost estimates on the relation of future hospital costs and earnings is that the level of hospital costs will rise more rapidly over the next ten years than the health insurance industry assumed in making their calculations of costs when they testified on the previous Administration-sponsored hospital insurance bills. The conservative nature of our assumptions is indicated by the fact that the cost estimates also anticipate some increase in hospital usage by the elderly after the bill is enacted. The plan is financed not only to meet the rates figured on these assumptions but also to build up and maintain the contingency reserve.

I can assure you that I attach the same great importance to the financial soundness of the proposed program as any member of this Committee. I have asked Mr. Robert J. Myers, Chief Actuary of the Social Security Administration, whose sole responsibility it is to make these estimates, to prepare material on the financing of the proposed program and the allowances that have been made for financing rising hospital costs. Mr. Chairman, I ask that his cost estimates for the bill, contained in Actuarial Study No. 59, be distributed for the use of the Committee.

Complementary Private Insurance

One principle in the formulation of the provisions of the bill is to create a basic benefit program so that private insurance would play the same complementary role to hospital insurance for the aged that it has played under the retirement, death, and disability benefit provisions of the social security program. While the proposed program would pay practically the entire hospital bill, aside from the deductible, for over 95 percent of the hospital stays, it would not cover all of the health costs which should be included if the insured person is to have adequate health insurance protection.

To help make available the needed comprehensive protection, the bill authorizes the creation of nonprofit associations of private insurers to develop health benefit plans for aged persons covering costs not met under the Government program. Regardless of what else the plans might cover, to receive the anti-trust exemptions offered under the bill, they would have to cover 75 percent or more of the costs of physicians' services. Except in connection with specific requirements set forth in the law itself, such as the requirement that the operations of the association with

respect to the plan be on a nonprofit basis, there would be no Federal Government regulation of private health insurers as there would have been in earlier proposals of this nature.

Mr. Chairman, I would like to submit for the use of the Committee a detailed explanation of the hospital insurance proposal.

Proposed Changes in the Old-Age, Survivors, and Disability Insurance Provisions

I would like to discuss now the principal changes that would be made by the bill in the old-age, survivors, and disability insurance provisions. I am submitting for the use of the Committee on this subject also, a supplementary statement containing a complete summary and explanation of the old-age, survivors, and disability insurance provisions. Now, I propose therefore to discuss only the major provisions in the bill.

7-Percent Across-the-Board Increase in Benefit Payments

The bill would provide a 7-percent increase in cash benefits to take account of increases in the cost of living. Last year this Committee approved a 5-percent across-the-board benefit increase. The 7-percent increase that the bill would provide retains the percentage-increase principle and follows the general structure of last year's bill, taking into account the changes in the cost of living since 1958, including those which have taken place in the last year.

The effect of a 7-percent benefit increase on present and future social security beneficiaries can be seen by comparing the percentage of covered average monthly earnings that is replaced by benefits under present law with the percentage that would be replaced if benefits were increased by 7 percent.

At and below the \$110 average monthly earnings level, retirement benefits payable at age 65 now replace approximately 59 percent of average earnings and would, under the bill, replace about 63 percent. At the \$200 average monthly earnings level (the equivalent of full-time earnings at the Federal minimum wage), the replacement is now 42 percent and, under the bill, would be 45 percent. At the \$400 average monthly earnings level, the maximum possible under present law, the percentage replacement is 31 percent under present law and would be 34 percent under the bill. Since the bill would increase the contribution and benefit base from \$4800 to \$5600, a new maximum average monthly earnings of \$466 would become possible at that level the percentage replacement would be 32 percent.

The method of figuring maximum family benefits that has been used in H.R. 1 is the same as the one this Committee incorporated in H.R. 11865 last year; that is, the maximum amount of benefits payable to a family is related to the worker's average monthly earnings at all earnings levels, and not just at the lower levels as in present law.

Under the bill, the benefit increase would be effective with benefits payable for the month of January 1965. The increase in the benefits would be paid retroactively to anyone who received a monthly benefit in the retroactive period, whether or

not he is still on the rolls at the time of enactment. Lump-sum death payments based on deaths that occurred in the retroactive period, though, would not be increased. Making the payments retroactive will put people in approximately the same position as if action on last year's bill had been completed last year. That bill, you will remember, was reported out by this Committee in July, considered by the Congress in September and October, and the increased benefits under it would have been payable about the first of this year.

Increase in the Contribution and Benefit Base

An increase in the contribution and benefit base to \$5600 (which is the figure in last year's Senate bill) would be comparable now to the \$5400 provision agreed to by this Committee last year. Under that provision the base would have been increased, effective January 1965. Because of rising wages, a comparable figure for January 1966 is about \$5600.

As the Advisory Council on Social Security stated in its recent report, the contribution and benefit base must be increased from time to time as earnings levels rise in order to maintain the wage-related character of the benefits, to restore a broad financial base for the program, and to distribute the cost of the system among low-paid and higher-paid workers in the most desirable way. A \$5600 earnings base will make it possible to provide, for workers at and above average earnings levels, benefits that are more reasonably related to their actual earnings, and, by taxing a larger proportion of the Nation's growing payrolls, will improve the financial base of the program.

If benefits were raised without increasing the base, the increases in the contribution rates would have to be higher than they would have to be if the base were raised, and lower-paid workers as well as those earning at or above the maximum would have to pay these higher rates. It is much more desirable to meet in part the cost of increased protection for workers at average or higher earnings levels by increasing the amount of earnings on which those workers contributed than by meeting it entirely through increasing the contribution rates that all workers pay.

About 90 percent of the additional income from the increase in the contribution and benefit base will go to the cash benefit program and about 10 percent of the additional income from the base increase will go to the new hospital insurance program.

In addition to making higher benefits possible for people at average and above average earnings levels, an increase in the contribution and benefit base results in a decrease in the cost of the program expressed as a percentage of covered payrolls. Raising the base results in a net saving to the program because the law provides benefits that are a higher percentage of earnings at lower earnings levels than at the higher levels, but a flat percentage tax is applied to earnings at all levels. When the base is increased, higher benefits are provided on the basis of the additional earnings that are taxed and credited, but the cost of providing these higher benefits is less than the additional income from the combined employer-employee contributions on earnings above the former base. In other words there is a net gain in income to the system. Under the proposed increase in the base to \$5600, the net gain would be equivalent to 0.31 percent of taxable payroll.

Coverage of Tips

The bill provides for covering employees' tips as wages under social security. This provision is the same as the one that was reported out by this Committee and passed by the House of Representatives last year, except that like Mr. Keogh's bill of last year (on which we and the Treasury Department reported favorably), it includes provisions for income tax withholding on tips.

Employees' tips constitute one of the few remaining significant gaps in social security coverage. Tip income is estimated to represent, on the average, more than one-third of the work income of regularly tipped employees; in many cases, of course, tips represent a much larger part, or even all, of the employee's income.

An example will illustrate the importance of this coverage to people who get a substantial part of their income in tips. Take a waiter who gets \$35 a week in wages and \$55 a week in tips, a not unusual situation. Under present law, with only his wages counted toward benefits, he would get a monthly retirement benefit, beginning at age 65, of \$74. If his tips were also covered, his benefit amount would be \$125.

As you know, the Advisory Council on Social Security in its recent report recommended coverage of tips.

Coverage of Doctors

Like the bill passed by the House last year, H.R. 1 also would extend coverage to the self-employment income of doctors of medicine, the only self-employed professional group not now covered under social security. A great many physicians, perhaps a majority, want to participate in the social security program, and the benefits provided under social security would be very valuable to them. Since physicians, like all other Americans, benefit from the prevention of dependency through the social security program, they should also share in its support. In its recent report, the Advisory Council on Social Security recommended that self-employed physicians be covered under social security on the same basis as other self-employed people, pointing out that:

- . . . "failure to cover the self-employment income of physicians has the effect that many of them have an unfair advantage under the program, since it is possible for them to acquire insured status through working for a time in covered employment, and then, because those who do so have low average monthly earnings under the program, they get the advantage of the weighted benefit formula that is intended for low-income people."

Financing the Improvements that Would Be Made by the Bill

I want to preface my discussion of the financing provisions of the bill by mentioning to the Committee the major conclusion of the Advisory Council on Social Security with respect to the financing of the present program. In the words of the Advisory Council, "The social security program as a whole is soundly financed, its funds are properly invested, and on the basis of actuarial estimates that the Council has reviewed and found sound and appropriate, provision has been made to meet

all of the costs of the program both in the short run and over the long-range future." I know that the Committee is gratified at this finding of the Council in view of the Committee's determination over the years to keep the program sound.

Now, what about the program as it would be amended by the bill? As I mentioned earlier, we are no less concerned than is the Committee about the financial soundness of the program, and the bill we are recommending includes provisions for adequate financing of all the changes it would make.

Earlier in my statement I discussed separately the financing of the hospital insurance provisions. I want now to turn to the financing of the over-all program, including all three parts--hospital insurance, disability insurance, and old-age and survivors insurance.

The estimates of long-range level costs in Mr. Myers' study that I have presented to you are made on two bases, the perpetuity basis that has been used in the past and the 75-year basis recommended by the Advisory Council. The Council, in making its recommendation, stated, "A period of 75 years would span the lifetime of virtually all covered persons living on the valuation date and is as long a period as can be expected to have a realistic basis for estimating purposes. When costs are reassessed at frequent intervals, as has always been the practice, 75-year projections allow sufficient time to adjust to new and changing experience as it emerges." Mr. Myers has made the estimates of level costs on both bases to show the differing effect.

Now to come to the financial effects of the bill. In addition to the net income of 0.31 percent of taxable payroll that I mentioned earlier as resulting from raising the earnings base to \$5600, a net income of 0.03 percent of taxable payroll would be obtained from the extensions of coverage in the bill. The additional financing necessary would be obtained by increasing the tax rate for employers and workers. Under the new schedule the rates for employers and employees would be 4.25 percent each in 1966 and 1967, 5.0 percent in 1968-70 and 5.2 percent in 1971 and later. Corresponding changes would be made in the tax rate for the self-employed so that it would continue to be 1 1/2 times the rate paid by employees.

The total effect of these changes would be to increase the income to the program by an equivalent of 1.43 percent of taxable payroll to meet the additional cost of 1.44 percent of taxable payroll on the into-perpetuity basis, or 1.42 percent of taxable payroll on the 75-year basis. This increased income would be allocated among the three parts of the program as follows: 0.89 percent would go to hospital insurance, 0.34 percent would go to the old-age and survivors insurance part of the program, and 0.20 percent would go to the disability insurance part of the program. As a result, the actuarial balance of the hospital insurance provisions will be +0.05 percent of taxable payroll, that of the disability insurance provisions will be +0.01 percent on the into-perpetuity basis or +0.02 percent on the 75-year basis, and that of the old-age and survivors insurance provisions will be minus 0.31 percent on the perpetuity basis and minus 0.05 percent on the 75-year basis. For the program as a whole, the cost estimates computed into perpetuity show an imbalance of 0.25 percent of taxable payroll, well within the traditionally accepted figure of 0.30 percent; the cost estimates over the next

75 years show an actuarial surplus of 0.02 percent of taxable payroll.

It should be mentioned that under the bill the actuarial balance of the disability insurance part of the program would be substantially improved. As you will recall, this part of the program was out of balance by 0.06 percent of taxable payroll on enactment of the 1960 amendments. Since that time the estimates have been revised by Mr. Myers to reflect lower disability termination rates than were previously anticipated (the primary factor being that disability beneficiaries have been living somewhat longer than was estimated), and the estimate of the imbalance has increased by 0.08 percent of taxable payroll to a total of 0.14 percent of taxable payroll on the into-perpetuity basis. The 75-year estimates show the imbalance to be 0.13 percent. In addition the benefit increase contained in H. R. 1 would of course increase the cost of the disability insurance part of the program. These costs would be met by increasing the allocation to the disability insurance trust fund from 0.5 percent of wages and 0.375 percent of self-employment income to 0.67 percent of wages and 0.5025 percent of self-employment income. This is the same allocation provided under H. R. 11865 as passed by the Senate last year.

Financing is, of course, always a limiting factor on the improvements that can be made in the program. In order to hold the rates to the levels provided for in the bill, it was necessary to set priorities and exclude improvements that, while they have merit in themselves, seem to us less urgent than the improvements included in the bill. We propose to give further consideration to additional improvements.

Public Assistance Amendments

Title III of H. R. 1 includes four amendments to the public assistance titles of the Social Security Act. These amendments are substantially identical with amendments contained in the bill as passed by the Senate last year and were considered by the Senate-House conferees on that bill. Under the provisions of H. R. 1 all of the amendments would become effective January 1, 1966. Their aggregate cost in fiscal year ending June 30, 1966 would be approximately \$114 million to be paid out of general revenues.

The first of these amendments would remove existing limitations on Federal participation in assistance to aged persons in mental or tuberculosis institutions or in other medical institutions as a result of a diagnosis of psychosis or tuberculosis. In order to qualify for Federal participation in such payments, a State welfare agency would have to have in effect arrangements with the State authorities for mental diseases and tuberculosis that would assure individual planning in the best interest of the aged patient. There would also have to be alternate plans of care available such as nursing home care when this would best serve an aged individual. The State would also have to show that it was developing a comprehensive plan for the mentally ill. Moreover, a State would not receive more in additional Federal funds than it had increased its total expenditures for mental health purposes. The estimated cost in the fiscal year ending June 30, 1966 is \$38 million.

The amendment also would remove limitations on Federal sharing in payments for blind or disabled persons with mental illnesses or tuberculosis who are in general hospitals. However, it would not make such persons under the age of 65 eligible for payments including Federal funds if they were in mental or tuberculosis institutions.

The amendment would also authorize protective payments for aged persons who are unable because of a physical or mental condition to manage money. These payments would be made to another individual concerned with the welfare of the aged person. This is similar to the amendment made to Title IV--aid to families with dependent children--in the 1962 amendments which authorize protective payments under that title.

The second amendment would increase the Federal share of public assistance payments of each of the public assistance titles. For adults--the aged, blind and disabled--the increase would amount to an average of about \$2.50 per recipient. For recipients of aid to families with dependent children, the increase would average about \$1.25 per recipient per month. These increases would be available to States only if they increased their total expenditures by at least as large an amount. This amendment would account for a major part of the total cost of the public assistance amendments--approximately \$150 million on a full-year basis, or \$75 million for the last half of the fiscal year ending June 30, 1966.

A third amendment would liberalize the amount of earnings of a person applying for or receiving old-age assistance that may be disregarded in determining need. At the present time up to \$30 of earnings may be disregarded if an aged individual is earning \$50 or more. Under the amendment \$50 could be disregarded for individuals earning \$80 or more.

The fourth amendment would modify slightly the definition of medical assistance for the aged. Under existing law a person may not receive old-age assistance and medical assistance for the aged for the same month. Under the amendment both types of assistance might be received in the month that an individual entered or left a medical institution. This would facilitate the provision of assistance to persons entering or leaving a hospital or nursing home during the course of a month. This amendment and the preceding one have an estimated cost of slightly more than \$1 million in the fiscal year ending June 30, 1966.

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Mr. Chairman, we believe on the basis of careful study that the proposals in the bill are the ones for which there is the greatest need and ones that we can afford now. We commend them to the Committee's favorable consideration.

Statement
by
Anthony J. Celebrezze
Secretary of Health, Education, and Welfare
before the
Committee on Finance
U.S. Senate
Thursday, April 29, 1965
10:00 a.m., DST

Mr. Chairman and Members of the Committee:

I welcome this opportunity to discuss H.R. 6675, the Social Security Amendments of 1965, as passed by the House of Representatives, and to urge the enactment of the many significant improvements that this bill would make in the Social Security Act.

The major purposes of H.R. 6675 are to provide protection for the Nation's workers and their families against the high cost of health care in old age, to increase cash benefits under social security and make other substantial improvements in the old-age, survivors, and disability insurance program, to provide for more adequate medical and monetary assistance for the needy, and to improve the health care of handicapped children.

No other social security amendments have approached the scope of these proposed amendments. For older people, for widows and orphans, and for the disabled and their families, the payment of benefits where none is now available would turn despair into hope. Every community in our Nation would share in the good that the bill would do.

This proposed legislation will lift from the shoulders of our senior citizens a heavy burden of fear--fear that their lifetime savings will be wiped out by the heavy costs of major illness or that they will have to turn to welfare or private charity or sons and daughters for help in meeting these costs. It is my view that this bill, if enacted, will make the most important contribution to security in old age since the social security program was enacted 30 years ago.

It is one of the unfortunate facts of life that in old age, when people are living on substantially reduced incomes, health costs are much higher than in younger years. And since, as a general rule, old people have relatively little in the way of resources that can be readily converted into cash and little or no possibility of gaining new income or assets, many find that their high health costs are too much for them. The years of security and independence that they had hoped for and planned for are spent in a losing battle against dependency.

Despite commendable efforts by the private insurance industry, the voluntary health insurance effort has not proved adaptable to the almost universal need of the aged for adequate health insurance; few of the aged can afford to pay the premiums which older people must be charged for broad health insurance protection. Nor does the solution to the problem lie in public assistance.

Though necessary and desirable, public assistance is not acceptable as the first line of defense against insecurity, whether that insecurity is caused by high health costs or other factors. Unlike social insurance, the public assistance program--even though strengthened and improved as proposed in H.R. 6675--cannot prevent dependency; it can only provide for relief after the dependency has occurred. A key to the solution of the problem lies in the approach taken by our well-established contributory social security program.

I would like to emphasize, though, that the health benefit provisions in the bill are built around the idea of using the several resources that can contribute the most, each in its own way, to fortifying ourselves against the insecurity that stems from illness in old age.

A system financed by earmarked employee, employer, and self-employed contributions would serve as the foundation. It would assure that practically everybody has basic hospital insurance in old age. Only such a system can provide this assurance. Under this method, people can contribute during their productive years toward the hospital insurance that they will need in later years when their incomes will generally be reduced. After they retire, they need make no further contributions.

The bill would also make provision for those relatively few people who are already in advanced years and not eligible for social security benefits. These people would be afforded the same hospital insurance protection, but it would be paid for out of general revenues.

The proposed hospital insurance protection would serve as a base on which the aged could build supplementary health insurance in much the same way as social security cash benefits now serve as a base on which the individual is encouraged to build additional retirement income through private pension plans, individual savings, private insurance, and other programs, both public and private.

A supplementary health insurance program for the aged is one of the important features of H.R. 6675. After a deductible of \$50 per year this program would cover 80 percent of the cost of physicians' services and certain other health and medical services that are not covered under the hospital insurance program. The supplementary protection would be provided through a plan of voluntary insurance that would be open to all older people who choose to enroll and pay the required

premiums. It would be financed, in equal shares, by the older persons who elect to participate and by their Government through general revenues. And it would be administered through private carriers, thus bringing into play their experience in the medical insurance field.

Such a supplementary plan would meet an important need. It would also meet a major objection raised against past health insurance proposals in that it would assure that protection against the costs of physicians' services as well as protection against the cost of hospital and related care would be available to virtually all older Americans.

While the proposed programs of basic and supplementary protection would, in combination, provide relatively complete coverage, there still would be ample opportunity for continuing growth of the private effort in the health insurance field since the 90 percent of the population who are under 65 would not be affected by the proposed programs.

The third resource that the bill would bring into play in solving the problems caused by high health costs in old age is public assistance. The bill would make a number of improvements in the assistance provisions which, together with the two health insurance plans, would enable the medical assistance program to be more effective in the role most appropriate for it--that is, it would enable the medical assistance effort to be focused more successfully on the relatively small number of the aged whose nursing home needs or other circumstances are such that they will be unable to meet their health costs through a combination of social and private insurance and individual savings.

Mr. Chairman, I would like next to outline the major features of the two health insurance plans.

Basic Health Insurance Plan

The basic plan--which follows the social security approach--is, with certain exceptions, essentially the same as the hospital insurance program passed last year by the Senate.

Beginning in July 1966, hospital insurance protection would be provided as a part of the social security system but with separate contributions and a separate trust fund. It would apply to all people who are aged 65 and over and entitled to monthly benefits under the social security program or the railroad retirement program.

As I indicated earlier, the same protection would also be provided for practically all people who are now nearing or past age 65 and who are

not eligible under one of these programs, but the cost would be borne by general revenues.

The basic plan would cover: Up to 60 days of hospital care less a deductible amount that would be \$40 at the beginning of the program; up to 100 days of post-hospital care in a qualified skilled-nursing home or other extended-care facility; up to 100 home health-care visits to a homebound patient following discharge from a hospital or extended-care facility; and hospital outpatient diagnostic services subject to a deductible amount equal to one-half the deductible for inpatient hospital benefits.

The provision of these four types of benefits would enable the aged beneficiary to have the kinds of services and levels of care most appropriate to his needs. The benefits other than those for inpatient hospital care are essentially less expensive alternatives to inpatient hospital care and are included for this reason.

By providing insurance protection against these various other health costs, the bill would promote the most efficient and economical use of existing health-care facilities and reinforce the efforts of the health professions to reserve hospital beds for acute illnesses requiring the intensive treatment that can be provided only in a hospital.

The coverage of services in an extended-care facility would pay for the cost of followup convalescent and rehabilitation services which are often required after hospitalization. The extended-care provision, however, would not permit payment for services of a custodial nature.

The provision in the bill passed by the Senate last year which required the extended-care facility--the skilled-nursing home--to be affiliated with a hospital in order to participate in the program has been removed. In its place is a provision under which the extended-care facility would be required to have an arrangement with a participating hospital for the timely transfer of patients and an interchange of medical information between the two institutions.

The transfer agreement would help assure that the proper level of care is provided as the patient's condition and health needs change but, at the same time, would be much easier to meet than the prior affiliation requirement.

Under the provisions for basic insurance against the cost of care in hospitals and extended-care facilities, the payment would be made on the basis of the reasonable cost of the covered services furnished. The reimbursement of hospitals by third parties on a reasonable cost basis has been the subject of extended and painstaking consideration for more than a decade, and principles governing such reimbursement

have been developed which have been widely used and which have met with a large measure of acceptance.

The bill contemplates that full advantage would be taken of the experience of private agencies and that payment to hospitals will be fair to the institutions, to the contributors, to the hospital insurance trust fund, and to the hospitals' other patients.

The hospital insurance program would be fully financed through contributions of employees, employers, and the self-employed plus the general revenue contributions for aged persons not insured under social security or railroad retirement. These contributions would be similar to the present social security contributions. However, they would be levied under a separate provision of the Internal Revenue Code.

Also, while the present social security contribution rate applicable to the self-employed is higher than that for the employee or the employer, the hospital insurance contribution rate would be the same for the self-employed as for the employee and employer. The proceeds of this new earmarked contribution would be deposited in a newly established hospital insurance trust fund.

The financing of the basic plan is based on very conservative cost estimates. The cost estimates used by the House Committee assume, for example, that earnings will continue to rise over the 25-year period as they have in the past but that the annual limitation on taxable earnings will not be increased beyond the \$6,600 level provided for in the bill for 1971 and thereafter. Thus, even if the contribution base should not be adjusted after 1971, the hospital insurance provisions would be amply financed.

If the contribution base is increased after 1971, the rates in the contribution schedule could be revised downward. In fact, keeping all other assumptions the same, if the contribution base is kept up to date with the general earnings level, the hospital insurance contribution rate for employees, employers, and the self-employed could be held at 0.55 percent of taxable payroll instead of being scheduled to rise, as in the bill, to 0.80 percent by 1987.

H.R. 6675 adds to the provisions of S.1 the payment for the cost of services in qualified tuberculosis hospitals and in Christian Science sanatoria. Another significant change from S.1 adopted in H.R. 6675--and one with which, as I will explain shortly, I cannot concur--is the transfer of the coverage of services of certain medical specialists from the hospital insurance plan to the supplementary plan.

Supplementary Health Insurance Plan

The supplementary health insurance plan embodied in H.R. 6675 would be one providing voluntary medical insurance that would be administered through private carriers and would be available to virtually all older people who wish to enroll and pay the required premiums.

The major emphasis of the supplementary plan is on protection against the cost of physicians' services both in and outside the hospital. In addition, payment would be made toward the costs of inpatient care in psychiatric hospitals, of home health visits in addition to those covered under the basic plan, of radiation and other medical therapy, of diagnostic tests, of ambulance services, and of other specified health care items and services.

Beginning July 1966 the beneficiary would pay the first \$50 of expenses he incurs each calendar year for services of the type covered under the plan and 20 percent of the balance; the supplementary plan would pay the remaining 80 percent.

The vast majority of aged people would pay their contributions toward the program by having \$3 per month, beginning July 1966, deducted from their social security and railroad retirement benefits. This premium rate would be in effect until 1968; thereafter, the rate would be subject to biennial adjustment, based on experience.

The minimum increase that the bill would make in cash social security benefits--\$4 for a retired person aged 65 or over and \$6 for a couple aged 65 or over--would fully cover the monthly premiums that an aged person would pay for the supplementary plan. These payments would be matched by equal payments from Federal general revenues.

A part of these general revenue expenditures would be recouped by modifying the income tax provisions that apply to medical expenses of the aged. Under the bill, aged people could deduct only medical expenses in excess of 3 percent of income and drug expenses in excess of 1 percent of income for income tax purposes. Of course, only aged persons whose incomes are high enough so that they must pay income taxes would pay additional taxes under this provision of the bill.

Aged recipients of cash public assistance payments who are not entitled to social security benefits could be enrolled in the supplementary plan by the public assistance agency. The State would pay contributions on behalf of the recipients out of its State-Federal assistance funds, and these payments would be matched by Federal contributions, as in the case of other enrollees.

Various protections against adverse selection are included in the enrollment provisions of this program. For example, provision is made

for a waiting period before a newly enrolled person could become eligible for payments so that it would not be possible for him to delay enrollment until expensive health services were required.

We anticipate that a very high percentage of the aged would enroll because the general revenue subsidy of 50 percent makes participation in the program very advantageous.

As under the basic plan, payments for covered services provided by hospitals, extended-care facilities, and home health agencies would be based on reasonable costs and would be made to the provider of services. In the case of all other covered services--physicians' services, for example--benefits would be based on reasonable charges and would be paid to the beneficiary or, alternatively, under certain circumstances, could be assigned to the physician or other person or organization which furnished the covered services.

In deciding whether a charge for a covered item is reasonable, the carriers responsible for administration of the payment provisions of the supplementary plan would consider the customary charges of the physician and the prevailing charges in the community for the services furnished. The carriers would make payment on the basis of charges which are no higher than the charges used for reimbursement on behalf of their own policyholders. If the benefits are assigned to the physician or organization that rendered the services, the reasonable charge for the services rendered would have to be accepted by the physician or organization as payment in full for those services; in other cases, reimbursement would be made on the basis of receipted bills.

Administration of the Two Health Insurance Plans

Overall responsibility for administration of the basic and supplementary plans would rest with the Secretary of Health, Education, and Welfare. The bill provides for the establishment of two advisory groups made up of experts from outside the Government: one to advise the Secretary on general policy matters in the administration of the health insurance programs and the other to study and report on utilization of hospital and of other medical care and services.

The Secretary would also be required to consult with appropriate State agencies, national and State associations of providers of services, and recognized national accrediting bodies.

State governments license health facilities, and State public health authorities generally inspect these facilities to determine whether they are conforming with the requirements of the State licensing law. The proposal would put this experience to use by giving State agencies important duties in assisting the Federal Government in determining which

providers of health services meet the appropriate definitions and also by furnishing consultation to hospitals and other facilities that wish to participate in the program.

Private organizations would also play an important role in the administration of both the basic and supplementary plans. Under the basic plan, groups of hospitals, or associations of hospitals on behalf of their members, could nominate an organization to act as a fiscal intermediary between providers and the Federal Government.

Similarly, other providers of services, such as extended-care facilities, could have fiscal intermediaries. This arrangement would permit the same organizations that now reimburse hospitals and other providers of health services to perform a similar function under the hospital insurance program.

As I indicated earlier, the services covered under the supplementary plan are primarily those provided by physicians. The bill requires the Secretary of Health, Education, and Welfare to the extent possible to contract with health insurance carriers for the performance of functions related to such coverage--for example, determining the amounts to be paid for physicians' services and making the payments.

The Secretary would enter into such a contract with a carrier only if he finds that the carrier can carry out the required functions efficiently. The Secretary would contract with a sufficient number of carriers, selected on a regional or other geographical basis, to permit a comparative analysis of their performance.

Ancillary Hospital Services

Mr. Chairman, it would be a mistake, in my opinion, to exclude from coverage under the basic hospital insurance plan, as H.R. 6675 does, the services furnished hospital patients under arrangements with the hospital, by medical specialists in the fields of radiology, anesthesiology, pathology, and physical medicine. These services should be covered under the basic hospital insurance plan subject to the conditions set forth in the Senate-passed bill of last year and in the bill introduced in this Congress by the distinguished senior Senator from New Mexico.

Our primary concern is that medical services furnished to hospital patients in these fields be covered under this bill in a way that is in accord with the practices that hospitals and the health professions have developed over the years.

Thus, we believe that the services in question should be covered as part of the hospital benefit if the specialist-hospital arrangement calls for the bill to be paid through the hospital.

Conversely, we believe that, where the arrangements are that the specialist is not paid by or through the hospital, reimbursement for the specialist's services should be made under the supplementary plan.

The specialists in these fields work in hospitals under various kinds of arrangements. Some work as hospital employees and are paid a salary, while others receive agreed-upon percentages of the hospital's receipts for the services they furnish. Some of these specialists bill their patients directly.

The approach we suggest would follow whatever practices now exist or whatever practices may be arranged in the future in this field. On the other hand, the provisions in H.R. 6675 which exclude the hospital-related services of these specialists from coverage under the basic hospital insurance provisions would require substantial changes in the way these services are now paid for.

The billing for the nonphysician components of the affected hospital department would have to be entirely separate from the billing for the physician services in the department. There are very few hospitals in the country that operate today on such a basis in the fields of pathology and radiology. Nor is there a health insurance plan, so far as we are aware, which requires the separation of the services of these specialists from the services provided by the hospital generally irrespective of the arrangements agreed upon by the hospital and the specialists.

We urge, therefore, Mr. Chairman, that the bill be modified to restore the provisions for covering these services made in last year's Senate bill and Senator Anderson's bill of this year. We will also have some clarifying and technical changes in the bill we would like to bring to the Committee's attention at a later point.

Changes in Old-Age, Survivors, and Disability Insurance

In addition to the very important insurance proposals for protecting older people against high health costs, many other important changes in the social security program are included in the bill. These changes would modernize and improve the program of cash benefits under social security to take account of changes in economic and other conditions that have taken place over the last several years and to fill gaps in the protection of the program.

The bill provides a 7-percent across-the-board increase in benefits, with a minimum increase of \$4 guaranteed for retired workers aged 65 and over and for disabled workers. The last general benefit increase was enacted in 1958, and the 7-percent increase takes into account the increases in prices since that time.

Monthly benefits for workers now on the rolls who retired at or after age 65 would range from \$44 per month at the minimum to \$135.90 at the maximum, as compared to \$40 to \$127 per month under present law. The initial increase in the contribution and benefit base provided by the bill--the increase to \$5,600 a year--would make possible a maximum benefit of \$149.90 per month for those who continue to work and pay on the higher amount.

Under the second-step increase in the contribution and benefit base that the bill would make--the increase to \$6,600 a year--a maximum benefit of \$167.90 per month would be possible after the new earnings base has been in effect for some time.

The bill uses the same method for computing maximum family benefits that was used in last year's bill. Specifically, the bill provides a different family maximum amount at every average monthly earnings bracket in the benefit table.

The maximum, for families now on the rolls, is raised from \$254 per month to \$286.80 per month. In the future, the maximum family benefit payable per month would be \$312 under the \$5,600 contribution and benefit base and \$368 per month under the \$6,600 contribution and benefit base.

The benefit increase would be retroactive to January 1965. As this Committee stated last August in its report on H.R. 11865, a general increase in social security benefits was needed at that time. H.R. 11865, as passed by both Houses last year, provided for increased social security benefits that would have been effective at about the beginning of 1965 if the bill had been enacted. Paying the increased benefits retroactively to January, then, would put beneficiaries in the same position they would have been in if H.R. 11865 had been enacted.

With passage of the bill, some 20 million people will be immediately eligible for increased benefits under this provision. An estimated \$1.2 billion in additional cash benefits would be paid in 1965 and \$1.4 billion in 1966, as a result of the benefit increase.

The proposed increase in the contribution and benefit base to \$5,600 is scheduled for 1966, and the increase to \$6,600 is scheduled for 1971. This increase in the base is very much needed. It has not been increased since 1958, and periodic adjustment of the base as earnings rise is of fundamental importance not only to the preservation of the wage-related character of social security benefits but also to the maintenance of a broad financial base for the program.

Another important change that H.R. 6675 would make in social security cash benefits is provision for the payment of child's insurance benefits to children between the ages of 18 and 22 who are attending school. Last year both the House and Senate passed a similar provision.

The provision for children reflects the fact that we can no longer assume that a child has finished his education and is ready for self-support when he has attained age 18. Like the provision for the general increase in benefits, it would be retroactive, with the first benefits payable for January 1965. About 295,000 children would be eligible for benefits for a typical school month in 1965; in 1966 about \$195 million in benefits would be paid.

The disability insurance protection provided under social security would also be improved. The bill would remove the requirement that to be eligible for benefits a worker's disability must be expected to result in death or to be of long-continued and indefinite duration.

The effect of this change would be to make disability benefits available to insured workers without requiring that it be found that they cannot be expected to recover in the foreseeable future. This provision is along the lines of most private long-term disability insurance provisions.

Another change in the disability insurance provisions would enable the disabled worker, and those who are dependent on him, to become eligible for benefits after 6 months rather than after 7 months as in present law. About 155,000 people--disabled workers and their dependents--would become immediately eligible for benefits, with \$105 million in benefits payable in 1966 because of the changes.

The bill also provides for covering employees' tips that are \$20 or more in a month as wages under social security. This provision is the same as the one that was in the bill considered by your Committee last year, except that it includes provisions for income tax withholding on tips.

Failure to credit tips toward benefits constitutes one of the few remaining significant gaps in social security coverage. Tip income is estimated to represent, on the average, more than one-third of the work income of regularly tipped employees; in many cases, of course, tips represent a much larger part, or even all, of the employee's income.

The amount of tips received by employees who regularly receive tips is estimated at more than \$1 billion a year. Coverage of tips would provide better protection under the social security program for more than a million employees and their dependents.

A waiter, for example, who receives \$35 a week in wages and \$55 a week in tips--a not unusual situation--would, under present law, receive a monthly retirement benefit, beginning at age 65, of \$74. If his tips were covered, his benefit amount would be \$125 per month.

The responsibility is put on the employee to report his tips to his employer. If he fails to do so within 10 days after the close of the month in which the tips are paid, the employer is relieved of all liability. The employee is then responsible for paying the employer's contribution as well as his own.

Tips would be covered also for income tax withholding purposes, so that tipped employees would pay their income taxes on tips on a pay-as-you-go basis. Under present law, employees who receive tips pay the income tax due on their tips on an estimated quarterly basis or in a lump sum at the end of the taxable year in which the tips were received.

The provision for income tax withholding on tips would make it more convenient and easier for them to pay their income taxes and would improve the collection of income taxes.

Another important provision of the bill would extend coverage to the self-employment earnings of physicians. Self-employed doctors of medicine--the only group of significant size whose self-employment income is excluded from coverage under social security--would be covered under the program on the same basis as other professional self-employed groups.

In addition, the bill increases the proportion of gross income which may be reported by low-income farmers in place of net income and also makes it possible for the Amish to elect not to be covered by the program. Certain other minor changes in the present coverage provisions are included.

The bill also provides benefits for certain aged people who have had some social security coverage but not enough to qualify for benefits under present law, and for certain aged divorced women who were married for many years prior to being divorced. In addition, benefits are provided for widows at age 60, payable in reduced amounts so as not to increase the cost of the program.

The bill also liberalizes the retirement provision in present law under which there is a \$1 reduction in benefits for each \$2 of earnings above \$1,200 and up to \$1,700 to provide for a \$1-for-\$2 reduction for earnings between \$1,200 and \$2,400. Benefits would continue to be reduced by \$1 for every \$1 of earnings above \$2,400, as they are now on earnings above \$1,700.

Still other changes included in the bill are:

--A provision for automatically recomputing benefits to take account of earnings that a beneficiary may have after he comes on the rolls and that would increase his benefit amount;

--A provision permitting an unlimited time for filing proof of support for husband's, widower's, and parent's insurance benefits and applications for lump-sum death payments where there is good cause for failure to file these documents within the initial 2-year period provided under the law; and

--A provision allowing a person to become entitled to disability benefits after he has become entitled to monthly benefits that are paid on the basis of his age.

The bill also tightens up the provisions governing the payment of child's benefits to a child adopted by a retired worker in order to provide safeguards against possible abuse.

Social Security and Health Insurance Financing

Obviously the proposed hospital insurance provisions for the aged and the significant improvements that would be made in social security cash benefits would add to program costs. The bill faces up squarely to the need for providing sufficient funds to pay for these improvements.

It provides sufficient income to pay all the costs of the changes proposed in the present social security program as well as the costs of the proposed hospital insurance program.

Each of the two existing social security trust funds and the proposed new hospital insurance trust fund would be assured not only of adequate short-range income but also of long-range financial soundness.

In arriving at the social security contribution schedules included in the bill, particular attention was given to the effect of social security contributions on the individual taxpayer and the economy as a whole. The bill provides a more gradual attainment of the full rates needed to support the cash benefits than does present law.

Under present law the rates for employees and employers would go to 4.125 percent in 1966 and 4.625 percent in 1968. Under the bill the rates that employees and employers would pay under the cash social security program would not exceed 4 percent until 1969. Moreover, they would not exceed the rates now scheduled for 1968 until the ultimate rate scheduled under the bill--4.8 percent--goes into effect in 1973.

The rates for the self-employed would be held at 6 percent until 1969 and would not exceed the 6.9-percent rate now scheduled for 1968 until the ultimate rate scheduled under the bill--7 percent--goes into effect in 1973.

The separate contribution to finance the new hospital insurance program would also be put into effect under a graduated schedule. The rates are scheduled to begin in 1966 at 0.35 percent each for employees, their employers, and self-employed people and to rise in five steps to 0.80 percent each in 1987.

On the basis of conservative assumptions, the contribution rate would provide adequate income to the hospital insurance trust fund over the entire 25-year period for which estimates were made.

The contribution rates in the bill have been set so as to avoid undesirably and unnecessarily large trust fund accumulations in the near future. Under the bill the social security trust funds would of course increase--that is, income would generally exceed outgo--but the contribution rates are designed to avoid the large increases in the trust funds in the next few years that would have occurred under present law.

Under present law the combined assets of the old-age and survivors insurance and the disability insurance trust funds would grow from \$21.2 billion at the end of 1964 to \$32.8 billion by the end of 1969.

Under the bill the combined assets of the three trust funds supported by payroll contributions--of the two existing funds and the new hospital insurance trust fund--would grow, but only to \$23.5 billion by the end of 1969.

The cost of the voluntary supplementary health insurance program would, of course, be met by contributions made by the participants and the Government.

It would be financed through a separate trust fund but, unlike the other parts of the program, it would be financed on a short-range basis, with the contributions adjusted to the cost.

The contribution rate would not be changed more often than once every 2 years.

The regular social security contribution rates scheduled under the bill provide more favorable treatment for the self-employed than previous schedules, which set the tax rate for the self-employed at about $1\frac{1}{2}$ times the employee rate. Under the bill, the final self-employed rate for the cash benefits would be somewhat less than $1\frac{1}{2}$ times the final employee rate, and, as I said before, self-employed people would pay for hospital insurance at the same rate as employees.

Child Health and Medical Assistance

The child health and medical assistance provisions of the bill would carry out recommendations that President Johnson made in his health

message. These provisions are also included in S. 970, the Child Health and Medical Assistance Act of 1965, introduced by Senator Ribicoff and pending before your Committee.

Under these provisions a new title of the Social Security Act would be established under which all vendor payments for health care-- such as payments to hospitals, doctors, druggists, nursing homes-- in behalf of public assistance recipients would be made.

States could include under the title all the recipients of money payments for old-age assistance, aid to the blind, aid to the permanently and totally disabled, and aid to families with dependent children. They could also include medically needy persons who would qualify for these programs if their income and resources were so small that they needed payments for basic maintenance costs--food, clothing, shelter, etc.

The medically needy group could include not only the present recipients of medical assistance for the aged but comparable groups of persons under 65 who are blind, disabled, or dependent children and relatives. The title thus represents a substantial broadening of the existing Kerr-Mills law.

The greatest number of new potential beneficiaries under the expanded benefits would be the 3.2 million dependent children now receiving financial aid and any other children from broken families who need help if their medical needs are to be met.

When these programs are placed under a single new title, States would receive increased matching on a uniform basis for all groups. Increases at least as large as those contemplated by the "Eldercare" bill would be available to all States and would apply not only to aid provided in the form of insurance premiums but to all medical costs.

Under the new title, comparable eligibility requirements would apply to all groups and comparable medical benefits would be available to each of them. With States relieved of much of their existing cost of hospital care for the aged through the health insurance provisions of the bill, sufficient State funds would become available in many States together with matching Federal funds to provide significant health care programs for all needy persons on an equitable basis.

By July 1, 1967, a minimum program would be required to include at least some inpatient hospital services, outpatient hospital services, laboratory and X-ray services, skilled nursing-home services, and physicians' services regardless of where they are provided. States could at their option include a broad range of additional services.

The program could be adopted by the States as early as January 1, 1966, and would be the only basis on which vendor payments for medical care could be made after June 30, 1967.

Costs on a full-year basis are estimated at about \$200 million, with \$100 million being the estimated cost in the fiscal year ending June 30, 1966.

In addition, improvements would be made in the child health programs. The amount authorized to be appropriated for maternal and child health services would be increased by \$5 million in the fiscal year ending June 30, 1966, and by \$10 million in each subsequent fiscal year.

The same increases in authorizations would be made for the program of crippled children's services. In each of these programs, States would have to show progressive expansion of the availability of services with the objective of making them available to children in all parts of a State by 1975.

Provision would be made for a separate authorization beginning in 1967 for the training of professional health personnel to deal with crippled children, particularly mentally retarded children and children with multiple handicaps. Such training is closely related to the development of university-based mental retardation centers authorized by the Congress in 1963.

A new authorization for project grants to establish comprehensive health projects for children of school and preschool age would be provided.

These health projects would be in areas with concentrations of low-income families, and, while all children in such an area might receive screening, preventive, or diagnostic services, only those children who would not otherwise receive such care would be eligible for treatment, correction of defects, and aftercare.

In addition, grants of \$2.75 million per year for 2 years would be authorized to assist States in following up and beginning to implement the comprehensive mental retardation plans that they have been developing under grants made available under legislation enacted in 1963.

Other medical assistance changes in the bill were also included in H.R. 11865 as it passed the Senate last year and were contained in S. 1 introduced this year by Senator Anderson and others.

Among these is the removal of limitations on Federal participation in public assistance for aged persons in mental and tuberculosis

hospitals. This was Senator Long's amendment, adopted last year with safeguards to assure that additional Federal funds resulting from it would go into improvement of mental health programs.

Changes in Cash Public Assistance

The bill provides for an increase in the public assistance formulas which averages about \$2.50 per recipient per month for aged, blind, and disabled recipients and averages about \$1.25 for recipients under the program of aid to families with dependent children. This is the same formula which was proposed by Senator Long and adopted by the Senate last year.

The additional Federal funds received under the new formula would be required to be passed on to the recipients. A similar pass-on provision has been included in Senate-passed amendments to public assistance programs on a number of prior occasions. This provision would apply to increases in Federal funds under all the provisions of the bill.

Another provision of the bill permits payments to be made to a third party in behalf of aged persons who are unable to manage money because of physical or mental impairment. This amendment contains appropriate safeguards and is similar to the one which the Congress adopted for the aid to families with dependent children program in 1962.

Senator Douglas' amendment of last year, liberalizing the amount of earnings of old-age assistance recipients which a State may disregard, is also included in the bill. Under the amendment a State might disregard \$50 of earnings for aged persons earning \$80 or more per month.

Furthermore, provision is included authorizing States to disregard the retroactive portion of the increase in OASDI benefits or the child school attendance benefits under that program.

A provision of the Economic Opportunity Act which requires compliance by State public assistance plans by July 1, 1965, is rendered inoperative for States which are unable to comply because of State law and have not yet had regular legislative sessions since the Economic Opportunity Act was passed. The bill would take care of the period until the legislature may act for any State in this situation.

A provision is included permitting judicial review of the Secretary's decisions regarding the State public assistance plans or amendments and affording administrative reconsideration of decisions on audit exceptions.

H.R. 6675 also contains a substantial number of other minor changes. Among these provisions is one which, while not increasing the dollar limitations on grants to Puerto Rico, Guam, and the Virgin Islands, will afford some help to these jurisdictions by providing that all their medical-care payments would be outside the existing ceilings on cash assistance. Only their medical assistance for the aged program is outside the ceiling at present.

* * * * *

H.R. 6675 is truly a landmark bill. Its passage will be a tremendous step toward preventing insecurity and want among the aged, disabled, widows, and the orphaned.

As a result of this bill, people who are still working will be able to look forward to their retirement years with a sense of security never before possible. The extensions and improvements in our social insurance and public assistance programs that are embodied in the bill would bring new security and hope to millions of Americans of all ages.

Mr. Chairman, I would like to call to the attention of the Committee the charts that are attached to this statement and to ask that they be inserted in the record at this point.

#

SOCIAL SECURITY AMENDMENTS OF 1965 (H.R. 6675)

TITLE I HEALTH INSURANCE FOR THE AGED & MEDICAL ASSISTANCE

- THREE LAYER APPROACH
1. HOSPITAL INSURANCE PROGRAM (LIKE H.R. 1)
 2. VOLUNTARY SUPPLEMENTARY HEALTH INSURANCE PROGRAM (PRIMARILY PHYSICIANS' BILLS)
 3. MEDICAL ASSISTANCE - EXPANDED KERR-MILLS PROGRAM

TITLE II OTHER AMENDMENTS RELATING TO HEALTH CARE

1. MATERNAL & CHILD HEALTH SERVICES
2. MENTAL RETARDATION PLANNING
3. PA AMENDMENTS ON MENTAL & TB DISEASE

TITLE III SOCIAL SECURITY CASH BENEFIT AMENDMENTS

1. BENEFIT INCREASES
2. CHILD'S BENEFITS TO AGE 22
3. RETIREMENT PROVISION LIBERALIZATION
4. COVERAGE EXTENSIONS
5. OTHER CHANGES

TITLE IV PUBLIC ASSISTANCE AMENDMENTS

1. INCREASED FEDERAL MATCHING
2. PROTECTIVE PAYMENTS
3. DISREGARDING CERTAIN EARNINGS IN DETERMINING NEED
4. OTHER CHANGES

HOSPITAL INSURANCE PLAN

Four Types of Benefits

INPATIENT HOSPITAL SERVICES

Up to 60 days per spell of illness
Deductible (paid by patient) equal to \$40
at beginning of program

POST-HOSPITAL EXTENDED CARE

Up to 100 days per spell of illness after
transfer from hospital

Less 2 days for each day hospital stay
over 20 days (minimum 20 days)

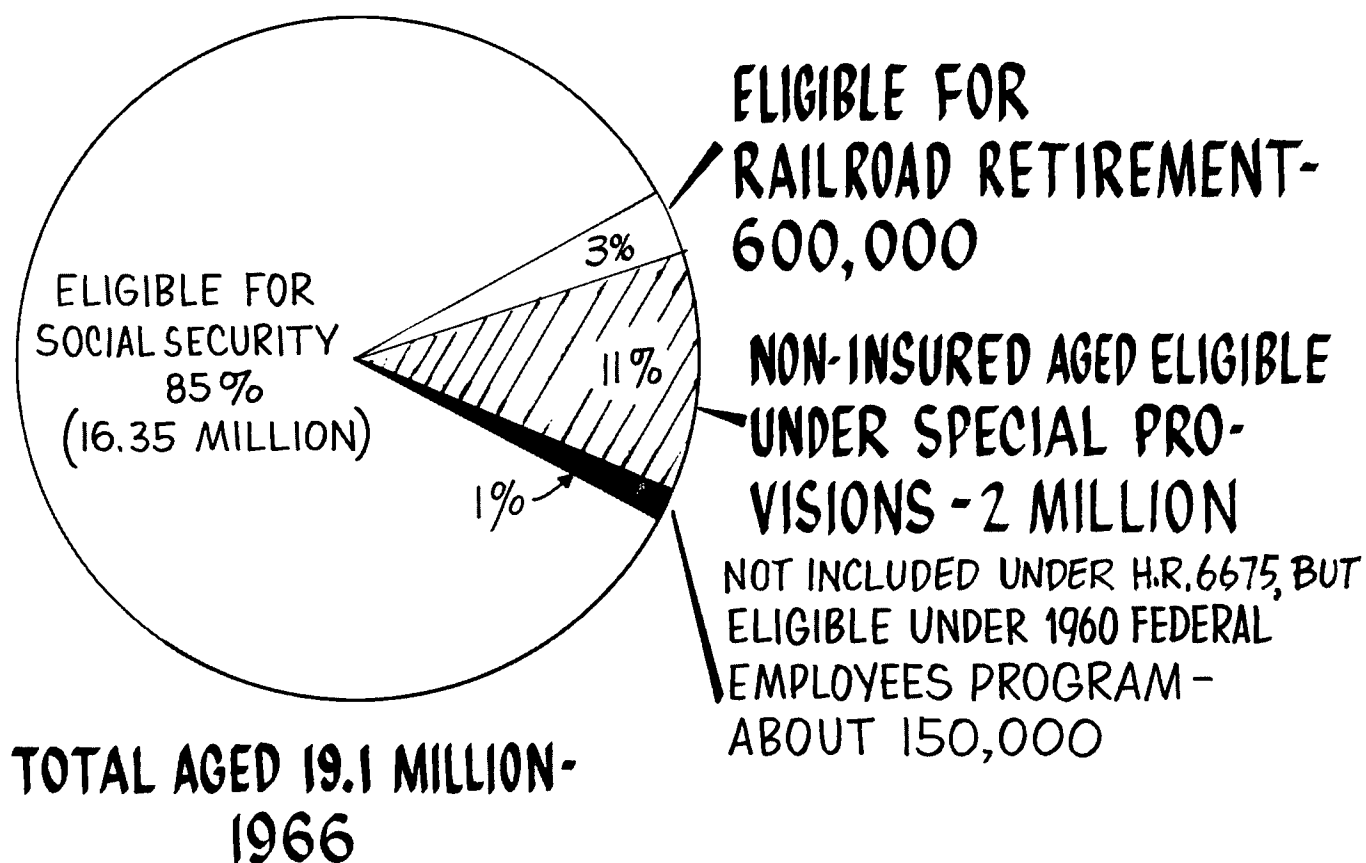
POST-HOSPITAL HOME HEALTH SERVICES

100 home visits in year following discharge
from institution, by health workers, under plan
established by physician

OUTPATIENT DIAGNOSTIC SERVICES

As required, with a deductible (in each
diagnostic study) equal to $\frac{1}{2}$ inpatient
hospital deductible

PERSONS 65 AND OVER PROTECTED UNDER HOSPITAL INSURANCE



SUPPLEMENTARY PLAN

Four Types of Benefits

PHYSICIANS' SERVICES

IN AND OUT OF HOSPITAL

**PSYCHIATRIC HOSPITAL
SERVICES**

**UP TO 60 DAYS IN A SPELL OF ILLNESS;
180-DAY LIFETIME MAXIMUM**

**HOME HEALTH
SERVICES**

UP TO 100 VISITS IN A CALENDAR YEAR

**OTHER MEDICAL
SERVICES**

**DIAGNOSTIC TESTS, RADIATION
THERAPY, MEDICAL SUPPLIES,
AMBULANCE SERVICES, AND
RENTAL OF MEDICAL EQUIPMENT**

DEDUCTIBLE AND COINSURANCE UNDER SUPPLEMENTARY PLAN

**#50 ANNUAL DEDUCTIBLE---
PAID BY BENEFICIARY**

**PLAN PAYS 80% OF REMAINDER,
PATIENT PAYS 20%**

**OUT-OF-HOSPITAL EXPENSES FOR
TREATMENT OF MENTAL ILLNESS
LIMITED TO \$250 OR 1/2 ANNUAL EXPENSES,
WHICHEVER IS LESS**

FINANCING OF 2 HEALTH INSURANCE PROGRAMS

| <i>PLAN</i> | <i>SOURCE OF FUNDS</i> | <i>SCHEDULE</i> |
|--------------------------------|--|--|
| Hospital Insurance | Employee & Employer & self-employed General revenues for transitional insured | Each pays 1966-0.35% 1967-0.50% Rising to 0.80 in 1987 <i>EARNINGS BASE</i> 1966-\$5,600 1971-\$6,600 |
| Supplementary Health Insurance | Beneficiary and Federal Government | Each pays 1/2 of \$6 monthly premium |
| | | |

MAJOR CHANGES IN CASH BENEFIT PROVISIONS

1. 7-percent benefit increase
2. Increase in earnings counted for contribution and benefit purposes
 - \$5600 Effective January 1, 1966
 - \$6600 Effective January 1, 1971
3. Child's Insurance benefits for child age 18 to 22 attending school
4. Reduced benefits for widows at age 60
5. Disability changes
 - Eliminate long-continued requirement
 - 1st payment for 6th (rather than present 7th) month of disability
6. Liberalization of eligibility for certain persons age 72 or over:
 - 3 quarter minimum
7. Retirement provision changes
 - Withhold \$1 in benefits for \$2 in earnings
 - For earnings of \$1200 - 2400
 - rather than present \$1200 - 1700
8. Coverage changes
 - Coverage of Physicians
 - Coverage of Tips
 - Exemption of Amish

EFFECT OF CASH BENEFIT CHANGES

| PROVISION | NUMBER OF PEOPLE AFFECTED | ADDITIONAL BENEFITS PAYABLE IN 1966* |
|-----------------------------|---------------------------|--------------------------------------|
| BENEFIT INCREASE | 20,000,000 | \$1,430,000,000 |
| CHILDREN ATTENDING SCHOOL | 295,000 | 195,000,000 |
| REDUCED BENEFITS FOR WIDOWS | 185,000 | 165,000,000 |
| TRANSITIONAL INSURED STATUS | 355,000 | 140,000,000 |
| DEFINITION OF DISABILITY | 155,000 | 105,000,000 |
| RETIREMENT PROVISION | 450,000 | 65,000,000 |

*TOTAL ADDITIONAL BENEFIT PAYMENTS IN 1966 \$2.1 BILLION.

CONTRIBUTION RATES UNDER PRESENT LAW & UNDER H.R. 6675

(in percent)

EMPLOYER AND EMPLOYEE, EACH

| YEAR | PRESENT LAW | OASDI | H.R. 6675 | |
|----------------|-------------|-------|-----------|-------|
| | | | HI | TOTAL |
| 1966 | 4.125 | 4.0 | 0.35 | 4.35 |
| 1967 | 4.125 | 4.0 | 0.50 | 4.50 |
| 1968 | 4.625 | 4.0 | 0.50 | 4.50 |
| 1969-72 | ↓ | 4.4 | 0.50 | 4.90 |
| 1973-75 | | 4.8 | 0.55 | 5.35 |
| 1976-79 | | ↓ | 0.60 | 5.40 |
| 1980-86 | | | 0.70 | 5.50 |
| 1987 and after | | | 0.80 | 5.60 |

SELF-EMPLOYED

| YEAR | PRESENT LAW | OASDI | H.R. 6675 | |
|----------------|-------------|-------|-----------|-------|
| | | | HI | TOTAL |
| 1966 | 6.2 | 6.0 | 0.35 | 6.35 |
| 1967 | 6.2 | 6.0 | 0.50 | 6.50 |
| 1968 | 6.9 | 6.0 | 0.50 | 6.50 |
| 1969-72 | ↓ | 6.6 | 0.50 | 7.10 |
| 1973-75 | | 7.0 | 0.55 | 7.55 |
| 1976-79 | | ↓ | 0.60 | 7.60 |
| 1980-86 | | | 0.70 | 7.70 |
| 1987 and after | | | 0.80 | 7.80 |

EARNINGS BASE

| | |
|----------------|----------|
| 1965 | \$ 4,800 |
| 1966-70 | 5,600 |
| 1971 and after | 6,600 |



Actuarial Cost

Estimates for Hospital Insurance Act of 1965 and Social Security Amendments of 1965

by ROBERT J. MYERS

U.S. Department of Health, Education, and Welfare
Social Security Administration Division of the Actuary

ACTUARIAL STUDY NO. 59

JANUARY 1965

This study has been issued by the Division of the Actuary, under authority delegated by the Commissioner of Social Security. It is designed for the use of the staff of the Social Security Administration and for limited circulation to other persons in administration, insurance, and research concerned with the subject treated.

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FOREWORD

Proposals to add hospitalization benefits for beneficiaries aged 65 and over to the OASDI program have created an interest in the data and methods used to develop actuarial cost estimates in this new area. This Study is a revision and expansion of Actuarial Study No. 52, and Actuarial Study No. 57, which dealt with earlier versions of the Administration proposal for hospitalization and related benefits. This Study also presents the cost estimates for the proposed changes in the cash benefits program.

It is the policy of the Division of the Actuary to make its methods and procedures available to those interested. It is our hope that this Study will provide the information not readily available in other published reports.

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A. Introduction

This Study presents long-range actuarial cost estimates for the Hospital Insurance Act of 1965 and the Social Security Amendments of 1965, contained in H.R. 1, introduced by Congressman King on January 4 (an identical bill, S. 1, was introduced by Senator Anderson on January 6). H.R. 1 contains provisions establishing a hospital insurance program for beneficiaries aged 65 or over under the Old-Age, Survivors, and Disability Insurance system. In addition, the proposal would provide similar protection for beneficiaries under the Railroad Retirement system and for most persons aged 65 and over in 1966 (and for those attaining this age in the next few years) who are not insured under either of these social insurance systems.

As to OASDI beneficiaries, this bill would provide a specific program of hospitalization and related benefits for all persons who are (1) aged 65 and over and (2) "entitled" to monthly benefits. The term "entitled" means that the individual meets all the statutory provisions governing eligibility for monthly benefits (old-age, dependent, or survivor) and has filed an application therefor (which may be concurrent with application for hospitalization benefits). The term thus includes not only beneficiaries in current-payment status, but also those who are not drawing monthly benefits because they are continuing in substantial employment. The following benefits would be provided:

- (a) 60 days of semi-private hospital care within a "benefit period", with a flat deductible in an amount equal to the average daily hospital cost under the program.
- (b) 60 days of post-hospital extended care within a "benefit period", when such services are furnished following transfer from a hospital and are necessary for continued treatment of a condition for which the individual was hospitalized. Such care would be furnished in an "extended care facility", which is an institution that has in effect a transfer agreement with a hospital (or is under common control with a hospital) and that is, in essence, a skilled nursing facility (as defined in detail in the bill).
- (c) 240 home health service visits during a calendar year.
- (d) Outpatient hospital diagnostic services in excess of a deductible equal to 50% of the hospitalization deductible during a 30-day period.

The term "benefit period" means the period beginning with the first day that an individual receives hospitalization benefits and ending with the 90th day thereafter during each of which he has not been a patient in a hospital or an extended care facility (but such 90 days must occur within a 180-day period). The benefits would first be available in July 1966, except for post-hospital extended care benefits, which would first be available in January 1967.

These hospitalization and related benefits for OASDI beneficiaries (and the accompanying administrative expenses) would be financed, on a long-range basis, by an allocation from the overall contribution rate for the OASDI system, as modified by this bill (see Table 1), of .60% of taxable payroll as to the combined employer-employee rate for 1966, .76% for 1967-68, and .90% thereafter. This income would be channelled into the Hospital Insurance Trust Fund, which would be established on a basis similar to that of the existing OASI and DI Trust Funds.

The same hospitalization benefit protection would be available to beneficiaries under the Railroad Retirement system.^{a/} Persons who are beneficiaries under both systems would, of course, not receive "double" benefits. The employer and employee contribution rates would be increased by the same amount as under the OASDI system, but the taxable wage basis would not be changed from the present \$450 per month. The financial interchange provisions^{b/} would apply so that, in essence, the OASDI system would be "reinsuring" the hospitalization benefit experience of the Railroad Retirement system, which would neither gain nor lose as a result of the actual experience. The Railroad Retirement system would, of course, have to provide out of its existing financing the equivalent income arising from raising the OASDI earnings base to \$5,600.

Likewise, the hospitalization benefit protection would be provided to any person aged 65 and over on July 1, 1966 who is not eligible as an OASDI or Railroad Retirement beneficiary and who (a) is not an employee of the Federal Government or a retired Federal employee eligible for health benefits under the plan established by the Federal Government for such persons, (b) is not a member of a subversive organization and has not been convicted of subversive activities, and (c) is a citizen or has had at least 10 years of continuous residence. Persons meeting such conditions who attain age 65 before 1968 also qualify for the hospitalization benefits, while those attaining age 65 after 1967 must have some OASDI or Railroad Retirement coverage to qualify--namely, 3 quarters of coverage (which can be acquired at any time after 1936) for each year elapsing after 1965 and before the year of attainment of age 65 (e.g. 6 quarters of coverage for attainments in 1968, 9 quarters for 1969, etc.). This transitional provision "washes out" for men attaining age 65 in 1974 and for women attaining age 65 in 1972, since the fully-insured-status requirement for monthly benefits for such categories is then no greater than the special-insured status requirement. The benefits for the "non-insured" group are paid from the HI Trust Fund, but with full reimbursement therefor from the General Treasury.

a/ However, Railroad Retirement beneficiaries would have certain additional benefit protection in that, under certain circumstances, the benefits would be available in Canada.

b/ For a description of these provisions, see pages 74 and 80-82 of the 24th Trustees Report (House Document No. 236, 88th Congress).

From an actuarial-cost standpoint, the major features of this bill as they relate to the cash benefits under the OASDI program are as follows:

- (1) Monthly benefits for all types of beneficiaries would be increased by 7% on that portion of the benefit that is derived from the first \$400 of average monthly wage (AMW). This would make the benefit formula underlying the benefit table be as follows: 62.97% of the first \$110 of AMW, plus 22.90% of the next \$290 of AMW, plus 21.4% of the next \$66 of AMW (the maximum AMW possible being \$466, based on annual earnings of \$5,600), effective retroactively to January 1, 1965.
- (2) The underlying basis for the family maximum benefit provision would be changed so that it would be earnings-related at all earnings levels. The present basis is the smaller of 80% of AMW or \$254 (twice the maximum Primary Insurance Amount; the PIA is the monthly benefit payable to a worker retiring at or after age 65, or to a disabled worker, without considering benefits for dependents), but in no case less than $1\frac{1}{2}$ times the PIA. Under the proposed basis, the dollar-limit amount (\$254) would be eliminated, and instead the maximum would be determined from a weighted formula--80% of the first \$x of AMW, plus 40% of AMW in excess of \$x (where x is $\frac{2}{3}$ of the maximum possible AMW--i.e., $\frac{1}{12}$ of the maximum annual earnings base), effective retroactively to January 1, 1965.
- (3) Coverage would be extended to self-employed doctors and to tips, effective January 1, 1966.
- (4) The maximum earnings base would be increased from \$4,800 to \$5,600 per year, effective January 1, 1966.
- (5) The contribution schedule and the allocations to the Trust Funds would be revised in the manner shown in Table 1.
- (6) A new basis of reimbursing the Trust Funds for the cost of noncontributory military service wage credits (as they increase benefit amounts) would be provided--in essence, by spreading these costs in equal annual installments over the next 50 years.

Section B gives the basic data utilized, the assumptions made, and the computation procedure in regard to the cost estimates for the hospitalization and related benefits. Section C presents the cost estimates, along with discussion of changes made in the hospitalization-benefits cost estimates in recent years. Finally, Section D outlines the problems involved in making actuarial cost estimates for hospitalization and related benefits.

Table 1

EARNINGS BASE, CONTRIBUTION RATES, AND ALLOCATIONS
TO TRUST FUNDS UNDER H.R. 1

| Calendar Year | Earnings Base | Contribution Rates | | | |
|--------------------|---------------|--------------------|----------|-------------------|---------------|
| | | Employer | Employee | Employer-Employee | Self-Employed |
| 1965 ^{a/} | \$4,800 | 3.625% | 3.625% | 7.25% | 5.4% |
| 1966-67 | 5,600 | 4.25 | 4.25 | 8.50 | 6.4 |
| 1968-70 | 5,600 | 5.0 | 5.0 | 10.0 | 7.5 |
| 1971 and after | 5,600 | 5.2 | 5.2 | 10.4 | 7.8 |

| Calendar Year | Allocation Rates | | | | | |
|--------------------|---------------------------------|------|------|-----------------------------|-------|------|
| | Employer-Employee Contributions | | | Self-Employed Contributions | | |
| | OASI | DI | HI | OASI | DI | HI |
| 1965 ^{a/} | 6.75% | .50% | -- | 5.025% | .375% | -- |
| 1966 | 7.23 | .67 | .60% | 5.4475 | .5025 | .45% |
| 1967 | 7.07 | .67 | .76 | 5.3275 | .5025 | .57 |
| 1968 | 8.57 | .67 | .76 | 6.4275 | .5025 | .57 |
| 1969-70 | 8.43 | .67 | .90 | 6.3225 | .5025 | .675 |
| 1971 and after | 8.83 | .67 | .90 | 6.6225 | .5025 | .675 |

a/ Present law (combined employer-employee rate in future years is scheduled as follows: 8.25% in 1966-67 and 9.25% in 1968 and after).

B. Data, Assumptions, and Procedures in Cost Estimates for Hospitalization and Related Benefits for OASDI Beneficiaries

The various cost factors involved for each of the types of hospitalization and related benefits (such as probabilities of becoming hospitalized and average length of hospitalization, varying by age and sex) have been developed by the Division of the Actuary in collaboration with the Division of Research and Statistics. These factors have been applied to the estimated numbers of OASDI eligibles, which are available from the long-range actuarial cost estimates for the existing cash-benefits system. The latter are summarized in the 24th Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, pages 45-55 and 64-75 (H. Doc. No. 236, 88th Congress) and in Actuarial Study No. 58; the general assumptions and procedures used in developing them are described in Actuarial Study No. 49.

I. Factors Affecting Hospitalization-Benefits Costs

The elements affecting the costs of hospitalization benefits may be itemized as follows:

- (1) Number of eligible beneficiaries and their age-sex composition;
- (2) Rates of hospital admission;
- (3) Average duration of hospitalization;
- (4) Average daily per capita hospital costs; and
- (5) Effect of maximum-duration and deductible provisions.

Hospitalization-benefit costs for various future years are obtained by multiplying the estimated number of eligibles by a factor representing the average annual per capita cost of hospitalization (after taking into account any maximum-duration and deductible provisions). This is done separately by sex and by age groups, since hospital utilization varies significantly by age and sex. The per capita hospitalization-cost factor is derived in relation to all eligibles in the age-sex group, including those who are not hospitalized. The age-sex composition of the eligible group will vary over the years. For this reason, the average per capita cost for the total group of noninsured persons eligible for HI benefits is significantly higher than for the insured group (since the former has a much higher age distribution).

The per capita hospitalization-cost factor consists of two elements, the average length (in days) of compensable hospitalization (considering all eligibles, and including the effect of any deductible, as well as any maximum-duration provisions) and the average daily cost of hospitalization (including both room and board, and all other hospital services--averaged out on a daily basis).

II. Average Hospital Utilization

First, considering the element of average hospital utilization, the basic procedure is to make the detailed calculations for a 60-day maximum provision and then to modify the overall results for the differences in the provisions of the particular proposal. The basic data used for these cost estimates are presented in Table 2, which shows hospital utilization rates on both low-cost and high-cost bases. The "hospital utilization rate" is defined as the average number of hospital days experienced per person exposed to risk. In other words, such rates are the result obtained by multiplying the proportion of persons experiencing hospitalization by the average duration of hospitalization for those hospitalized.

(a) Source of Basic Data

The basic data are from the 1957 Survey of Beneficiaries conducted by the Social Security Administration, but with modifications to recognize that the availability of benefits will result in greater utilization than that reported in the Survey. In addition, the basic data have been adjusted upward to allow for hospitalization of persons dying during the year, who were not reported in the Survey.

The adjustments for the availability of hospitalization benefits were made in the following manner (described in more detail on pages 77-78 of the 1959 Hospitalization Report^{c/}). For the high-cost estimate, the admission rate used was the same as the rate reported in the Survey for those with insurance (approximately 60% higher than the reported rate for those without insurance). The average duration of hospitalization for the high-cost estimate was taken to be the same as that reported in the Survey for those with insurance and those without insurance combined (the average duration for the latter category was about 50% higher than for the former)--this assumption is, of course, a "conservative" one.

For the low-cost estimate, the hospital utilization rate was obtained by weighting such rate for insured persons in the Survey by the proportion of insured persons and by weighting the average hospital utilization rate for all persons in the Survey (about 5% higher than the actual experience for the uninsured group) by the proportion of those in the Survey without insurance. Also, a downward adjustment of the hospital utilization rate was made for men aged 65-69 to reflect the fact that utilization is substantially lower among employed persons than among retired persons (a large proportion of the eligibles in this age group will be employed). In connection with the latter point, it should be noted that the beneficiary group surveyed consisted of retired persons; thus, making no such downward adjustment in the high-cost estimate added an element of conservatism. Operating in the other direction, however, is the factor that utilization of the proposed health benefits by persons with insurance in the past may be somewhat increased because of the greater protection available in many

c/ "Hospitalization Insurance for OASDI Beneficiaries", a Report Submitted to the Committee on Ways and Means by the Secretary of Health, Education, and Welfare, April 3, 1959.

Table 2

HOSPITAL UTILIZATION RATES FOR OASDI BENEFICIARIES AGED 65 AND OVER,
60-DAY MAXIMUM, ACCORDING TO 1957 BENEFICIARY SURVEY
(average days per person per year)

| Age Group | Low-Cost Estimate | | | High-Cost Estimate | | |
|---------------------------|---|--|------------------------|---|--|------------------------|
| | Before Cor- rection for Decedents | Correc- tion for Decedents ^{a/} | Cor- rected Rate | Before Cor- rection for Decedents | Correc- tion for Decedents ^{a/} | Cor- rected Rate |
| Men | | | | | | |
| 65-69 | 1.59 | .34 | 1.93 | 2.18 | .43 | 2.61 |
| 70-74 | 1.66 | .48 | 2.14 | 2.01 | .60 | 2.61 |
| 75 and over ^{b/} | 2.44 | .93 | 3.37 | 3.46 | 1.17 | 4.63 |
| 65 and over ^{b/} | 1.85 | .55 | 2.40 | 2.49 | .69 | 3.18 |
| Women | | | | | | |
| 65-69 | 1.59 | .20 | 1.79 | 1.73 | .25 | 1.98 |
| 70-74 | 2.42 | .31 | 2.73 | 2.65 | .38 | 3.03 |
| 75 and over ^{b/} | 2.53 | .78 | 3.31 | 3.11 | .97 | 4.08 |
| 65 and over ^{b/} | 2.09 | .38 | 2.47 | 2.36 | .47 | 2.83 |
| Total Persons | | | | | | |
| 65 and over ^{b/} | 1.97 (2.08) | .47 (.52) | 2.44 (2.60) | 2.43 (2.57) | .58 (.66) | 3.01 (3.23) |

a/ Based on average stay of 8 days for low-cost estimate and 10 days for high-cost estimate and on death rates from U. S. Total Population Life Tables for 1949-51.

b/ Obtained by weighting the rates by age and sex by the estimated OASDI "eligible" population as of the beginning of 1960. Figures in parentheses are based on weighting by the stationary population of the U. S. Total Population Life Tables for 1949-51.

Note: The figures shown above for "corrected rates" are the same (except for one correction) as those in the table on page 101 of the 1959 Hospitalization Report.

instances (where the deductible does not have an offsetting effect). Also, the Survey data included hospital utilization in Veterans Administration hospitals; this factor results in an overstatement of the estimated utilization that would arise under HI proposals, since a significant proportion of persons would continue to use the VA facilities (the use of which involves no cost to the individual for deductibles or maximum limits and which also provide free medical care), rather than draw the HI benefits.

The assumptions in the low-cost estimate produce costs only slightly above the Beneficiary Survey experience. This basis seems plausible for the near-future (and is used in the cost estimates in the first few years). For the long-range future, this low-cost assumption may be said to give recognition to the possibility of success of current efforts for progressive patient care, for reductions in hospitalization costs resulting from development of outpatient hospital diagnostic facilities, and for progressive cost-reducing trends in medical practice.

(b) Comparison of Basic Data with Those from Other Sources

Hospital utilization data from the National Health Survey, for July 1958 to June 1960 ("Hospital Discharges and Length of Stay: Short-Stay Hospitals, United States, 1958-1960", Health Statistics from the U. S. National Health Survey, Series B - No. 32, April 1962, Public Health Service, U. S. Department of Health, Education, and Welfare), have been used to develop utilization rates comparable with those obtained from the Beneficiary Survey data. These data for hospital utilization rates (average days per person per year) are shown in the following table (without adjustment for decedents):

| <u>Category</u> | <u>National Health Survey</u> | | <u>Low-Cost Estimate from Table 2</u> |
|-------------------------|-------------------------------|--|---------------------------------------|
| | <u>As Shown in Report</u> | <u>Adjusted to 60-day Maximum^{a/}</u> | |
| Men, aged 65-74 | 2.54 | 2.21 | 1.62 ^{b/} |
| Men, aged 75 and over | 2.78 | 2.42 | 2.44 ^{b/} |
| Women, aged 65-74 | 1.61 | 1.40 | 1.94 ^{b/} |
| Women, aged 75 and over | 2.18 | 1.90 | 2.53 |
| Total, aged 65 and over | 2.19 ^{b/} | 1.91 | 1.99 ^{b/} |

^{a/} Based on total hospital utilization with no maximum limitation being 15% higher than with 60-day maximum.

^{b/} Obtained by weighting the rates by age (and, where applicable, by sex) by the estimated OASDI "eligible" population as of the beginning of 1960.

In the aggregate, the hospital utilization rates derived from the NHS data are very close to those developed from the 1957 Beneficiary Survey on the "low-cost" basis. Furthermore, it should be noted that the NHS data have some upward bias since they include utilization of Federal hospitals, which would not be covered under the bill (about 10% of all hospital days--for persons of all ages--were in Federal hospitals).

Hospital utilization data have also been derived from the 1963 Survey of the Aged. The scope of this Survey is described in an article by Lenore A. Epstein, "Income of the Aged in 1962: First Findings of the 1963 Survey of the Aged", Social Security Bulletin, March 1964. A considerable amount of the findings in regard to hospitalization is contained in an article by Dorothy P. Rice, "Health Insurance Coverage of the Aged and Their Hospital Utilization in 1962: Findings of the 1963 Survey of the Aged", Social Security Bulletin, July 1964. In order to make a valid comparison with the hospital utilization data that are used in these cost estimates, the data from the Survey of the Aged have been adjusted so that hospitalization in short-stay hospitals that is in excess of 90 days has been eliminated.

Table 3 compares the hospital utilization rates for OASDI beneficiaries aged 65 and over as derived from the Survey of the Aged (without correction for decedents) according to whether the individuals had insurance. Unlike previous studies, there appeared to be no significant difference in hospital utilization depending upon whether or not the individual had insurance. For men, the weighted rate for all ages combined was virtually the same as between those that had insurance and those that did not have insurance. Although the aggregate rate for women with insurance was about 20% higher than for women without insurance, this was apparently due to the sizable differential for age group 80-84; in fact for three of the other four age groups the "without insurance" category showed higher utilization.

Table 4 presents the hospital utilization rates for OASDI beneficiaries aged 65 and over for the data from the Survey of the Aged, combining the data for those with and without insurance. The intermediate correction for decedents is made in order to obtain corrected rates that will be on a comparable basis with those shown in Table 2. The aggregate weighted utilization rate is 3.15 days, but this should be further adjusted because of the 90-day limit, since in Table 2 the data are based on a 60-day limit. When such an adjustment is made for Table 3, the utilization rate becomes 2.89 days. This is about 10% higher than the utilization rate in Table 2 based on the low-cost estimate (taking the comparable weighted average on the basis of the stationary population of the U.S. Total Population Life Tables for 1949-51) and is slightly lower than the intermediate-cost estimate based on the data in Table 2 (a utilization rate of 2.92 days, being the average of 2.60 days and 3.23 days).

In the aggregate, it may be said that the hospital utilization rates derived from the 1963 Survey of the Aged are very close to those developed from the 1957 Beneficiary Survey, which are used as the fundamental basis of the cost estimates in this report. Again, it should be pointed out that there is a certain margin of safety in the utilization rates developed from both the Beneficiary Survey and the Survey of the Aged. The data for these rates are based on the experience of beneficiaries

Table 3

COMPARISON OF HOSPITAL UTILIZATION RATES FOR OASDI BENEFICIARIES AGED 65 AND OVER,
90-DAY MAXIMUM, SUBDIVIDED BY WHETHER WITH INSURANCE, ACCORDING TO 1963 SURVEY OF THE AGED
(average days per person per year)

| Age | Men | | Women | |
|---------------------------|----------------|-------------------|----------------|-------------------|
| | With Insurance | Without Insurance | With Insurance | Without Insurance |
| 65-69 | 1.77 | 2.32 | 2.35 | 1.85 |
| 70-74 | 3.49 | 2.42 | 2.05 | 2.08 |
| 75-79 | 2.68 | 2.50 | 2.67 | 3.00 |
| 80-84 | 3.46 | 3.81 | 4.63 | 2.08 |
| 85 and over | 2.12 | 3.69 | 2.12 | 2.63 |
| 65 and over ^{a/} | 2.63 | 2.64 | 2.68 | 2.24 |

a/ Based on age distribution of stationary population in U.S. Total Population Life Tables for 1949-51.

Table 4

HOSPITAL UTILIZATION RATES FOR OASDI BENEFICIARIES AGED 65 AND OVER,
90-DAY MAXIMUM, ACCORDING TO 1963 SURVEY OF THE AGED
(average days per person per year)

| <u>Age</u> | <u>Survey Rate</u> | <u>Correction for Decedents^{a/}</u> | <u>Corrected Rate</u> |
|---------------------------|--------------------|--|-----------------------|
| Men | | | |
| 65-69 | 2.01 | .37 | 2.38 |
| 70-74 | 3.00 | .54 | 3.54 |
| 75-79 | 2.59 | .78 | 3.37 |
| 80-84 | 3.66 | 1.13 | 4.79 |
| 85 and over | 2.65 | 2.04 | 4.69 |
| 65 and over ^{b/} | 2.62 | .68 | 3.30 |
| Women | | | |
| 65-69 | 2.16 | .23 | 2.39 |
| 70-74 | 2.06 | .38 | 2.44 |
| 75-79 | 2.82 | .61 | 3.43 |
| 80-84 | 3.29 | .96 | 4.25 |
| 85 and over | 2.53 | 1.84 | 4.37 |
| 65 and over ^{b/} | 2.44 | .59 | 3.03 |
| Total Persons | | | |
| 65 and over ^{b/} | 2.52 | .63 | 3.15 |

^{a/} Based on average stay of 9 days and on death rates from U. S. Total Population Life Tables for 1949-51.

^{b/} Based on age distribution of stationary population in U. S. Total Population Life Tables for 1949-51.

receiving cash benefits, whereas the beneficiaries under the proposed HI program would also include active workers and their eligible spouses aged 65 and over (who, on the average, are younger and in better health than the retired beneficiaries). Also, the data in the surveys include utilization of Federal hospitals, which would not be covered under the bill.

(c) Modification of Survey Data to Allow for Decedents

The hospital utilization rates derived from the Beneficiary Survey, modified as described above to allow for the effect of benefits being available as a right, must be corrected to allow for hospitalization used by persons dying during the survey year, who were not included in the Survey. For both cost estimates, this correction was obtained for each age-sex group by applying to the estimated proportion dying in a year an assumed average number of days of hospitalization for decedents (8 days for the low-cost estimate and 10 days for the high-cost estimate). As indicated by Table 2, the relative size of this correction naturally varies considerably by age and sex. For both cost estimates, the correction amounts to about 24% of the rate derived from the Beneficiary Survey for all ages combined, but it is as little as about 15% for women aged 65-69 and as much as 35% for men aged 75 and over. The absolute amount of the correction for decedents averages .53 days for a cost estimate intermediate between the low-cost and high-cost ones.

An extensive study on the general subject of correcting hospital utilization rates derived from surveys so as to allow for decedents has been conducted by the Public Health Service, based on data from New Jersey, New York, and Pennsylvania during 1957. ("Hospital Utilization in the Last Year of Life," Health Statistics from the U.S. National Health Survey, Series D - No. 3, January 1961). On the whole, after modifications to obtain comparability, the results of this survey agree reasonably well with the adjustments made in the cost estimates for the effect of the exclusion of decedents from the Beneficiary Survey.

The aforementioned NHS report shows that for persons aged 65 and over, the unadjusted utilization rate was 1.67 days per person per year, while the rate adjusted for decedents was 2.33 days. This is a difference of .66 days, or a relative increase of 39%. The absolute correction for decedents of .66 days in the NHS report is somewhat higher than used in these cost estimates (.53 days on the basis of the current age-sex distribution of the eligibles). The correction based on NHS data, however, did not include the effect of a 60-day maximum, which of course would have the effect of reducing the absolute correction (in days) and also the unadjusted utilization rate. Furthermore, it was derived from a population that is somewhat older on the average than the present OASDI eligible population (which includes those who are not current beneficiaries because of the retirement test), since the latter includes a higher proportion of the total aged population at the ages just beyond 65 than it does at the oldest ages.

The percentage increase due to this correction factor was higher in the NHS report than in these cost estimates (39% vs. 24%), both because of the foregoing two elements and because the absolute increase of the "decedent" adjustment (in terms of days) was measured against a lower un-adjusted rate, computed solely on the basis of reported experience of persons alive at date of interview (namely, 1.67 days in the NHS report as compared with the 2.21 days in the Beneficiary Survey). Current NHS statistics on hospital utilization by the population alive at date of interview are higher than formerly reported--as a consequence of the improved data-collection procedures now followed. Accordingly, when measured against this higher base, the days used by decedents would raise the estimated days used by all the aged (derived from the experience of survivors) by a significantly lower amount than 39%, especially after further adjustment for a 60-day limit and for age distribution. Therefore, the use of a 24% correction factor for the data used in this Study appears reasonable.

As a further point of comparison, the NHS data shows that the average number of days of hospitalization per decedent is 9.57. After allowing for the effect of the 60-day maximum, this tends to confirm the assumption in these cost estimates of 8 days for the low-cost estimate and 10 days for the high-cost estimate.

A growing body of additional data on hospitalization experience of persons aged 65 and over, subdivided by health-insurance ownership and other relevant characteristics, is available from the National Health Survey. In some respects these findings are at variance with those from the Beneficiary Survey, partly because of the later time period and differing population groups represented, and partly because of differences in survey techniques. On balance, the present cost estimates would be little changed if NHS data were substituted for corresponding Beneficiary Survey data.

(d) Effect of Various Maximum-Duration Provisions

The foregoing discussion has related to the derivation of hospital utilization rates on the basis of a 60-day maximum provision. It is assumed that such rates apply with equal accuracy whether the maximum relates to a calendar year, a benefit year, or a benefit period as defined in the bill. Proceeding from those basic cost factors, modifications have been made for proposals considered from time to time in the past that have had different maximum-duration periods or that introduced deductibles (whether expressed in terms of the first "n" days of hospitalization, a flat dollar deductible regardless of length of hospitalization, or a uniform dollar deductible per day for the first "n" days of hospitalization).

The relative effect on the cost factors of increasing the maximum duration of benefits from 60 days to various other durations is as follows: 90 days - 9%; 120 days - 10½%; 180 days - 12%; and 360 days - 15%. Conversely, if the maximum duration is reduced from 60 days to 21 days, the cost is lowered by 15%. These factors have been derived from consideration of data from the National Health Survey and from private insurance experiences.

In considering the cost effects of maximum-duration and deductible provisions on hospitalization-cost factors, it is necessary to have what is termed a hospitalization continuance table applicable to the particular beneficiary group involved. Such a table for persons aged 65 and over was derived from data from the National Health Survey ("Hospitalization: Patients Discharged from Short-Stay Hospitals, United States, July 1957-June 1958", Health Statistics from the U.S. National Health Survey, Series B - No. 7, December 1958, Public Health Service, U.S. Department of Health, Education, and Welfare) and is summarized in Table 5.

III. Average Daily Cost of Hospitalization

The second element in hospitalization-benefit cost estimates is the average daily cost (including both room and board and other hospital costs).

(a) Past Increases in Hospital Costs and in Earnings

Table 6 presents a summary comparison of the annual increases in hospital costs and the corresponding increases in earnings that have occurred since 1954 and up through 1963.

The annual increases in earnings are based on those in OASDI covered employment, as indicated by first quarter taxable earnings, which by and large are not affected by the maximum taxable earnings base. The data on increases in hospital costs are based on a series of average daily costs (including not only room and board, but also other charges) as prepared by the American Hospital Association.

The annual increases in earnings have fluctuated somewhat over the 10-year period, although there have not been too large deviations from the average annual rate of 4.0%; no upward or downward trend over the period is discernible. The annual increases in hospital costs likewise have fluctuated from year to year around the average annual rate of 6.7%; the increases in the last 2 years were relatively low as compared with previous years.

Hospital costs then have been increasing at a faster rate than earnings. The differential between these two rates of increase has fluctuated widely, being as high as somewhat more than 5% in some years and as low as a negative differential of about 1% in 1956 (with the next lowest differential being a positive one of about 1% in 1962). Over the entire 10-year period, the differential between the average annual rate of increase in hospital costs over the average annual rate of increase in earnings was 2.7%.

It is conservative to assume that earnings will increase in the future at about 3% per year. It is difficult--and perhaps impossible--to predict precisely what the corresponding increase in hospital costs will be. It would appear that, at the least, hospital costs would, on the average, increase perhaps 2% per year more than earnings for a few years and that at the most, hospital costs would increase in the near future at an average annual rate that is 3% in excess of that for wages. It is recognized, of course, that these "minimum" and "maximum" assumptions result in a relatively wide spread in the cost estimates for hospital insurance proposals if the estimates are carried out for a number of years into the future.

Table 5

ABRIDGED HOSPITALIZATION CONTINUANCE TABLE FOR PERSONS AGED 65 AND OVER FOR 60-DAY MAXIMUM BENEFIT
(days of hospitalization per 100 persons)

| Waiting Period (days) | Proportion Hospitalized for | | Days of Hospitalization for Those With | | Hospitalization Excluded by Waiting Period | |
|-----------------------|--|--|--|--|--|---------|
| | Exactly the Length of the Waiting Period | Length of the Waiting Period or a Shorter Time | Exactly the Length of the Waiting Period | Length of the Waiting Period or a Shorter Time | Days | Portion |
| 1 | 3.8% | 3.8% | 3.8 | 3.8 | 100.0 | 7.2% |
| 3 | 6.6 | 17.5 | 19.8 | 37.8 | 285.3 | 20.6 |
| 5 | 6.0 | 29.8 | 30.0 | 93.0 | 444.0 | 32.0 |
| 7 | 5.6 | 41.2 | 39.2 | 167.0 | 578.6 | 41.7 |
| 10 | 4.5 | 56.0 | 45.0 | 299.4 | 739.4 | 53.3 |
| 14 | 3.1 | 70.9 | 43.4 | 483.8 | 891.2 | 64.3 |
| 20 | 1.2 | 81.5 | 24.0 | 664.3 | 1034.3 | 74.6 |
| 30 | .6 | 89.6 | 18.0 | 866.4 ^{a/} | 1178.4 | 85.0 |
| 60 | .1 | 95.0 | 306.0 ^{a/} | 1386.1 ^{a/} | b/ | b/ |

a/ Including 60 days of hospitalization for the 5.0% who are hospitalized more than 60 days.

b/ Not meaningful (to have waiting period coincide with maximum benefit-period covered).

Source: Based on data from the National Health Survey (Health Statistics, Series B-7, December 1958, Table 14), Public Health Service, U.S. Department of Health, Education, and Welfare.

Table 6

COMPARISON OF ANNUAL INCREASES IN HOSPITALIZATION COSTS AND IN EARNINGS

| Calendar Year | Increase Over Previous Year | |
|-----------------------|--|---|
| | Average Earnings in Covered Employment | Average Daily Hospitalization Costs |
| 1955 | 3.8% | 6.3% |
| 1956 | 5.7 | 4.5 |
| 1957 | 5.5 | 7.7 |
| 1958 | 3.3 | 8.6 |
| 1959 | 3.3 | 6.8 |
| 1960 | 4.3 | 6.8 |
| 1961 | 3.1 | 8.5 |
| 1962 | 4.2 | 5.3 |
| 1963 | 2.4 | 5.6 |
| Average ^{a/} | 4.0 | 6.7 |

^{a/} Rate of increase compounded annually that is equivalent to total relative increase from 1954 to 1963.

(b) Assumptions in Cost Estimates Made Before 1963

The 1959 Hospitalization Report derived a figure of \$21 a day for persons aged 65 and over in 1956 (see pp. 79-80). This figure was used as the basis for the long-range actuarial cost estimates made for that Report, since all the actuarial cost estimates for the OASDI system made at that time used the 1956 general earnings level. The figure, however, was adjusted upward by 14% (to \$24) to take into account the fact that, before 1956, hospital charges had been increasing more rapidly than the general wage level and would probably do so for at least a few more years. The basis of the 14% increase was the assumption that over the next 4 or 5 years after 1956, hospital charges might increase at an average rate of about 6% (perhaps 7-8% in the beginning and lessening amounts thereafter) before an assumed leveling-off so as to have the same rate of increase as the general wage level. It should be noted that by "leveling off" is meant that such effect would occur as an average trend in the future period, and not exactly in each and every year. Thus, during this short-run period, the cost estimates made in 1959 assumed that the "real increase" of hospital costs in relation to the general wage level might begin at 3-4% a year and then decline, so that a cumulative relative increase of 14% would precede the leveling-off at the end of the 4-5 year period.

An analytical study was made in 1959 as to the reasonableness of assuming that after this 14% relative increase, there would be a leveling-off as between hospitalization costs and the general wage level. The data seemed to indicate that in the years since World War II, hospital daily costs have been increasing in a linear manner (at a rate of about \$1.60 per year), and that wage rates have been increasing geometrically. Accordingly, although in the recent past the difference between these two trends series has been about 3-4% per year, this difference seemed to be declining somewhat.

In early 1962, the long-range cost estimates for the hospitalization benefits were again re-examined, this time on the basis of the 1961 earnings levels and with consideration of the relative recent trends of hospital costs, taxable wages, and total wages. In brief, the results of this reconsideration were that both hospital-benefit costs and the "savings" to the OASDI system from raising the earnings base were increased--the former rising somewhat more than the latter.

The long-range cost estimates of Actuarial Study No. 57 were based on level-earnings assumptions, at the 1961 level. Another--and equally acceptable--way of describing the earnings-assumption basis of these long-range cost estimates insofar as the resulting level-cost figures are concerned is to state that they are based on the assumption that if earnings rise, the deductible provisions and the earnings base will be kept up-to-date with their relative positions in 1961. Such assumed keeping up-to-date would not, of course, have to be done every year in the future that earnings rose, but would--in order to be consistent with the cost-estimate assumptions--have to be done at intervals of every few years, when such rises in earnings occur. It should be strongly emphasized that the savings resulting in the cash-benefits portion of the system when earnings rise and when the earnings base is increased would not need to be used to keep the HI portion of the system soundly financed, but rather the need would be fulfilled by having the HI contribution rate applied to a larger taxable payroll.

Further, it may be noted that, for at least a number of years, the financial soundness of the program as determined under level-earnings assumptions would be maintained even though the earnings base and the deductibles were not kept up-to-date if the gains resulting under the OASDI cash-benefits portion of the system as wages rise were used, at least in part, to offset the increased cost (as a percentage of taxable payroll) arising for the hospital-benefits portion of the system and that hospital-benefit costs do not increase more than OASDI cash-benefit costs decrease. This, however, would require repeated legislative action to increase the allocation rates for the HI Trust Fund and at the same time to decrease correspondingly the allocation rates for the OASI and DI Trust Funds. If this practice is followed, it would mean that over the long run there would not be available sufficient funds for the cash benefits to be kept up-to-date with changing earnings levels.

At this point, it may be worthwhile digressing to discuss the effect on the cost of the OASDI cash benefits of increasing-earnings trends. The benefit formula is "weighted" so that relatively higher benefits are paid to those with low earnings than to those with higher ones. For example, under present law the primary benefit for an average monthly wage of \$300 is \$105 per month (or 35.0% of average wage), while the corresponding benefit for an average monthly wage of \$360 is \$118 per month (32.8% of average wage). Thus, for an average wage that is 20% higher, the primary benefit increases only 12.4%. The effect on the financing of the program is evident, since contributions increase directly proportionately with increases in covered earnings, whereas benefits rise less than proportionately. In addition, there is the decreasing-cost effect that results from the lag involved when earnings levels rise, since the average wage is, in essence, a lifetime one and thus is affected by the lower earnings levels of the past.

The long-range actuarial cost estimates for the OASDI system always have assumed that earnings would be level in the future at about the level currently prevailing at the time the estimates were made. It has been recognized that if earnings levels rise in the future--as they have in the past--the benefit level and the taxable earnings base will undoubtedly be modified. Rising earnings will automatically "generate" savings to the system that can be utilized for such purposes as keeping it up-to-date, although the savings may not be sufficient to do this completely.

Another factor that results in "automatic generation" of savings to the OASDI system of cash benefits is the effect of raising the earnings base for tax and benefit-computation purposes. The reason for this effect is also due to the "weighted" nature of the benefit formula. Such changes have been made a number of times in the past^{d/} for the purpose of keeping this element of the program up-to-date.

d/ The earnings base was \$3,000 during 1937-50, \$3,600 during 1951-54, and \$4,200 during 1955-58, and it has been \$4,800 since 1959.

In the past, the savings to the OASDI system resulting from the above two factors (rising-earnings levels considered alone, and increases in the maximum earnings base) have been utilized to keep the benefit structure up-to-date by such changes as increasing the general benefit level, adding new types of benefits, and liberalizing existing benefit provisions.

(c) Assumptions in Cost Estimates Made for 1963 Administration Proposal

In the long-range cost estimates of Actuarial Study No. 57 the average hospital daily cost for OASDI beneficiaries aged 65 and over was taken to be \$31.30 (on the basis of 1961 price and earnings levels and on the basis of the 1961 age and sex distribution of the beneficiaries); this includes a 3% allowance for administrative expenses of the OASDI system for the hospitalization and related benefits (as discussed subsequently). This average hospital daily cost is adjusted in future years for the changing age-sex distribution of the beneficiary roll (thus, allowing for the "aging" of this group).

The figure of \$31.30 was derived in the following manner. The average hospital-expense per patient-day in short-term general and special non-Federal hospitals for 1961 was estimated by the American Hospital Association at \$34.98 (see Health, Education, and Welfare Trends, 1962 Edition U. S. Department of Health, Education, and Welfare, page 24). In accordance with adjustment procedures described in the 1959 Hospitalization Report (page 79) and for reasons indicated subsequently in this report, this figure should be reduced by 13%^{e/} to yield the estimated average reimbursable hospital daily cost for persons aged 65 and over. The resulting figure of \$30.40 was then increased by 3% to yield the hospital daily cost for persons aged 65 and over, including allowance for administrative expenses.

It should be pointed out that the foregoing figure for the average hospital daily cost for persons covered by the proposal did not include an allowance for a "catching-up" factor, as was previously done. In other words, the assumption made was that, following 1961, hospital costs would, on the average, increase no more rapidly than the general earnings level (as indicated previously, if such changes do occur, then it is further hypothesized that the system will be kept up-to-date insofar as the maximum earnings base and the deductibles are concerned). Although it seemed likely that hospital costs would increase somewhat more rapidly than the general earnings level in the next few years, it was presumed that any such differential would, over the long run, be counterbalanced by hospital costs rising less rapidly than the general earnings level (thus reflecting, although not nearly to the same extent as in other areas of economic activity, some productivity gains in the work force involved).

e/ This is the decrease from the 1956 figure of \$24.15 in the AHA series to the adjusted figure of \$21.00 used for OASDI beneficiaries.

The short-range cost estimates in Actuarial Study No. 57 assumed that hospitalization costs would increase from the actual 1961 level at an annual rate of 4%--part of this representing the increase in the general earnings level, and the remainder reflecting the higher differential rate of increase of hospital costs relative to the general earnings level. The resulting estimated average hospital daily costs for persons aged 65 and over who are OASDI beneficiaries, exclusive of the 3% allowance for administrative expenses, were \$35.60 for 1965 and \$37.00 for 1966. The latter figure was the basis for the rounded figure of \$37 that was the presumed average daily hospital charge used in the "180-day maximum hospital duration" alternative.

The foregoing figures for average hospital daily costs for OASDI beneficiaries aged 65 and over are not completely comparable with similar figures in the annual series issued by the American Hospital Association for persons of all ages because of three reasons:

- (1) The average daily cost for persons aged 65 or over is lower than for persons of all ages. The hospitalization experience data on which the cost estimates are based indicate that, on the average, persons aged 65 or over have significantly longer durations. Accordingly, since the generally high costs for hospital extras (such as use of operating room, laboratory tests, etc.), which most often occur in the first few days of hospitalization, are averaged over longer periods consisting generally of room-and-board costs only in the later days, the overall average will be lower than for younger persons.
- (2) The reimbursable costs under the bill would not include all the costs that go into the AHA figures (such as those for research, outpatient services, and public dining facilities).
- (3) The average daily cost developed by the AHA is based on all hospital facilities--private rooms, semi-private rooms, and wards--whereas the various HI proposals, in essence, provide semi-private room care.

(d) Assumptions in Cost Estimates Made for Legislation in 1964

As indicated in the previous subsection, the assumption as to average daily cost that was made in connection with the 1963 Administration proposal was that, over the long range, hospitalization costs would increase after 1961 at the same rate as the general wage level. In the legislative consideration of the HI proposals during 1964, it was decided that, although the previous assumptions were reasonable, it would be equally reasonable to make somewhat more conservative assumptions--namely, that the estimated 10% differential of hospitalization costs over wages in 1961-65 would be incorporated and that, over the next few years after 1965, hospitalization costs would rise more rapidly than wages and that thereafter they would

increase at the same average rate, with the aggregate differential amounting to 10%. In essence then, this revised assumption meant about a 20% increase in the long-range cost estimates for HI proposals.

(e) Assumptions in Cost Estimates of This Report

The Advisory Council on Social Security Financing, which was appointed in 1963 and completed its work by the end of 1964, considered the subject of hospitalization benefits and made significant recommendations in this area that were quite similar to the corresponding provisions contained in H.R. 1⁷. The Advisory Council stressed that the assumptions used in estimating HI costs should be conservative (i.e., where judgement issues arise, they should be resolved in a direction that would yield a higher cost estimate). The assumptions suggested by the Advisory Council were that the estimated 1965 hospitalization costs should be assumed to increase in the future in relation to total earnings rates by a net differential of 2.7% per year for the first 5 years after 1965, with this differential than being assumed to decrease to zero over the next 5 years; then during the following 5 years, the differential is assumed to reverse and then earnings are assumed to rise at an annual rate that is 0.5% greater than the increase in hospitalization costs.

The net effect of these modified cost assumptions made by the Advisory Council, for purposes of the long-range cost estimates, is to produce level-costs that are about 20% higher than those resulting from the assumptions used in Actuarial Study No. 57 and that are about the same as those resulting from the assumptions used in connection with the estimates made for the 1964 legislative activity. For short-range purposes, however, the modified assumptions produce significantly higher estimates than either of the other two sets of assumptions.

The cost estimates contained in this report are based on the same assumptions as to the relationship of long-range hospitalization cost trends and general earnings trends as was done in the Report of the Advisory Council. For the long-range cost estimates, the base figure for average daily hospitalization cost was taken for the year 1963, since the cost estimates for both the cash benefits and the HI benefits are founded on this basic assumption (which, in turn, means that there is also the coordinate assumption that the earnings base will, in the future, keep up-to-date with what \$5,600 represented in 1963). The average daily hospitalization cost shown by the AHA series for 1963 was \$38.91 (see Health, Education, and Welfare Trends, 1964 Edition, U.S. Department of Health, Education, and Welfare, page 23). When this is adjusted by the

f/ For further details on this matter and on the cost assumptions made, see "The Status of the Social Security Program and Recommendations For Its Improvement--Report of the Advisory Council on Social Security, 1965". This report has been published as a separate document, but it will be an appendix to the 25th Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, scheduled to be published in March 1965.

1.3% reduction factor mentioned previously, so as to give an appropriate figure for the HI proposal, it becomes \$33.85 (before allowance for administrative expense, which is estimated at 3% of the benefit cost). It is then assumed that this average daily cost will increase by 2.7% per year (the average differential between hospitalization costs and earnings during 1954-63) until 1965 and that thereafter the assumed differentials recommended in the Advisory Council assumptions prevail.

For the purposes of the short-range cost estimates, which allow for an increasing trend in general earnings (as well as the aforementioned differential between hospitalization costs and general earnings), the assumptions made result in an estimated average daily cost of \$40.06 for 1966 and \$42.38 for 1967.

IV. Intermediate-Cost Estimates for Hospitalization Benefits

As indicated previously, low-cost and high-cost factors were developed for hospital utilization rates. An intermediate-cost factor is necessary for purposes of determining the financing basis of the program. In order to arrive at such a factor for the long-range estimate, the low-cost and high-cost factors were averaged and were applied to the intermediate estimate of persons aged 65 and over who are entitled (or could become entitled upon application) to monthly cash benefits under the OASDI system.

In considering the figures actually presented for the intermediate-cost estimate, it should be kept in mind that a considerable range of variation is possible. The spread from the intermediate-cost estimate to the high-cost estimate (or to the low-cost estimate) is approximately 10% due to the hospitalization element alone, and perhaps another 15% due to the range of variation inherent in the basic OASDI cost estimates.

The cost figures shown for the first few years incorporate the low-cost assumptions as to hospital utilization (to allow for the normal lag in making "use" of insurance benefits), but thereafter the intermediate-cost factors are used.

V. Cost Estimates for Post-Hospital Extended Care Benefits

It is very difficult to make estimates for post-hospital extended care benefits because currently such facilities are not uniformly available in adequate amount in all sections of the country, and even more so because there are a number of different concepts under which these benefits might be operative or be utilized by the medical profession. At the one extreme, such a benefit might be utilized almost entirely for very limited convalescent care and be applicable to only a relatively few cases. At the other extreme, the benefit might be utilized so broadly as to provide care that tends to emphasize the domiciliary element far more than extended care (naturally, both elements must be present, but much importance hinges on the relative predominance of one feature or the other). In fact, there is the question of whether, with the availability of this benefit, hospitalization will occur that, under present circumstances,

would not be considered necessary and proper, and whether then post-hospital extended care benefits will be provided following these hospital stays.

The bill provides that post-hospital extended care benefits be available only upon transfer from in-patient status in a hospital for further treatment of the condition that resulted in the hospitalization. It is not possible to know from the written definition exactly what the actual admitting and transferring practices may be. In the early years of operation, one limitation on the costs for this benefit will, of course, be the limited availability of qualifying facilities. In the long run, however, this cannot reasonably be regarded as a cost-control factor.

In the 1959 Hospitalization Report, cost estimates were made for a strictly administered "recuperative care only" skilled-nursing-home benefit (and also for much broader provisions)--see pages 83-84. The original cost estimates for this very limited benefit were based on the experience of a few Blue Cross plans having such a benefit. The available data suggested that there might be annual utilization of 10 days of such care per 100 beneficiaries protected by this type of benefit. Since the average daily cost would be about \$10, this produced, for the original cost estimates, an aggregate average cost of \$1 per year per person aged 65 and over entitled to monthly OASDI cash benefits applicable to the initial years of operation.

Subsequent staff consideration of skilled-nursing-home benefits analyzed the various elements involved in the cost of this type of benefit, namely:

- (1) Present number of skilled-nursing-home beds;
- (2) Number of such beds that are acceptable according to reasonable standards;
- (3) Estimated needed beds;
- (4) Proportion of beds occupied;
- (5) Proportion of occupied beds used by aged persons;
- (6) Proportion of the aged occupants of beds that consists of OASDI beneficiaries;
- (7) Proportion of occupants with duration less than 6 months;
- (8) Proportion of occupants who entered the nursing home by transfer from a hospital; and
- (9) Average daily cost.

Use of the above data and analysis can produce a wide spread in the cost estimates--both short-range and long-range. This is particularly the case under the limited benefit protection provided by the current bill.

In the first full year of operation, the cost would be relatively low because of absence of facilities and because of lack of knowledge of the benefits available. In the next few years of operation, the cost would rise steadily as new facilities are built to meet the demand or as existing facilities are improved to meet the qualifying conditions (and in recognition of the money available from the benefits).

The long-range cost of these benefits would be higher than the early-year costs for a number of reasons--an increase in the number of available beds to meet the demands, OASDI beneficiaries being a larger proportion of the total population aged 65 and over, and a greater utilization of the benefits available.

The cost estimates of Actuarial Study No. 52, Actuarial Study No. 57, and this report recognize these factors that produce higher long-range costs, and they also recognize the differences in the concept of this benefit and of the eligible facilities for furnishing them that exist as between the various legislative proposals. Also, they take into account the fact that part of the cost arising for these benefits, when more widely utilized, will be an offset to the cost for hospitalization benefits. In the present estimates, it is assumed that this offset represents 33% of the cost of the post-hospital extended care benefits and is taken as an offset against the hospitalization-benefits cost.

VI. Cost Estimates for Home Health Services Benefits

The original estimates for home-health-service benefits were based on an assumed annual cost of \$1 per eligible beneficiary. This assumption was based on such limited experience with this benefit as was available, taking into account also the limited general availability of such services at present. For the foregoing reason, it is likely that this is the cost that will develop in the early years of operation of the program. In later years, however, it seems reasonable to assume that this type of service will become generally available throughout the country, since there will be the money to pay for it.

A study made by the Kansas Blue Cross and Blue Shield indicates that for persons aged 65 and over, the annual per capita cost was almost \$6. Over the long-range, for the country as a whole, it seemed that this was a much better figure to use than the previous figure of \$1, and so this figure was used in Actuarial Study No. 52, Actuarial Study No. 57, and this report.

If there are significant expenditures for home health services benefits, this should mean somewhat lower hospitalization and post-hospital extended care benefit costs. In fact, in cases where a person would otherwise be in the hospital but is instead receiving the much less expensive home health services, there would actually be a net savings in cost to the program, or in other words the program would cost less because of the inclusion of this type of benefit. It is believed, however, that any such savings will be more than offset by the home health services being made available to people who would not otherwise be in hospitals or extended care facilities. Nonetheless, with the availability of these home health

services on an expanded national basis, there should be some offset taken against the hospitalization-benefits costs that would otherwise occur if there were no home health services benefits. This adjustment has been taken as 40% of the estimated cost for home health services benefits and is taken as an offset against the hospitalization-benefits cost.

VII. Cost Estimates for Outpatient Hospital Diagnostic Services Benefits

The cost estimate for the outpatient hospital diagnostic services benefits was first made on the basis that there would be no deductible. Relatively little experience is available in regard to the cost of this benefit for a group consisting of persons aged 65 and over. Such Blue Cross and insurance company experience as there is seems to indicate that the annual cost per capita will be about \$7.50 (spread over the total protected population and not merely among those who will use this benefit).

From a cost standpoint, the effect of a monthly deductible equal to 50% of the average daily hospitalization cost will be significant. This deductible provision will reduce the aggregate cost by an estimated 80%, since most of the charges for these services will be relatively small amounts, such as \$10 for an X-ray. The number of claims will also be reduced by about 80% by the deductible provision, and thus a considerable amount of the administrative costs otherwise involved in paying a large number of small claims will be eliminated. The relative magnitude of the reduction arising from such a deductible tends to be verified by a study of the actual charges of hospital outpatients covered under group insurance policies (see "A Reinvestigation of Group Hospital Expense Experience" by S. W. Gingery in Transactions, Society of Actuaries, Vol. XII, 1961, which gives data on such claims by size intervals).

VIII. Estimated Administrative Expenses

It is assumed that the administrative expenses that will be chargeable to the Hospital Insurance Trust Fund for processing the benefit claims and for a pro-rata share of the cost of maintaining the earnings records and collecting the contributions will represent 3% of the benefit disbursements. This 3% element is included in the cost figures for each of the various types of benefits, as described previously. This figure is consistent with the relative administrative costs of the most efficiently-run Blue Cross plans. The latter generally have administrative costs somewhat above 5% of premium collections, but this is because they have expenses that would not arise in connection with hospital benefits under OASDI--such as those for selling individual enrollments, collection of health insurance contributions alone, and maintenance of the rolls of insured persons solely for purposes of health insurance. In the early estimates for HI benefits, a 5% allowance for administrative expenses had been made, but studies by administrative personnel of the Social Security Administration now indicate that this is too high a figure for the type of program under consideration.

The administrative expenses for the proposed benefits that are chargeable to the Hospital Insurance Trust Fund do not, of course, include the administrative expenses of the hospitals and other health agencies supplying the benefits, which are included as part of the benefit disbursements. Also not included are the record-keeping and tax-payment expenses incurred by employers in connection with the OASDI program.

C. Results of Cost Estimates

This Section first discusses various matters relating to the actuarial cost estimates (such as the underlying assumptions and methodology) and then presents the cost estimates for the hospitalization and related benefits (considering also those made in regard to the 1961 and 1963 Administration proposals). Finally, it gives the cost estimates for the cash-benefits portion of the OASDI system, as well as the summarized estimates for the system as a whole.

I. Concept of Actuarial Balance of System

The concept of actuarial balance as it applies to the OASDI system differs considerably from this concept as it applies to private insurance and private pension plans, although there are certain points of similarity with the latter. In connection with individual insurance, the insurance company or other administering institution, in order to be in actuarial balance, must have sufficient funds on hand so that if operations are terminated, it will be in a position to pay off all the accrued liabilities. This requirement, however, is not necessary for a national compulsory social insurance system. It might be pointed out that well-administered private pension plans have frequently not funded all their liability for prior service benefits.

It can reasonably be presumed that, under Government auspices, such a social insurance system will continue indefinitely into the future. The test of financial soundness, then, is not a question of whether there are sufficient funds on hand to pay off all accrued liabilities. Rather, the test is whether the expected future income from tax contributions and from interest on invested assets will be sufficient to meet anticipated expenditures for benefits and administrative costs. Thus, since the concept of "unfunded accrued liability" does not by any means have the same significance for a social insurance system as it does for a plan established under private insurance principles, it is quite proper to count both on receiving contributions from new entrants to the system in the future and on paying benefits to this group. These additional assets and liabilities must be considered in order to determine whether the system is in actuarial balance.

The question of whether the OASDI program is in actuarial balance depends upon whether the estimated future income from contributions and from interest earnings on the accumulated trust fund investments will, over the long run, support the disbursements for benefits and administrative expenses. Obviously, future experience may be expected to vary from the actuarial cost estimates made now. Nonetheless, the intent that the system be self-supporting can be expressed in law by utilizing a contribution schedule that, according to the intermediate-cost estimate, results in the system being in balance or substantially close thereto.

The congressional committees concerned with the program have, for many years, expressed the belief that it is a matter for concern if any portion of the OASDI system shows any significant actuarial insufficiency. Traditionally, the view has been held that for the OASI portion of the program, if such actuarial insufficiency when measured over perpetuity has been no greater than 0.25% of taxable payroll, it is at the point where it is within the limits of permissible variation. The corresponding point for the DI portion of the system is about 0.05% of taxable payroll (lower because of the relatively smaller financial magnitude of this program). Thus, for the OASDI program as a whole, the permissible limit of actuarial balance is 0.30% of taxable payroll. Furthermore, traditionally when there has been an actuarial insufficiency exceeding the limits indicated, any subsequent liberalizations in benefit provisions were fully financed by appropriate changes in the tax schedule or through raising the earnings base, and at the same time the actuarial status of the program was improved.

The 1963-64 Advisory Council on Social Security Financing (see footnote f) recommended that long-range costs should be measured over a 75-year period, rather than over perpetuity, and that then the estimated actuarial status of each trust fund should be reasonably close to an exact balance, and much closer than has been the standard in the past. The cost estimates have been made on this basis, with the assumption that, if the estimates show an exact balance, at the end of the 75-year period the balance in the trust fund should approximate 1 year's benefit payments.

II. Actuarial Status After Enactment of 1961 Act

The changes made by the 1961 Amendments involved an increased cost that was fully met by the changes in the financing provisions (namely, an increase in the combined employer-employee contribution rate of $\frac{1}{4}\%$, a corresponding change in the rate for the self-employed, and an advance in the year when the ultimate rates would be effective--from 1969 to 1968). As a result, the actuarial balance of the program remained unchanged from what it was before this legislation.

Subsequent to 1961, the cost estimates were further reexamined in the light of developing experience. The earnings assumption was changed to reflect the 1963 level, and the interest-rate assumption used was modified upward to reflect recent experience. At the same time, the retirement-rate assumptions were increased somewhat to reflect the experience in respect to this factor.

The further developing disability experience indicated that costs for this portion of the program were significantly higher than previously estimated (because benefits are not being terminated by death or recovery as rapidly as had been originally assumed). Accordingly, the actuarial balance of the DI program was shown to be in an unsatisfactory position, and this has been recognized by the Board of Trustees, which recommended that the allocation to this trust fund should be increased (while, at the same

time, correspondingly decreasing the allocation to the OASI Trust Fund, which under present law is estimated to be in satisfactory actuarial balance after such a reallocation).^{g/}

III. Basic Assumptions for Cost Estimates

This subsection will consider various aspects of the cost assumptions.

(a) General Basis for Long-Range Cost Estimates

Benefit disbursements under OASI may be expected to increase continuously for at least the next 50 to 70 years because of such factors as the aging of the population of the country and the slow but steady growth of the benefit roll. Similar factors are inherent in any retirement program, public or private, that has been in operation for a relatively short period. Estimates of the future cost of the OASDI program are affected by many elements that are difficult to determine. Accordingly, the assumptions used in the actuarial cost estimates may differ widely and yet be reasonable.

The long-range cost estimates (shown for 1975 and thereafter) are presented on a range basis so as to indicate the plausible variation in future costs depending upon the actual trends developing for the various cost factors. Both the low- and high-cost estimates are based on high economic assumptions, intended to represent close to full employment, with average annual earnings at about the level prevailing in 1963. In addition to the presentation of the cost estimates on a range basis, intermediate estimates developed directly from the low- and high-cost estimates (by averaging their components) are shown so as to indicate the basis for the financing provisions.

The cost estimates for OASI are extended beyond the year 2000, since the aged population itself cannot mature by then. The reason for this is that the number of births in the 1930's was very low as compared with subsequent experience. As a result, there will be a dip in the relative proportion of the aged from 1995 to about 2010, which would tend to result in low benefit costs for the OASI system during that period. Accordingly, the year 2000 is by no means a typical ultimate year insofar as these costs are concerned.

The cost estimates have been prepared on the basis of the same assumptions and methodology as those contained in the 24th Trustees Report (see footnote g). These estimates and their underlying assumptions are given in more detail in Actuarial Study No. 58.

The underlying assumptions have not been revised, and new detailed cost estimates prepared, because preliminary study indicates that the changes that would be made would be largely counterbalancing from a cost

^{g/} See "Annual Report of Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, Fiscal Year 1963" (House Doc. No. 236, 88th Congress), pp. 61-62.

standpoint. For example, lower costs would result from using the higher earnings level of 1964, but higher costs would arise from considering the higher retirement rates of the last few years and other factors. Besides, there is the advantage of consistency and comparability in using the same cost bases for a period of a few years, when no significant net changes in the results would occur.

(b) Measurement of Costs in Relation to Taxable Payroll

In general, the costs are shown as percentages of covered payroll. This is the best measure of the financial cost of the program. Dollar figures taken alone are misleading. For example, a higher earnings level will increase not only the outgo of the system but also, and to a greater extent, its income. The result is that when earnings rise, benefit costs in terms of dollars will also rise, but the cost relative to payroll will decrease.

(c) General Basis for Short-Range Cost Estimates

The short-range cost estimates (shown for the individual years 1965-72) are not presented on a range basis since--assuming a continuation of present economic conditions--it is believed that the demographic factors involved can be reasonably forecast, so that only a single estimate is necessary. A gradual rise in the earnings level is assumed for the future, paralleling that which has occurred in the past few years. As a result of this assumption, even though all provisions of the system including the earnings base are assumed to remain unchanged in the future at what the bill provides, contribution income is somewhat higher than if level earnings were assumed, while benefit outgo under the cash-benefits program is only slightly affected.

The short-range estimates presented here are consistent with those that will be shown in the 25th Trustees Report (to be submitted to Congress by March 1, 1965) and are slightly different from those in the Advisory Council Report (see footnote f), which were consistent with those of the 24th Trustees Report.

(d) Comparison of Bases for Short-Range and Long-Range Cost Estimates

Since the long-range cost assumptions do not involve an increasing-earnings assumption, the short-range and long-range cost estimates do not "link up" as between the 1972 data for the former and the 1975 data for the latter. Thus, for the cash-benefits program the balances in the trust funds at the end of 1972 according to the short-range estimates are higher than what the long-range estimates would show for that year. On the other hand, for the hospital-benefits program the balance in the trust fund at the end of 1972 according to the short-range estimates is lower than what the long-range estimates show for that year (since the hospital benefit costs are assumed to rise as earnings increase--see subsequent discussion).

(e) Level-Cost Concept

An important measure of long-range cost is the level-equivalent contribution rate required to support the system over a long-range future period, based on discounting at interest. If such a level rate were adopted, relatively large accumulations in the trust funds would result, and in consequence there would be sizable eventual income from interest. Even though such a method of financing is not followed, this concept may be used as a convenient measure of long-range costs, which permits comparison of various possible alternative plans, with weight being given to both early-year and deferred benefit costs.

(f) Future Earnings Assumptions

The long-range estimates are based on level-earnings assumptions at the level prevailing in calendar year 1963. This, however, does not mean that covered payrolls are assumed to be the same each year; rather, they are assumed to rise steadily as the population at the working ages is estimated to increase. If in the future the earnings level should be considerably above that which now prevails, and if the cash benefits are adjusted upward so that the annual costs relative to payroll will remain the same as now estimated for the present system, then the increased dollar outgo resulting will offset the increased dollar income. This is an important reason for considering costs relative to payroll rather than in dollars.

The long-range cost estimates have not taken into account the possibility of a rise in earnings levels, although such a rise has characterized the past history of this country. If such an assumption were used in the cost estimates, along with the unlikely assumption that the benefits, nevertheless, would not be changed, the cost relative to taxable payroll would, of course, be lower for the cash benefits, but the reverse would be so for the hospitalization and related benefits (as will be discussed in more detail later).

It is important to note that the possibility that a rise in earnings levels will produce lower costs of the cash-benefits program in relation to taxable payroll is a very important safety factor in the financial operations of this system. Its financing is based essentially on the intermediate-cost estimate, along with the assumption of level earnings; if experience follows the high-cost assumptions, and earnings do not rise, additional financing will be necessary. However, if covered earnings increase in the future as in the past, the resulting reduction in the cost of the program (expressed as a percentage of taxable payroll) will more than offset the higher cost arising under experience following the high-cost estimate. If the latter condition prevails, the reduction in the relative cost of the program coming from rising earnings levels can be used to maintain the actuarial balance of the system, and any remaining savings can be used to adjust the cash

benefits upward (to a lesser degree than the increase in the earnings level). The possibility of future increases in earnings levels should be considered only as a safety factor and not as a justification for adjusting benefits upward in anticipation of such increases.

If benefits are adjusted currently to keep pace with rising earnings trends as they occur, the year-by-year costs as a percentage of taxable payroll would be unaffected. If benefits are increased in this manner, the level-cost of the program would be higher than now estimated, since, under such circumstances, the relative importance of the interest receipts of the trust funds would gradually diminish with the passage of time. If earnings and benefit levels do consistently rise, thorough consideration will need to be given to the financing basis of the system because then the interest receipts of the trust funds will not meet as large a proportion of the benefit costs as would be anticipated if the earnings level had not risen (under the present law, for example, for the OASI system, under level-earnings assumptions this proportion would average about 15% over the long range).

(g) Interrelationship With Railroad Retirement System

An important element affecting OASDI costs arose through amendments made to the Railroad Retirement Act in 1951. These provide for a combination of railroad retirement compensation and OASDI covered earnings in determining benefits for those with less than 10 years of railroad service (and also for all survivor cases).

Financial interchange provisions are established so that the trust funds are to be placed in the same financial position in which they would have been if railroad employment had always been covered under the program. It is estimated that, over the long range, the net effect of these provisions will be a relatively small loss to the OASDI system since the reimbursements from the railroad retirement system will be somewhat smaller than the net additional benefits paid on the basis of railroad earnings.

(h) Reimbursement for Costs of Military Service Wage Credits

Another important element affecting the financing of the program arose through legislation in 1956 that provided for reimbursement from general revenues for past and future expenditures in respect to the non-contributory credits that had been granted for persons in military service before 1957. The cost estimates contained here reflect the effect of these reimbursements (which are included as contributions), based on the provisions of the bill.

(i) Purposes of Intermediate-Cost Estimates

The long-range intermediate-cost estimates are developed from the low- and high-cost estimates by averaging them (using the dollar estimates and developing therefrom the corresponding estimates relative to payroll). The intermediate-cost estimate does not represent the most probable estimate, since it is impossible to develop any such figures. Rather, it has been set down as a convenient and readily available single set of figures to use for comparative purposes.

The Congress, in enacting the 1950 act and subsequent legislation, was of the belief that the OASDI program should be on a completely self-supporting basis. Therefore, a single estimate is necessary in the development of a tax schedule intended to make the system self-supporting. Any specific schedule will necessarily be somewhat different from what will actually be required to obtain exact balance between contributions and benefits. This procedure, however, does make the intention specific, even though in actual practice future changes in the tax schedule might be necessary. Likewise, exact self-support cannot be obtained from a specific set of integral or rounded fractional tax rates increasing in orderly intervals, but rather this principle of self-support should be aimed at as closely as possible.

IV. Cost Estimates for 1961 Hospitalization-Benefits Proposal

Long-range actuarial cost estimates for the 1961 proposal^{h/} (as presented in Actuarial Study No. 52) that were made at about the time the 1961 bill was introduced indicated that the benefits provided (and the accompanying administrative expenses) would be exactly financed, on a long-range basis, by the two sources of revenue to the Health Insurance Account. These two sources were an increase of $\frac{1}{2}\%$ in the combined employer-employee contribution rate (and a corresponding increase of $\frac{3}{8}\%$ for the self-employed), effective in 1963, and the net "gain" to the OASDI system resulting from increasing the maximum annual earnings base from \$4800 to \$5000, effective in 1962. The latter "gain" was estimated to be equivalent, over the long run, to the effect of a rise in the combined employer-employee contribution rate of .10% of taxable earnings. The bill provided that the equivalent of this level contribution rate was to be continuously appropriated to the Health Insurance Account.

As indicated in the previous section, these estimates were revised somewhat during the first half of 1961, as a result of the continuous process of study and investigation of all factors involved in the actuarial cost estimates. In particular, this reexamination was focused on the three "subsidiary" benefits (i.e., other than hospitalization benefits), which are less important cost-wise. The revised estimates for these benefits also included certain partially offsetting reductions in hospitalization-benefits costs, as discussed previously.

^{h/} This Administration proposal was contained in H.R. 4222, introduced by Congressman King on February 13, 1961 (and in S. 909, introduced by Senator Anderson on the same date).

The following table shows the original and revised estimates of the level-costs^{i/} of the various types of benefits (plus administrative expenses) under the 1961 proposal, expressed as percentages of taxable payroll:

| <u>Type of Benefit</u> | <u>Original Estimate</u> | <u>Revised Estimate*</u> | |
|--------------------------------|--------------------------|--------------------------|--------|
| Hospitalization | .56% | .52% | (.57%) |
| Skilled Nursing Facility | .01 | .08 | (.05) |
| Home Health Services | .01 | .05 | (.03) |
| Outpatient Hospital Diagnostic | .02 | .01 | (.01) |
| Total | .60 | .66 | |

*Cost for hospitalization benefits is shown after offset for reduced cost because of availability and use of skilled nursing facility and home health service benefits. Figures in parentheses are on the basis of "net additional cost" for the three auxiliary benefits.

As will be seen from these figures, the level income of .60% of taxable payroll provided under the proposal would have been just sufficient to finance the benefits on a long-range basis according to the original intermediate-cost estimate, but would have fallen about 10% short relatively according to the revised figures. For this reason, the Secretary of Health, Education, and Welfare in his testimony before the House Ways and Means Committee on this legislation in July 1961 recommended raising the earnings base from the \$5,000 in the bill to \$5,200; this change would have resulted in total financing of .66% of taxable payroll being available, or just sufficient to support the cost of the proposal, since the "gain" from raising the earnings base was estimated at .16% of taxable payroll (on the basis of 1959 earnings levels).

When the actuarial cost estimates (both for the cash benefits and the hospital benefits) were revised in 1962 to take into account 1961 earnings levels and other factors (as described previously), the financing available under a \$5,200 earnings base was estimated at .68% of taxable payroll (because of a larger "gain" from raising the earnings base), but the benefit cost was estimated at .72% of taxable payroll. The Anderson-Javits Amendment^{j/} that was considered by the Senate in July

i/ The level-cost is the average long-range cost, based on discounting at interest, relative to effective taxable payroll (which is the total earnings of all covered workers, reduced to take into account both the maximum taxable earnings base and the lower contribution rate for the self-employed as compared with the combined employer-employee rate so that, in effect, only 3/4 of the earnings of the self-employed within the maximum base are counted). For more details on this concept, see Section E of Actuarial Study No. 49. For cost estimates for proposals made before 1965, these level-costs are determined over perpetuity, while for the current proposal a 75-year period is also used.

j/ For more details on this proposal and legislative action thereon, see Wilbur J. Cohen and Robert M. Ball, "Public Welfare Amendments of 1962 and Proposals for Health Insurance for the Aged, "Social Security Bulletin, October 1962.

1962 was the same as the 1961 version of the King-Anderson Bill insofar as OASDI beneficiaries were concerned, except for having a \$5,200 earnings base and except for restricting the skilled nursing home benefits to such services provided by hospital-associated facilities (just as in the 1963 proposal). This change in the benefits reduced their estimated level-cost to .68% of taxable payroll, so that the financing was estimated to be just sufficient to support the benefits.

V. Cost Estimates for 1963 Hospitalization-Benefits Proposal, Insured Persons

Cost estimates for the 1963 proposal^{k/} were made on the same general basis as those described above for the Anderson-Javits Amendment. The following table shows the estimated long-range level-costs and first year costs (i.e., for 1965 on an accrual basis), by type of benefit, including the accompanying administrative expenses:

| <u>Type of Benefit</u> | <u>Level-Cost*</u> <u>(as % of payroll)</u> | <u>First-Year Cost</u> <u>(in millions)</u> |
|--------------------------|--|--|
| Hospitalization | .59% (.62%) | \$1,315 |
| Skilled Nursing Facility | .03 (.02) | 30 |
| Home Health Services | .05 (.03) | 10 |
| Outpatient Diagnostic | .01 (.01) | 10 |
| Total | .68 | \$1,365 |

*Cost for hospitalization benefits is shown after offset for reduced cost because of availability and use of skilled nursing facility and home health service benefits. Figures in parentheses are on the basis of "net additional cost" for the three auxiliary benefits.

The above figures for the first year of operation take into account the estimated actual price and earnings-level situation in 1965 (rather than the long-range assumptions in these respects).

During the consideration of the 1963 proposal^{k/} by Congress in 1964, the underlying assumptions as to the relationship between hospitalization costs and the general earnings level were revised (as described in Sub-section III(d) of the preceding Section). As a result the estimated level-cost of this proposal was increased to .82% of taxable payroll.

^{k/} The 1963 Administration proposal was contained in H.R. 3920, introduced by Congressman King on February 21, 1963 (and in S. 880, introduced by Senator Anderson on the same date). See Actuarial Study No. 57 for the cost estimates for this bill.

The version of H.R. 11865 (the Social Security Amendments of 1964 bill) that was approved by the Senate (but died in Conference) contained provisions for hospitalization and related benefits that were somewhat different from those of the 1963 proposal (H.R. 3920) that was analyzed in Actuarial Study No. 57. The cost of the Senate-approved bill was somewhat lower than that of the 1963 proposal because the maximum number of days of skilled nursing facility benefits was reduced from 180 to 60 per benefit period; because a potential dynamic cost-sharing provision was introduced as an offset to the factor of hospitalization costs possibly rising more rapidly than the general earnings level (as assumed in the cost assumptions); and because the taxable earnings base was higher (although, on the other hand, there was a small increase in cost due to the so-called "transitional insured" group). The estimated level-cost of this Senate-approved bill was .76% of taxable payroll (see "Actuarial Cost Estimates for the Old-Age, Survivors, and Disability Insurance System as Modified by H.R. 11865, as Passed by the House of Representatives and as According to the Action of the Senate", issued by the House Ways and Means Committee).

VI. Cost Estimates for 1965 Hospitalization-Benefits Proposal, Insured Persons

Cost estimates for the current proposal have been made on the same general basis as previously, except that the assumptions as to the relationship between hospitalization prices and the general earnings level that were made by the Advisory Council (see Subsection III(e) of the preceding Section) have been used. Insofar as level-costs are concerned, these assumptions produce the same result as those used in connection with the legislation considered in 1964.

The following table shows the estimated long-range level-costs and first-year costs (i.e., for fiscal year 1967 on an accrual basis) by type of benefit, including the accompanying administrative expenses:

| <u>Type of Benefit</u> | <u>Level-Cost*</u> (as % of payroll) | | <u>First-Year Cost</u> (in millions) |
|-----------------------------|---|--------|---|
| Hospitalization | .75% | (.78%) | \$1,670 |
| Post-Hospital Extended Care | .03 | (.02) | 30 |
| Home Health Services | .05 | (.03) | 10 |
| Outpatient Diagnostic | .01 | (.01) | 10 |
| Total | .84 | | 1,720 |

*Cost for hospitalization benefits is shown after offset for reduced cost because of availability and use of extended care facility and home health service benefits. Figures in parentheses are on the basis of "net additional cost" for the three auxiliary benefits.

The figures for the first year of operation take into account the estimated actual price and earnings-level situation in 1966-67, rather than the long-range assumptions in these respects.

The following table compares the estimates of the number of persons aged 65 and over affected by the proposal as of the middle of 1966 (in millions, rounded to nearest 50,000):

| <u>Category</u> | <u>Estimates</u> |
|---|---------------------|
| Total Population | 19.05 ^{a/} |
| OASDI Insured | 16.05 |
| Railroad Retirement Insured ^{b/} | .60 |
| Not Eligible ^{c/} | .40 |
| Blanketed-In | 2.00 |

a/ Including allowance for an estimated 500,000 underenumeration in the projected census estimates.

b/ Does not include about 250,000 individuals who are "insured" under both OASDI and Railroad Retirement (shown in the preceding line).

c/ Consists primarily of those who are protected under the Federal Employees Health Benefits Act or the Retired Federal Employees Health Benefits Act (also includes certain non-insured persons who do not meet the residence or citizenship requirements or who are members of a subversive organization or have been convicted of a serious offense involving subversive activities).

The year-by-year costs of the benefit payments and the accompanying administrative expenses, according to the long-range cost estimates are as follows:

| <u>Calendar Year</u> | <u>Cost as Percentage of Taxable Payroll</u> |
|--------------------------|--|
| 1975 | .88% |
| 1980 | .91 |
| 1985 | .93 |
| 1990 | .94 |
| 2000 | .86 |
| 2020 | .83 |

Unlike the trend for the cash-benefits portion of the program (which increases steadily in the future for at least the next 75 years, although reaching somewhat of a plateau in the two decades following 1990), the HI cost as a percentage of taxable payroll increases until 1990 and declines somewhat thereafter. This trend results from the fact that the increasing number of persons eligible for HI benefits is more than offset by the decreasing average daily hospitalization cost that results from the assumption of a continuing negative differential of $\frac{1}{2}\%$ between hospitalization costs and the level of general earnings, following 1975 (see Subsection III(e) of the preceding Section). In fact, as it so happens, the level-cost of the HI benefits is about .84% of taxable payroll whether it is determined over a 75-year period or whether it is determined over perpetuity.

Table 7 shows the estimated operations of the HI Trust Fund in various future years, according to both the short-range and long-range cost estimates. Under the latter, the trust fund grows steadily over future decades, although somewhat slowly between 1975 and 1990--such trend resulting from the assumptions made as to average daily hospitalization costs. Under the short-range estimate, the trust fund increases slowly for the first few years and represents somewhat more than $\frac{1}{2}$ year's outgo at the end of 1970. A decline in the trust fund balance is indicated after 1971, resulting from the fact that in this estimate, not only hospitalization costs, but also earnings levels, are assumed to increase steadily, but no change is assumed to be made in the earnings base to keep it up-to-date.

Table 8 shows corresponding figures for the low-cost and high-cost estimates. These have been derived merely by assuming a 15% range in benefit costs around the intermediate-cost estimate. About 10% of this range can be attributed to the spread between the low-cost and high-cost estimates of hospital utilization rates (see Table 2), and the remainder can be attributed to other factors that arise in relation to other factors (including those prevailing in the cash-benefits portion of the program).

Table 7

ESTIMATED PROGRESS OF HOSPITAL INSURANCE TRUST
FUND UNDER H.R. 1, INTERMEDIATE-COST ESTIMATE^{a/}
(in millions)

| <u>Calendar Year</u> | <u>Contributions</u> | <u>Benefit Payments and Administrative Expenses^{b/}</u> | <u>Interest on Fund^{a/}</u> | <u>Balance in Fund at End of Year</u> |
|--|----------------------|--|--|---|
| <u>Estimated Data, Short-Range Estimate^{c/}</u> | | | | |
| 1966 | \$1,328 | \$818 | \$15 | \$525 |
| 1967 | 1,994 | 1,799 | 18 | 738 |
| 1968 | 2,135 | 2,001 | 24 | 896 |
| 1969 | 2,545 | 2,221 | 33 | 1,253 |
| 1970 | 2,690 | 2,465 | 45 | 1,523 |
| 1971 | 2,769 | 2,700 | 51 | 1,643 |
| 1972 | 2,850 | 2,946 | 52 | 1,599 |
| <u>Estimated Data, Long-Range Estimate^{c/}</u> | | | | |
| 1975 | \$2,729 | \$2,657 | \$136 | \$4,320 |
| 1980 | 2,946 | 2,969 | 165 | 5,166 |
| 1990 | 3,373 | 3,525 | 193 | 5,975 |
| 2000 | 3,913 | 3,720 | 261 | 8,185 |

a/ An interest rate of 3.5% is used in determining the level-costs, but in developing the progress of the trust fund, a varying rate in the early years has been used, which is equivalent to such fixed rate.

b/ The net payment to (or from) the Railroad Retirement Account is included here.

c/ See subsection III(d), page 30 for discussion of interrelationships of short-range and long-range cost estimates.

Note: Contributions include reimbursement for additional cost of non-contributory credits for military service. Not reflected in this table are the transactions between the General Treasury and the trust fund with respect to the "non-insured" group that is blanketed-in and the benefit payments with respect to this group (and the resulting additional administrative expenses).

Table 8

PROGRESS OF HOSPITAL INSURANCE TRUST FUND UNDER H.R. 1,
LOW-COST AND HIGH-COST ESTIMATES
(in millions)

| <u>Calendar Year</u> | <u>Contributions</u> | <u>Benefit Payments and Administrative Expenses^{a/}</u> | <u>Interest on Fund^{b/}</u> | <u>Balance in Fund at End of Year</u> |
|--------------------------|----------------------|--|--|---|
| Low-Cost Estimate | | | | |
| 1975 | \$2,729 | \$2,258 | \$269 | \$7,891 |
| 1980 | 2,946 | 2,524 | 412 | 11,866 |
| 1990 | 3,373 | 2,996 | 768 | 21,748 |
| 2000 | 3,913 | 3,162 | 1,342 | 37,816 |
| High-Cost Estimate | | | | |
| 1975 | 2,729 | 3,056 | 21 | 815 |
| 1980 | 2,946 | 3,414 | c/ | c/ |

a/ The net payment to (or from) the Railroad Retirement system is included here.

b/ At interest rates of 3.75% for the low-cost estimate and 3.25% for the high-cost estimate.

c/ Fund exhausted in 1978.

Note: Contributions include reimbursement for additional cost of noncontributory credits for military service.

It should especially be noted that the operations of the HI Trust Fund are shown on the basis that they do not include the transactions for the "non-insured" or blanketed-in group. Furthermore, the benefit disbursement figures include only the net effect of the coverage of the beneficiaries of the Railroad Retirement system for the HI benefits, while the contribution figures do not include the HI contributions collected on railroad payrolls.

Table 9 shows the actuarial balances of the various portions of the OASDI system under H.R. 1, expressed as percentages of taxable payroll for both the perpetuity basis and the 75-year cost basis (shown for purposes of comparability). On both bases, the HI program is shown to have a favorable actuarial balance of .05% of taxable payroll, since the level-equivalent of the contribution schedule exceeds the level-cost of the benefit payments and administrative expenses. Most of this margin is, however, necessary so that there will be a satisfactory financial relationship between income and outgo during the 2 or 3 decades following 1980 (when, as indicated previously, benefit disbursements relative to taxable payroll reach a maximum and then decline). If the actuarial balance is computed over the 25-year period beginning with 1966, the level-equivalent of the contribution schedule is .87% of taxable payroll, while the level-equivalent of the benefits and administrative expenses is .85% of taxable payroll, or slightly above the figure for computations on both a perpetuity basis and a 75-year basis. Thus, under this 25-year cost basis, the HI program has a favorable actuarial balance of only .02% of taxable payroll.

VII. Cost Estimates for Cash-Benefits Portion of OASDI System Under H.R. 1

This subsection presents the cost estimates for the cash-benefits portion of the OASDI system, as it would be revised by H.R. 1.

Table 9 summarizes the actuarial balance of the existing OASDI program in terms of percentages of taxable payroll according to the intermediate-cost estimate and gives corresponding information for this program, as it would be changed by H.R. 1, showing the cost effect of each of the major changes. For purposes of comparability, the presentation is in terms of both measuring the costs over perpetuity and of measuring them over only a 75-year period. On the 75-year cost basis, the OASI portion of the cash-benefits program is out of actuarial balance by .05% of taxable payroll, while the DI program has a favorable balance of .02% of taxable payroll. Both of these differences are small relatively so that it may be said that the program as a whole, as well as each of its constituent parts, are in actuarial balance.

Table 10 gives more detail about the actuarial balance of the several portions of the program as it would be modified by H.R. 1 according to the low-cost and high-cost estimates, as well as the intermediate-cost estimate, by analyzing the actuarial balances by considering their component parts--the level-costs of the benefits and the level-equivalents of the contributions.

Table 9

ACTUARIAL BALANCE UNDER H.R. 1,
EXPRESSED AS PERCENTAGES OF TAXABLE PAYROLL

| <u>Item</u> | <u>OASI</u> | <u>DI</u> | <u>HI</u> | <u>Total</u> |
|--------------------------------------|-------------|-----------|-----------|--------------|
| Computations on Perpetuity Basis | | | | |
| Actuarial Balance of Present System | -.10% | -.14% | -- | -.24% |
| Earnings Base of \$5,600 | +.28 | +.03 | -- | +.31 |
| Revised Contribution Schedule | +.03 | +.17 | +.89% | +1.09 |
| Extensions of Coverage | +.03 | -- | -- | +.03 |
| Benefit Increase | -.55 | -.05 | -- | -.60 |
| Hospitalization and Related Benefits | -- | -- | -.84 | -.84 |
| Total Effect of Changes | -.21 | +.15 | +.05 | -.01 |
| Actuarial Balance Under Proposal | -.31 | +.01 | +.05 | -.25 |
| Computations on 75-Year Cost Basis | | | | |
| Actuarial Balance of Present System | +.14% | -.13% | -- | +.01% |
| Earnings Base of \$5,600 | +.28 | +.03 | -- | +.31 |
| Revised Contribution Schedule | +.03 | +.17 | +.89% | +1.09 |
| Extensions of Coverage | +.03 | -- | -- | +.03 |
| Benefit Increase | -.53 | -.05 | -- | -.58 |
| Hospitalization and Related Benefits | -- | -- | -.84 | -.84 |
| Total Effect of Changes | -.19 | +.15 | +.05 | +.01 |
| Actuarial Balance Under Proposal | -.05 | +.02 | +.05 | +.02 |

Table 10

ACTUARIAL BALANCES OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND
HOSPITAL INSURANCE PROGRAMS UNDER H.R. 1, 75-YEAR COST BASIS
(in percent of taxable payroll)

| Item | QASI | DI | HI | Total |
|---|-------|------|------|--------|
| Intermediate-Cost Estimate | | | | |
| Level-Cost of Benefits | 8.71% | .65% | .84% | 10.20% |
| Level-Equivalent of Contribution Schedule | 8.66 | .67 | .89 | 10.22 |
| Actuarial Balance | -.05 | .02 | .05 | .02 |
| Low-Cost Estimate | | | | |
| Level-Cost of Benefits | 7.68% | .58% | .71% | 8.97% |
| Level-Equivalent of Contribution Schedule | 8.66 | .67 | .89 | 10.22 |
| Actuarial Balance | .98 | .09 | .18 | 1.25 |
| High-Cost Estimate | | | | |
| Level-Cost of Benefits | 9.97% | .74% | .97% | 11.68% |
| Level-Equivalent of Contribution Schedule | 8.66 | .67 | .89 | 10.22 |
| Actuarial Balance | -1.31 | -.07 | -.08 | -1.46 |

Note: All figures adjusted to reflect lower contribution rate for the self-employed as compared with the combined employer-employee rate. In addition, the benefit-cost figures are adjusted for (a) interest on existing trust fund, (b) administrative expenses, (c) Railroad Retirement financial interchange provisions, and (d) reimbursements of military-wage-credits cost.

Table 11 presents data on the progress of the OASI Trust Fund in the past and the future estimates for it on both the short-range and long-range bases. The trust fund is estimated to show a decrease of somewhat over \$900 million in calendar year 1965, which is caused by the benefit increases due to H.R. 1 being retroactive to the beginning of the year, with no additional financing being provided over present law. In 1966 and 1967, however, the trust fund is estimated to show annual increases of about \$500 million, so that its balance at the end of 1967 will be about the same as at the end of 1964. Thereafter, very substantial increases (of about \$4 billion annually in 1968-70) are estimated to occur as a result of the larger allocation to the OASI Trust Fund resulting from the increase in the combined employer-employee contribution rate from the 8½% scheduled for 1966-67 to the 10% rate scheduled for 1968-70. The effect of the increases in the contribution rates scheduled for 1968 and 1971--combined with the fact that the program is in substantial actuarial balance over the long-range--is that the OASI Trust Fund is estimated to increase significantly in the future, reaching somewhat more than \$100 billion by the year 2000.

Table 12 shows corresponding figures for the DI Trust Fund. In calendar year 1965, this trust fund is estimated to decrease by about \$430 million (as a result of the benefit increase occurring without any additional financing). A decrease of about \$25 million is estimated for 1966, since the increase in the allocation to this trust fund is not fully effective in 1966 (because of lag in contribution collections). Following 1966, however, according to the short-range estimate, the trust fund increases by approximately \$100 million per year. The long-range estimate similarly shows that the DI Trust Fund will increase over the years, and by the end of the century its size is estimated at \$5.6 billion.

Tables 13 and 14 present data on the progress of the OASI and DI Trust Funds, respectively, according to the low-cost and high-cost estimates. As would be anticipated, the balances in the trust funds under the low-cost estimate increase rapidly over the years, whereas under the high-cost estimate the trust funds are exhausted after some time (in about 30 years for the OASI Trust Fund and in somewhat more than 10 years for the DI Trust Fund).

VIII. Cost Estimates for H.R. 1, Hospitalization Benefits for Non-Insured Persons and Savings under Assistance Programs as a Result of Hospitalization Benefits

This subsection presents short-range cost estimates of the financial effect of blanketing-in noninsured persons aged 65 and over for the hospitalization and related benefits provided under the bill. The specific details of these provisions have been given in Section A.

Table 11

PROGRESS OF OLD-AGE AND SURVIVORS INSURANCE TRUST FUND UNDER
H.R. 1, INTERMEDIATE-COST ESTIMATE^{a/}
(in millions)

| <u>Calendar Year</u> | <u>Contributions</u> | <u>Benefit Payments</u> | <u>Administrative Expenses</u> | <u>Railroad Retirement Financial Interchange^{b/}</u> | <u>Interest on Fund^{a/}</u> | <u>Balance in Fund at End of Year^{c/}</u> |
|--|----------------------|-------------------------|--------------------------------|---|--------------------------------------|--|
| Actual Data | | | | | | |
| 1955 | \$ 5,713 | \$ 4,968 | \$119 | -\$7 | \$ 454 | \$ 21,663 |
| 1956 | 6,172 | 5,715 | 132 | -5 | 526 | 22,519 |
| 1957 | 6,825 | 7,347 | 162 ^{d/} | -2 | 556 | 22,393 |
| 1958 | 7,566 | 8,327 | 194 ^{d/} | 124 | 552 | 21,864 |
| 1959 | 8,052 | 9,842 | 184 | 282 | 532 | 20,141 |
| 1960 | 10,866 | 10,677 | 203 | 318 | 516 | 20,324 |
| 1961 | 11,285 | 11,862 | 239 | 332 | 548 | 19,725 |
| 1962 | 12,059 | 13,356 | 256 | 361 | 526 | 18,337 |
| 1963 | 14,541 | 14,217 | 281 | 423 | 521 | 18,480 |
| 1964 ^{e/} | 15,688 | 14,902 | 300 | 403 | 565 | 19,128 |
| Estimated Data, Short-Range Estimate ^{f/} | | | | | | |
| 1965 | \$16,014 | \$16,769 | \$328 | \$399 | \$ 547 | \$ 18,193 |
| 1966 | 18,427 | 17,693 | 351 | 411 | 547 | 18,712 |
| 1967 | 19,299 | 18,506 | 353 | 477 | 568 | 19,243 |
| 1968 | 23,357 | 19,348 | 359 | 446 | 623 | 23,070 |
| 1969 | 24,491 | 20,185 | 367 | 431 | 784 | 27,362 |
| 1970 | 25,156 | 21,027 | 375 | 395 | 965 | 31,686 |
| 1971 | 26,904 | 21,879 | 383 | 387 | 1,156 | 37,097 |
| 1972 | 27,907 | 22,732 | 391 | 370 | 1,383 | 42,894 |
| Estimated Data, Long-Range Estimate ^{f/} | | | | | | |
| 1975 | \$26,839 | \$23,532 | \$390 | \$336 | \$1,638 | \$ 52,160 |
| 1980 | 28,969 | 27,373 | 431 | 162 | 2,270 | 70,477 |
| 1990 | 33,156 | 34,713 | 510 | 24 | 2,954 | 89,784 |
| 2000 | 38,457 | 38,473 | 559 | -40 | 3,460 | 105,913 |
| 2020 | 46,423 | 52,821 | 722 | -70 | 5,719 | 170,868 |

a/ An interest rate of 3.5% is used in determining the level-costs, but in developing the progress of the trust fund a varying rate in the early years has been used, which is equivalent to such fixed rate.

b/ A negative figure indicates payment to the trust fund from the Railroad Retirement Account, and a positive figure indicates the reverse.

c/ Not including amounts in the Railroad Retirement Account to the credit of the OASI Trust Fund. In millions of dollars, these amounted to \$377 for 1953, \$284 for 1954, \$163 for 1955, \$60 for 1956, and nothing for 1957 and thereafter.

d/ These figures are artificially high because of the method of reimbursements between this trust fund and the DI Trust Fund (and, likewise, the figure for 1959 is too low).

e/ Preliminary figure.

f/ See subsection III(d), page 30 for discussion of interrelationships of short-range and long-range cost estimates.

Note: Contributions include reimbursement for additional cost of noncontributory credits for military service.

Table 12

PROGRESS OF DISABILITY INSURANCE TRUST FUND UNDER
H.R. 1, INTERMEDIATE-COST ESTIMATE^{a/}
(in millions)

| <u>Calendar Year</u> | <u>Contributions</u> | <u>Benefit Payments</u> | <u>Administrative Expenses</u> | <u>Railroad Retirement Financial Interchange^{b/}</u> | <u>Interest on Fund^{a/}</u> | <u>Balance in Fund at End of Year</u> |
|--|----------------------|-------------------------|--------------------------------|---|--------------------------------------|---------------------------------------|
| Actual Data | | | | | | |
| 1957 | \$ 702 | \$ 57 | \$ 3 ^{c/} | -- | \$ 7 | \$ 649 |
| 1958 | 966 | 249 | 12 ^{c/} | -- | 25 | 1,379 |
| 1959 | 891 | 457 | 50 | -\$22 | 40 | 1,825 |
| 1960 | 1,010 | 568 | 36 | -5 | 53 | 2,289 |
| 1961 | 1,038 | 887 | 64 | 5 | 66 | 2,437 |
| 1962 | 1,046 | 1,105 | 66 | 11 | 68 | 2,368 |
| 1963 ^{a/} | 1,099 | 1,210 | 68 | 20 | 66 | 2,235 |
| 1964 ^{a/} | 1,153 | 1,318 | 80 | 20 | 64 | 2,034 |
| Estimated Data, Short-Range Estimate ^{e/} | | | | | | |
| 1965 | \$1,187 | \$1,566 | \$ 85 | \$20 | \$ 54 | \$1,604 |
| 1966 | 1,663 | 1,624 | 90 | 20 | 46 | 1,579 |
| 1967 | 1,824 | 1,685 | 95 | 20 | 46 | 1,649 |
| 1968 | 1,883 | 1,736 | 97 | 15 | 50 | 1,734 |
| 1969 | 1,944 | 1,782 | 100 | 15 | 53 | 1,834 |
| 1970 | 2,005 | 1,829 | 103 | 15 | 58 | 1,950 |
| 1971 | 2,063 | 1,871 | 106 | 15 | 62 | 2,083 |
| 1972 | 2,124 | 1,911 | 109 | 15 | 67 | 2,239 |
| Estimated Data, Long-Range Estimate ^{e/} | | | | | | |
| 1975 | \$2,037 | \$1,952 | \$103 | \$ 5 | \$ 65 | \$2,095 |
| 1980 | 2,199 | 2,118 | 106 | -3 | 72 | 2,327 |
| 1990 | 2,517 | 2,346 | 107 | -6 | 102 | 3,289 |
| 2000 | 2,919 | 2,754 | 120 | -6 | 181 | 5,650 |

a/ An interest rate of 3.5% is used in determining the level-costs, but in developing the progress of the trust fund a varying rate in the early years has been used, which is equivalent to such fixed rate.

b/ A negative figure indicates payment to the trust fund from the Railroad Retirement Account, and a positive figure indicates the reverse.

c/ These figures are artificially low because of the method of reimbursements between this trust fund and the OASI Trust Fund (and, likewise, the figure for 1959 is too high).

d/ Preliminary figure.

e/ See subsection III(d), page 30 for discussion of interrelationship of short-range and long-range cost estimates.

Note: Contributions include reimbursement for additional cost noncontributory credits for military service.

Table 13

PROGRESS OF OLD-AGE AND SURVIVORS INSURANCE TRUST FUND
 UNDER H.R. 1, LOW-COST AND HIGH-COST ESTIMATES
 (in millions)

| <u>Calendar Year</u> | <u>Contributions</u> | <u>Benefit Payments</u> | <u>Administrative Expenses</u> | <u>Railroad Retirement Financial Interchange^{a/}</u> | <u>Interest on Fund^{b/}</u> | <u>Balance in Fund at End of Year</u> |
|----------------------|----------------------|-------------------------|--------------------------------|---|--------------------------------------|---------------------------------------|
| Low-Cost Estimate | | | | | | |
| 1975 | \$27,406 | \$22,966 | \$361 | \$306 | \$2,109 | \$62,900 |
| 1980 | 29,878 | 26,442 | 398 | 127 | 3,209 | 93,005 |
| 1990 | 35,359 | 32,869 | 469 | -16 | 5,674 | 161,280 |
| 2000 | 42,157 | 35,849 | 515 | -80 | 9,772 | 276,868 |
| High-Cost Estimate | | | | | | |
| 1975 | \$26,272 | \$24,098 | \$418 | \$366 | \$1,286 | \$41,975 |
| 1980 | 28,060 | 28,304 | 464 | 197 | 1,518 | 49,288 |
| 1990 | 30,953 | 36,557 | 550 | 64 | 700 | 22,783 |
| 2000 | 34,757 | 41,096 | 603 | 0 | c/ | c/ |

a/ A negative figure indicates payment to the trust fund from the Railroad Retirement Account, and a positive figure indicates the reverse.

b/ At interest rates of 3.75% for the low-cost estimate and 3.25% for the high-cost estimate.

c/ Fund exhausted in 1994.

Note: Contributions include reimbursement for additional cost of noncontributory credits for military service.

Table 14

PROGRESS OF DISABILITY INSURANCE TRUST FUND
UNDER H.R. 1, LOW-COST AND HIGH-COST ESTIMATES
(in millions)

| <u>Calendar Year</u> | <u>Contributions</u> | <u>Benefit Payments</u> | <u>Administrative Expenses</u> | <u>Railroad Retirement Financial Interchange^{a/}</u> | <u>Interest on Fund^{b/}</u> | <u>Balance in Fund at End of Year</u> |
|----------------------|----------------------|-------------------------|--------------------------------|---|--------------------------------------|---------------------------------------|
| Low-Cost Estimate | | | | | | |
| 1975 | \$2,080 | \$1,820 | \$94 | \$2 | \$140 | \$4,120 |
| 1980 | 2,267 | 1,958 | 95 | -7 | 206 | 5,998 |
| 1990 | 2,683 | 2,161 | 94 | -11 | 435 | 12,476 |
| 2000 | 3,199 | 2,574 | 103 | -11 | 857 | 24,221 |
| High-Cost Estimate | | | | | | |
| 1975 | \$1,995 | \$2,085 | \$112 | \$8 | \$1 | \$121 |
| 1980 | 2,131 | 2,279 | 117 | 1 | c/ | c/ |
| 1990 | 2,350 | 2,531 | 120 | -1 | c/ | c/ |
| 2000 | 2,639 | 2,935 | 137 | -1 | c/ | c/ |

a/ A negative figure indicates payment to the trust fund from the Railroad Retirement Account, and a positive figure indicates the reverse.

b/ At interest rates of 3.75% for the low-cost estimate and 3.25% for the high-cost estimate.

c/ Fund exhausted in 1976.

Note: Contributions include reimbursement for additional cost of noncontributory credits for military service.

The figures in the table below show the cost to the Federal General Treasury for the blanketed-in group. The figures indicate the amount of money that would flow through the Hospital Insurance Trust Fund on the assumption that the General Treasury would reimburse the trust fund immediately after it had made its payments to the providers of the benefits. The table also shows the savings to the General Treasury and to State and local funds under the Medical Assistance for the Aged and the Old-Age Assistance programs (with respect to both insured and noninsured individuals receiving hospital and related benefits through the trust fund that would otherwise have been paid under the two assistance programs) under the assumption that the services under these programs would not be expanded; of course, if the States utilized such savings as indicated in the table to broaden their medical services, then the Federal savings shown would not materialize. The figures (in millions) are as follows:

| Calendar Year | If No Blanketing-In | | Federal Cost for HI | If Blanketing-In | | Net Federal Cost |
|------------------|---------------------|--------------------|---------------------------|---------------------|--------------------|------------------------|
| | MAA and OAA Savings | | | MAA and OAA Savings | | |
| | Federal | State and Local | | Federal | State and Local | |
| 1966 | \$50 | \$60 | \$125 | \$90 | \$110 | \$35 |
| 1967 | 120 | 130 | 255 | 200 | 230 | 55 |
| 1968 | 130 | 140 | 250 | 205 | 235 | 45 |
| 1969 | 140 | 150 | 245 | 215 | 245 | 30 |

It will be observed that for the first full calendar year of operation (1967), the estimated Federal savings in MAA and OAA would be about \$120 million with respect to insured OASDI beneficiaries (in other words, assuming that there would be no blanketing-in), while the corresponding State and local savings would be slightly higher. On the other hand, if there is blanketing-in, the corresponding figures would be a cost to the General Treasury of about \$255 million for the HI benefits (which would flow through the HI Trust Fund), but that this would be largely offset by Federal savings for MAA and OAA of about \$200 million (again, \$120 million with respect to OASDI beneficiaries and \$80 million with respect to the blanketed-in group), leaving a net Federal cost of \$55 million--as against a Federal savings of \$120 million if there were no blanketing-in. Of course, the blanketing-in would have a favorable effect on State and local finances, since then their savings in MAA and OAA would be about \$100 million higher.

Since the blanketed-in group is a closed one (with no new entrants after 1973), the cost therefor eventually disappears. The initial number of persons included in this category decreases slowly from the estimated 2.0 million in 1966 to about 1.1 million in 1970, since the effect of mortality more than offsets the increments from new persons becoming eligible as they attain age 65. The estimated cost, under dynamic-economic assumptions, remains relatively

level from 1966 to 1970--despite fewer potential beneficiaries--because of the rise in the estimated per capita cost and usage. After 1970, the number in the blanketed-in group is estimated to decrease rapidly--to about .7 million in 1975 and .3 million in 1980, and then is virtually negligible after 1990.

D. Problems Involved in Cost Estimates for Hospitalization and Related Benefits

Long-range actuarial cost estimates, by their very nature, can present the general range of future costs but cannot be a precise forecast of future experience. This fact has been taken into consideration in the cost estimates for the OASDI program over the more than quarter century of its operation. From time to time the assumptions underlying the actuarial cost estimates have been revised to take into account later available data and indications of trends. The cost estimates for the proposed program of hospitalization and related benefits are subject to similar revisions.

There is a somewhat greater relative range of probable costs for the proposed hospital benefits than for the OASDI cash benefits, which system has been paying monthly benefits for 25 years. Not only are the data incomplete for some of the various cost aspects and factors underlying the proposed hospitalization benefits as they would be provided under a social insurance system, but also service benefits quite obviously do not have costs as readily determinable as cash benefits that are directly related to covered earnings. But it should be recognized that, similarly, when the present OASDI cash benefits program was enacted in 1935, little was known about many of the factors entering into the actuarial cost estimates. Then, as now, assumptions had to be made on the basis of the data available, using the best possible actuarial judgment.

From a cost standpoint, the major benefit in the bill is the provision of hospital care. A great amount of data is available in regard to hospitalization experience of aged persons. Principal sources include the 1957 Beneficiary Surveys made by the Social Security Administration, the continuing investigations made by the National Health Survey of the Public Health Service, the 1963 Survey of the Aged made jointly by the Bureau of the Census and the Social Security Administration, and the experience of various insuring organizations such as the Blue Cross and private insurance companies. Much of this information has previously been summarized in the 1959 Hospitalization Report. Nonetheless, precise estimates are not possible because of such unknowns as the extent of hospital utilization by persons who have not had insurance in the past, but who would have benefit coverage under the provisions of the bill.

Another major difficulty in making cost estimates for hospitalization benefits is the extent to which hospital costs will rise in the future. The long-range actuarial cost estimates for the OASDI system have always assumed that earnings would be level in the future--for reasons that are described in detail elsewhere (see Actuarial Study No. 49, page 8, and the Report of the Committee on Ways and Means of the House of Representatives on the Social Security Amendments of 1961, H. Rept. No. 216, 87th Cong., April 7, 1961, pp. 14-16). This assumption means that benefit costs relative to payroll will not be affected by any rising-earnings trend that may develop, because it is assumed that the benefit structure (including the maximum earnings base that is creditable toward benefits and that is subject to contributions) will be adjusted to keep pace with the rising earnings.

When earnings levels have increased in the past (increasing both benefit outgo and tax income--the latter more than the former, because of the weighted benefit formula), this factor has been recognized in subsequent cost estimates. Any resulting net reduction in cost has been made available for the financing of the program, including proposed benefit liberalizations. Liberalizations financed entirely in this manner tend to keep the system up to date.

In considering the hospitalization-benefit costs in conjunction with a level-earnings assumption for the future, it is sufficient for the purposes of long-range cost estimates merely to analyze possible future trends in hospitalization costs relative to covered earnings. Accordingly, any study of past experience of hospitalization costs should be made on this relative basis. The actual experience in recent years has indicated, in general, that hospitalization costs have risen much more rapidly than the general earnings level, with the differential being in the neighborhood of 2.7% per year in the past decade.

One of the uncertainties in cost estimates for hospitalization benefits, then, is how long and to what extent this tendency of hospital costs to rise more rapidly than the general earnings level will continue in the future--and whether or not it may, in the long run be counterbalanced by a trend in the opposite directions. Some factors to consider are the relatively low wages of hospital employees (which have been rapidly "catching up" with the general level of wages and obviously may be expected to "catch up" completely at some future date, rather than to increase indefinitely at a more rapid rate than wages generally) and the development of new medical techniques and procedures, with resultant increased expense. In connection with the latter factor, there are possible counterbalancing factors, in that the higher costs involved for more refined and extensive treatments may be offset by better general health conditions, the development of out-of-hospital facilities (which involve lower costs), shorter durations of hospitalization, and less expense for subsequent curative treatments as a result of preventive measures. Also, it is possible that at some time in the future, the productivity of hospital personnel will increase significantly, and accordingly, as in other fields of economic activity, their wages will increase more rapidly than prices charged for hospitalization.

Perhaps the major difficulty in making, and in presenting, these actuarial cost estimates for hospitalization benefits is that--unlike for the OASDI monthly benefits--an unfavorable cost result is shown when total earnings levels rise unless the provisions of the system are kept up-to-date (insofar as the maximum taxable earnings base is concerned^{a/}). The reason for this is that there is the fundamental actuarial assumption that the

a/ If the deductibles were expressed in terms of dollars (instead of in terms of average daily hospital cost, as in the bill), there would also be the requirement that these would have to be kept up-to-date.

hospitalization costs will rise at a slightly lower rate over the long run as the total earnings level, whereas the contribution income rises less rapidly than the total earnings level since it depends on the covered earnings level, which is dampened because of the effect of the earnings base. Accordingly, it is necessary in the actuarial cost estimates for hospitalization benefits to assume either that earnings levels will be unchanged in the future or that, if earnings continue to rise (as they have done in the past), then from a given point of time, the system will be kept up-to-date insofar as the earnings base is concerned.

The other three benefits provided by the bill would have a far lower relative cost than the hospitalization benefits (assuming that the types of services provided by the different facilities remain approximately the same as at present). Accordingly, even relatively large variations in the cost estimates for these benefits would have much less effect on the overall costs of the proposal. Although these services are now being extensively provided in a number of areas, comparatively little data are available in regard to their cost for aged persons, when provided in the manner set out by the bill. In many instances, these services are not currently available because of lack of facilities (or insufficient facilities). Accordingly, the early-year costs for these benefits will be relatively low. The long-range costs, however, are determined on the assumption that sufficient, adequate facilities will be available to supply the benefits provided.

Another important factor in connection with the actuarial analysis of proposals for various types of hospitalization and related benefits is their cost-interrelationship. For example, if hospitalization benefits were provided, but post-hospital extended care were not, there would tend to be more utilization of the hospitalization benefits because an individual would be more likely to stay longer in a hospital (at little or no cost to him) rather than to enter an extended care facility operating at lower cost, but with the full amount to be paid by him. Similarly, if there were no outpatient hospital diagnostic benefits provided in the bill, and if there were no deductible in the hospitalization benefits, there would be a financial incentive for an individual to enter a hospital (with resulting higher cost) to obtain these services without cost to him.

Likewise, the availability of home health services can reduce hospitalization-benefit costs in certain cases. Otherwise, an individual might enter a hospital, or stay in it longer, if in doing so there were less cost to him personally than in obtaining home health services. On the other hand, the home health services, when available, will undoubtedly be utilized by many persons who would not otherwise have been in hospitals.

In the same way, the presence (or absence) of a deductible provision for one benefit can influence not only the cost of that benefit, but also the costs of other types of benefits.

Actuarial Studies Available from the Division of the Actuary*

40. The Financial Principle of Self-Support in the OASI System--April 1955.
41. Analysis of Benefits, OASI Program, 1954 Amendments--May 1955.
43. Estimated Amount of Life Insurance in Force as Survivor Benefits under OASI--1955--September 1955.
44. Analysis of 157 Group Annuity Plans Amended in 1950-54--July 1956.
45. Present Values of OASI Benefits in Current Payment Status 1940-56--May 1957.
46. Illustrative United States Population Projections--May 1957.
47. Estimated Amount of Life Insurance in Force as Survivor Benefits under OASI--1957--July 1958.
48. Long-Range Cost Estimates for Old-Age, Survivors, and Disability Insurance under 1956 Amendments--August 1958.
49. Methodology Involved in Developing Long-Range Cost Estimates for the Old-Age, Survivors, and Disability Insurance System--May 1959.
50. Analysis of Benefits, OASDI Program, 1960 Amendments--December 1960.
51. Present Values of OASI Benefits in Current Payment Status, 1960--February 1961.
52. Actuarial Cost Estimates for Health Insurance Benefits Bill--July 1961.
53. Medium-Range Cost Estimates for Old-Age, Survivors, and Disability Insurance and Increasing-Earnings Assumption--August 1961.
54. Estimated Amount of Life Insurance in Force as Survivor Benefits under OASI 1959-60--October 1961.
55. Remarriage Tables Based on Experience under OASDI and U.S. Employees' Compensation Systems--December 1962.
56. Analysis of Benefits under 26 Selected Private Pension Plans--January 1963.
57. Actuarial Cost Estimates for Hospital Insurance Bill--July 1963.
58. Long-Range Cost Estimates for Old-Age, Survivors, and Disability Insurance System, 1963--January 1964.

*Numbers not listed are out of print.

89TH CONGRESS
1ST SESSION

H. R. 4351

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1965

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

A BILL

To establish a program of voluntary comprehensive health insurance for all persons aged 65 or over.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Comprehensive Health
5 Insurance Act for the Aged".

6 **SEC. 2. STATEMENT OF PURPOSE.**

7 It is the purpose of this Act to establish a program of
8 comprehensive health insurance for all persons aged 65 or
9 over on a uniform basis throughout the United States, with
10 participation in the program being entirely voluntary and

1 with the cost of the program being shared by the individual
2 participants and the Federal Government.

3 **TITLE I—ESTABLISHMENT OF PRO-**
4 **GRAM; INSURANCE BENEFIT**
5 **PROVIDED**

6 **SEC. 101. ESTABLISHMENT OF COMPREHENSIVE HEALTH**
7 **INSURANCE PROGRAM FOR THE AGED.**

8 There is hereby established a comprehensive health
9 insurance program which will provide health insurance
10 benefits, in accordance with the provisions of this Act, for
11 individuals who are 65 years of age or over and who elect
12 to participate in such program.

13 **SEC. 102. BENEFITS.**

14 (a) **IN GENERAL.**—The benefits provided to an indi-
15 vidual by the insurance program established by this Act
16 shall consist of cash payments, in amounts determined under
17 section 103, for the reasonable and customary expenses of
18 the following medical care and services furnished to him:

19 (1) Room and board in a hospital or nursing home
20 (subject to section 103 (e)), including meals and special
21 diets and general nursing care, and including any charges
22 made as a condition of occupancy and any other items
23 (except the professional services of doctors) for which
24 charges are made at a daily or weekly rate.

25 (2) Other services and supplies which are furnished

1 by a hospital for treatment in the hospital or its out-
2 patient department or by a nursing home for the care or
3 treatment of patients therein, including drugs, medicines,
4 laboratory work, and the use of operating and recovery
5 rooms, and for which the hospital or nursing home
6 charges in its own behalf.

7 (3) Surgical and medical services and supplies
8 other than those specified in paragraphs (1) and (2),
9 whether provided in or out of a hospital or nursing
10 home, as follows:

11 (A) professional services of doctors (includ-
12 ing surgery, consultations, and home, office, and
13 hospital calls), or (subject to subsection (b)) of
14 Christian Science practitioners;

15 (B) professional services of registered nurses,
16 and services of licensed practical nurses and Chris-
17 tian Science nurses to the extent provided in sub-
18 section (c) ;

19 (C) diagnostic X-ray and laboratory tests,
20 electrocardiograms, basal metabolism readings, elec-
21 troencephalograms, and other tests that reveal need
22 for treatment or are made because of definite symp-
23 toms of disease or injury;

24 (D) anesthetics, oxygen, blood and blood de-
25 rivatives not donated or replaced, and intravenous

1 injections and solutions, and the administration
2 thereof;

3 (E) X-ray, radium, and radioactive isotope
4 therapy, including materials and services of techni-
5 cians;

6 (F) surgical dressings, splints, casts, and other
7 devices used for reduction of fractures and disloca-
8 tions;

9 (G) rental of durable medical equipment (in-
10 cluding iron lungs, oxygen tents, hospital beds, and
11 wheelchairs) ;

12 (H) professional ambulance service to the first
13 hospital where treated, from that hospital to another
14 in the area if necessary treatment is not available
15 at the first hospital, and from the hospital to a nurs-
16 ing home or to the patient's home (or from the
17 nursing home to the patient's home) if required by
18 the patient's condition;

19 (I) drugs and medicines which may be pur-
20 chased only upon a doctor's prescription;

21 (J) services of a qualified psychologist for a
22 mental, psychoneurotic, or personality disorder in
23 accordance with specific instructions as to type and
24 duration by a doctor of medicine specializing in
25 neurosurgery or psychiatry;

1 (K) services of a qualified physical therapist
2 for administration of physical therapy in accordance
3 with specific instructions as to type and duration
4 by a doctor;

5 (L) prosthetic devices, other than dental, which
6 replace all or part of an internal body organ, in-
7 cluding replacement of such devices;

8 (M) leg, arm, back, and neck braces, and arti-
9 ficial legs, arms, and eyes, including replacements
10 if required because of a change in the patient's
11 physical condition;

12 (N) hearing aids, and examinations therefor, if
13 required to correct an impairment directly caused
14 by an accident and obtained within 120 days thereof;

15 (O) eyeglasses and examinations therefor, if
16 required to correct an impairment directly caused by
17 accidental ocular injury or intraocular surgery and
18 obtained within 1 year thereof (but not including
19 spare eyeglasses); and

20 (P) dental work and oral surgery (including
21 dental materials), subject to subsection (d).

22 (b) SERVICES OF CHRISTIAN SCIENCE PRACTITION-
23 ERS.—Benefits shall be paid with respect to services pro-
24 vided an individual by Christian Science practitioners during
25 any calendar year instead of with respect to services provided

1 such individual by doctors during such year if the individual
2 so elects at the time he files his first claim for such benefits
3 during such year. For purposes of this subsection, no person
4 shall be considered a Christian Science practitioner with
5 respect to the provision of any services unless he is listed as
6 such in the Christian Science Journal at the time he provides
7 such services.

8 (c) LICENSED PRACTICAL NURSES AND CHRISTIAN
9 SCIENCE NURSES.—

10 (1) LICENSED PRACTICAL NURSES.—Benefits may
11 be paid with respect to services provided by a licensed
12 practical nurse only if (A) such services are provided
13 in a hospital or nursing home which uses licensed practi-
14 cal nurses for private duty nursing, or (B) a doctor has
15 prescribed 24-hour nursing service and a combination of
16 registered nurses and licensed practical nurses is used
17 for that purpose; except that the Secretary may by regu-
18 lation provide for the payment of benefits with respect
19 to services of a licensed practical nurse in such other
20 cases (including cases where a doctor certifies that the
21 professional services of a registered nurse were medically
22 necessary but unobtainable) as he deems appropriate.

23 (2) CHRISTIAN SCIENCE NURSES.—Benefits may
24 be paid with respect to services provided by a Christian

1 Science nurse only if such nurse is listed in the Christian
2 Science Journal (current at the time such services are
3 provided) as having completed nurses' training at a
4 Christian Science Benevolent Association Sanatorium,
5 or as a graduate of another nurses' training course, or
6 as having had 3 consecutive years of Christian Science
7 nursing including 2 years of training.

8 (d) DENTAL WORK AND ORAL SURGERY.—Benefits
9 described in subsection (a) (3) may be paid with respect
10 to dental work and oral surgery (including dental materials)
11 only for the following:

12 (1) Prompt repair of accidental injury to natural
13 teeth.

14 (2) Reduction of fractures of the jaw or facial
15 bones.

16 (3) Correction of harelip or cleft palate.

17 (4) Correction of protruding mandible by cutting
18 surgery.

19 (5) Removal of stones from salivary ducts.

20 (6) Excision of impacted teeth that are not com-
21 pletely erupted, bony cysts of the jaw, torus palatinus,
22 leukoplakia, or malignant tissue.

23 (7) Freeing of muscle attachments.

24 (8) Other cutting surgery on tissues of the mouth,

1 other than the gums, when not performed in connec-
2 tion with the extraction of teeth.

3 Benefits described in subsections (a) (1) and (a) (2) may
4 be paid with respect to any dental work or oral surgery.

5 (e) SPECIAL RULE ON CONDITIONS OF THE FOOT.—

6 Benefits described in subsection (a) (3) may not be paid
7 with respect to—

8 (1) treatment (other than by an open cutting
9 operation) of weak, strained, or flat foot, of any in-
10 stability or imbalance of the foot, or of any metatar-
11 salgia or bunion, or

12 (2) treatment of corns, calluses, or toenails (in-
13 cluding cutting or removal, but not including partial
14 or complete removal of nail roots), except when pre-
15 scribed by a doctor of medicine who is treating the
16 individual involved for a metabolic disease (such as
17 diabetes mellitus) or a peripheral-vascular disease (such
18 as arteriosclerosis).

19 **SEC. 103. PAYMENT OF BENEFITS.**

20 (a) GENERAL RULE.—Subject to the succeeding pro-
21 visions of this section, the Secretary shall pay to each in-
22 dividual who is covered under the insurance program estab-
23 lished by this Act, and who during a calendar year incurs
24 expenses for which benefits are payable under section 102,
25 amounts equal to—

1 (1) 100 percent of the reasonable and customary
2 expenses incurred for care and services described in sec-
3 tion 102 (a) (1), to the extent that such expenses in-
4 curred in such year to not exceed \$1,000;

5 (2) 80 percent of the reasonable and customary
6 expenses incurred for care and services described in
7 section 102 (a) (1) to the extent that such expenses
8 incurred in such year exceed \$1,000;

9 (3) 80 percent of the reasonable and customary
10 expenses incurred for items described in section 102 (a)
11 (2) ; and

12 (4) 80 percent of the reasonable and customary
13 expenses for items described in section 102 (a) (3) .

14 (b) DEDUCTIBLE.—Before applying subsection (a)
15 with respect to expenses incurred by any individual during
16 any calendar year, the total amount of the expenses incurred
17 by such individual during such year which are described in
18 paragraphs (3) and (4) of such subsection (and which
19 would otherwise constitute expenses for which benefits could
20 be paid under this title) shall be reduced by a deductible of
21 \$50; except that—

22 (1) the expenses described in paragraph (3) of
23 such subsection shall not be reduced by more than \$25,
24 and

25 (2) the amount of the deductible for such calendar

1 year as determined under the preceding provisions of
2 this subsection shall be reduced by the amount of any
3 expenses which were incurred by such individual in the
4 last three months of the preceding calendar year and
5 applied toward such individual's deductible for such
6 preceding year.

7 (c) MAXIMUM BENEFITS.—

8 (1) GENERAL RULE.—Except as provided in the
9 succeeding provisions of this subsection, the maximum
10 amount which can be paid to any individual over his
11 lifetime under the insurance program established by this
12 Act shall be \$40,000, and the amount remaining pay-
13 able to such individual under such program at any given
14 time shall be \$40,000 minus the total of the benefits
15 theretofore paid to him under such program.

16 (2) AUTOMATIC RESTORATION.—On January 1 of
17 each year, each individual who has theretofore been paid
18 any benefits under the insurance program established by
19 this Act shall automatically have the amount remaining
20 payable to him over his lifetime under paragraph (1)
21 increased by whichever of the following is smaller:

22 (A) \$1,000, or

23 (B) the amount necessary to increase such
24 amount remaining payable under the program to
25 \$40,000.

1 (3) REINSTATEMENT.—Whenever the maximum
2 amount specified in paragraph (1) has been reduced
3 by \$1,000 or more, it may be increased to \$40,000 at
4 any time upon submission of satisfactory evidence of
5 insurability to the Secretary.

6 (d) SPECIAL LIMITATION ON BENEFITS FOR MENTAL
7 AND NERVOUS DISORDERS.—Notwithstanding any other
8 provision of this Act, the maximum amount of benefits
9 which may be paid on account of expenses incurred during
10 any calendar year for doctors' services, psychologists' serv-
11 ices, and prescribed drugs in connection with the treatment
12 of mental, psychoneurotic, and personality disorders of an
13 individual who is not a hospital inpatient at the time such
14 expenses are incurred shall be whichever of the following is
15 smaller:

16 (1) \$250, or

17 (2) 50 percent of such expenses.

18 (e) ROOM AND BOARD BENEFITS LIMITED IN CASE
19 OF PRIVATE WARD ACCOMMODATIONS.—Expenses of room
20 and board with respect to which benefits may be paid under
21 section 102 (a) (1) shall include those incurred for semi-
22 private or ward accommodations. In the case of an individ-
23 ual occupying private accommodations, the expenses of such
24 accommodations shall be taken into account for purposes of
25 determining such benefits only to the extent that they do

1 not exceed the cost of the average semiprivate accommoda-
2 tions in the hospital or nursing home involved, or (in the
3 case of a hospital or nursing home offering private accom-
4 modations only) the cost of the average semiprivate accom-
5 modations in the most comparable hospital or nursing home
6 in the area as determined in accordance with regulations of
7 the Secretary.

8 (f) CONFINEMENTS ON EFFECTIVE DATE OF COVER-
9 AGE.—The maximum amount of benefits which may be paid
10 on account of expenses incurred during any calendar year to
11 any individual who is confined to a hospital or nursing home
12 on the date on which the enrollment under which he is
13 covered under the insurance program established by this Act
14 becomes effective shall be \$1,000. The preceding sentence
15 shall cease to apply with respect to such individual when he
16 has been free of confinement in a hospital or nursing home
17 for thirty-one consecutive days.

18 (g) DOUBLE COVERAGE.—In any case where an in-
19 dividual is covered under the insurance program established
20 by this Act and is also entitled to benefits with respect to
21 some or all of the same expenses under one or more other
22 plans (public or private), no benefits may be paid under the
23 insurance program established by this Act to the extent
24 that benefits are payable with respect to the expenses in-

1 volved (or with respect to the care or services to which
2 such expenses relate) under such other plan or plans.

3 **SEC. 104. EXCLUSIONS FROM COVERAGE.**

4 Notwithstanding any other provision of this title, no
5 benefits may be paid to any individual under the insurance
6 program established by this Act on account of expenses in-
7 curred for care, treatment, services, or supplies—

8 (1) which are not reasonably necessary for the
9 treatment of illness or injury or to improve the function-
10 ing of a malformed body member;

11 (2) to the extent that such expenses are not rea-
12 sonable and customary;

13 (3) which are not recommended and approved by
14 a doctor who is practicing within the scope of his license;

15 (4) for which there is no legal obligation to pay, or
16 for which no charge would be made if the individual
17 were not covered under such program;

18 (5) which are paid for directly or indirectly by a
19 governmental entity, except in such cases as the Secre-
20 tary may specify;

21 (6) for which any national or local government
22 prohibits payment;

23 (7) which are required as a result of occupational
24 disease or injury for which any benefit is payable under

1 workmen's compensation or similar laws or would be so
2 payable if proper claim therefor were made;

3 (8) which is required as a result of war, or of an act
4 of war, occurring after the effective date of such indi-
5 vidual's current coverage under the program;

6 (9) which constitute personal comfort items;

7 (10) where such expenses are for routine physical
8 checkups, routine eye examinations, or immunizations;

9 (11) where such expenses are for orthopedic shoes
10 or other supportive devices for the feet;

11 (12) where such expenses are for dental work or
12 oral surgery, treatment of conditions of the foot, or eye-
13 glasses or hearing aids or examinations therefor, except
14 as otherwise specifically provided in section 102;

15 (13) where such expenses are for custodial care;
16 except that if an individual receives custodial care in
17 a hospital or nursing home during a confinement re-
18 quired because of a concurrent condition (whether re-
19 lated to the condition requiring custodial care or not)
20 which requires medical care or services with respect
21 to which benefits would otherwise be paid to such
22 individual, then benefits may be paid with respect to
23 hospital or nursing home expenses incurred during such
24 confinement to the extent that the expenses of such
25 medical care or services exceed the customary charges

1 of the hospital or nursing home for custodial care alone;

2 (14) where such expenses are for cosmetic surgery
3 or are incurred in connection therewith, except as re-
4 quired for the prompt repair of accidental injury or for
5 improvement of the functioning of a malformed body
6 member;

7 (15) which are provided by rest homes, sana-
8 toriums, or other institutions that are not hospitals or
9 nursing homes;

10 (16) where such expenses constitute charges
11 imposed by immediate relatives of such individual or
12 members of his household; except that this paragraph
13 shall not apply with respect to charges imposed by a
14 registered nurse for one 8-hour shift out of each 24-hour
15 continuous nursing period, if satisfactory proof is fur-
16 nished that such nurse would otherwise be gainfully
17 employed as a nurse; or

18 (17) which are provided by practitioners who are
19 not doctors, or by psychologists or physical therapists,
20 except as otherwise specifically provided in section 102.

21 **SEC. 105. DEFINITIONS.**

22 As used in this title—

23 (1) DOCTOR.—The term “doctor” means—

24 (A) a duly licensed doctor of medicine,

25 (B) a duly licensed doctor of osteopathy,

1 (C) a surgeon or other specialist who other-
2 wise satisfies this paragraph,

3 (D) a duly licensed dentist (for purposes of
4 dental work and oral surgery with respect to which
5 benefits may be paid under the program), and

6 (E) a duly licensed podiatrist or chiropodist
7 (for purposes of foot conditions with respect to
8 which benefits may be paid under the program).

9 (2) HOSPITAL.—The term “hospital” means an
10 institution which is engaged primarily in providing, for
11 compensation from its patients, facilities for diagnosis
12 and treatment of bed patients under the supervision of a
13 staff of doctors and which provides the services of regis-
14 tered nurses 24 hours a day. Such term includes sana-
15 toriums for the care and treatment of tuberculosis and of
16 mental, psychoneurotic, and personality disorders if they
17 satisfy the preceding sentence, and hospitals of the
18 Armed Forces and the Public Health Service even
19 though they do not provide facilities for compensation
20 from their patients. In addition, such term includes—

21 (A) Christian Science sanatoriums operated,
22 or listed and certified, by the First Church of Christ,
23 Scientist, Boston, Massachusetts.

24 (B) St. Elizabeths Hospital, Washington,
25 District of Columbia;

1 (C) in cases of confinement for at least 18
2 hours for an operation which, in the judgment of the
3 Secretary, would normally require hospitalization,
4 any clinic which (i) is operated by a doctor, (ii)
5 has 3 or more beds for overnight patients, (iii) pro-
6 vides facilities (including anesthetic) for minor sur-
7 gery, (iv) is equipped to do general X-ray and
8 laboratory examinations, and (v) has a registered
9 nurse or a doctor in attendance during the confine-
10 ment; and

11 (D) institutions in a foreign country which
12 meet the common requirements of that country for a
13 hospital.

14 (3) NURSING HOME.—The term “nursing home”
15 means an institution (or a distinct part of an institution)
16 which—

17 (A) is primarily engaged in providing to inpa-
18 tients (i) skilled nursing care and related services
19 for patients who require medical or nursing care or
20 (ii) rehabilitation services,

21 (B) has policies, which are developed with the
22 advice of (and with the provision of review of such
23 policies from time to time by) a group of profes-
24 sional personnel, including one or more physicians
25 and one or more registered professional nurses, to

1 govern the skilled nursing care and related medical
2 or other services it provides,

3 (C) has a physician, a registered professional
4 nurse, or a medical staff responsible for the execution
5 of such policies.

6 (D) has a requirement that every patient must
7 be under the care of a physician and makes provision
8 in emergencies when such physician is not available
9 for another physician to be available,

10 (E) maintains clinical records on all patients,

11 (F) provides 24-hour nursing service which is
12 sufficient to meet nursing needs in accordance with
13 the policies developed as provided in subparagraph
14 (B), and has at least one registered professional
15 nurse employed full time,

16 (G) provides appropriate methods and proce-
17 dures for the dispensing and administering of drugs
18 and biologicals, and

19 (H) in the case of an institution in any State
20 in which State or applicable local law provides for
21 the licensing of institutions of this nature, (i) is
22 licensed pursuant to such law, or (ii) is approved,
23 by the agency of such State or locality responsible
24 for licensing institutions of this nature, as meet-
25 ing standards established for such licensing.

1 In addition, such term includes an institution which pro-
2 vides nursing care and services or rehabilitation services
3 but does not satisfy all of the foregoing conditions if
4 (i) the Secretary determines that adequate facilities in
5 institutions satisfying such conditions are not available
6 in the area involved and (ii) such institution meets such
7 conditions relating to the health and safety of individuals
8 who are furnished services therein or relating to the
9 physical facilities thereof as the Secretary may specify.

10 (4) CUSTODIAL CARE.—The term “custodial care”
11 means the provision of room and board (with or without
12 routine nursing care, training in personal hygiene and
13 other forms of self-care, or supervisory care by a doctor,
14 and whether or not in a hospital or nursing home) for
15 a person who is physically or mentally disabled as a
16 result of retarded development or body infirmity and who
17 is not under specific medical, surgical, or psychiatric
18 treatment to reduce his disability and to enable him to
19 live outside an institution providing such care.

20 (5) CALENDAR YEAR.—The term “calendar year”
21 means the 12-month period which begins on January 1
22 and runs through the following December 31; except
23 that in the case of an individual newly covered under
24 the insurance program established by this Act, such term
25 means (for the year in which such coverage begins)

1 the period which begins on the effective date of his
2 coverage and runs through December 31 of such year.

3 **SEC. 106. MISCELLANEOUS PROVISIONS RELATING TO**
4 **BENEFITS.**

5 (a) **ALLOCATION OF ROOM AND BOARD EXPENSES**
6 **WHERE NOT SEPARATELY STATED.**—In the case of any
7 hospital or nursing home which makes a flat daily charge (or
8 other single all-inclusive charge) for its facilities and does
9 not state its charges for room and board separately from its
10 charges for other services, the Secretary shall determine the
11 portion of such charge which shall be regarded as expenses
12 of room and board, and the portion which shall be regarded
13 as other hospital or nursing home expenses, for purposes of
14 section 102 (a) ; except that—

15 (1) if the hospital or nursing home uses a flat
16 daily charge which does not vary with length of stay,
17 60 percent of such daily charge shall be regarded as the
18 charge for room and board; and

19 (2) if the hospital or nursing home uses a flat
20 daily charge which decreases as the length of stay in-
21 creases, 90 percent of the lowest such flat daily charge
22 shall be regarded as the charge for room and board.

23 In any case, the amount regarded as the daily charge for

1 room and board under the preceding sentence shall be at
2 least \$10, or the full amount of the flat daily charge if it is
3 less than \$10; and any portion of the flat daily charge that is
4 not regarded as a charge for room and board under the
5 preceding sentence shall be regarded as other hospital or
6 nursing home expenses for purposes of section 102 (a).

7 (b) **TIME EXPENSES ARE INCURRED.**—For purposes
8 of this title, an expense shall be deemed to have been incurred
9 on the date on which the care, treatment, service, or supply
10 involved is received.

11 (c) **PROCEDURE FOR PAYMENT OF CLAIMS.**—The Sec-
12 retary shall by regulation prescribe such procedures for filing
13 claims and receiving payment of benefits under the insurance
14 program established by this Act, including procedures by
15 which an individual may authorize the payment of such bene-
16 fits directly to the person or institution providing the care,
17 treatment, services, or supplies involved, as may be necessary
18 or appropriate to carry out the purpose of this Act. Pay-
19 ment of benefits under such program on account of expenses
20 incurred by any individual may be made directly to such
21 individual only upon presentation of satisfactory evidence
22 that the person or institution providing the care, treatment,
23 services, or supplies involved has been paid therefor.

1 **TITLE II—ELIGIBILITY; ENROLL-**
2 **MENT; PREMIUMS; AGREEMENTS**
3 **WITH STATES**

4 **PART I—ELIGIBILITY**

5 **SEC. 201. ELIGIBLE INDIVIDUALS.**

6 Every individual who—

7 (1) has attained the age of 65, and

8 (2) is a resident of the United States, and is either
9 a citizen or an alien lawfully admitted for permanent
10 residence,

11 is eligible to participate in the insurance program estab-
12 lished by this Act.

13 **PART II—INDIVIDUAL PARTICIPANTS**

14 **SEC. 221. ENROLLMENT PERIODS.**

15 (a) **IN GENERAL.**—Except as provided in section 241,
16 an individual may participate in the insurance program
17 established by this Act only by enrolling, in such manner
18 and form as the Secretary may by regulations prescribe,
19 during an enrollment period prescribed in or under this
20 section.

21 (b) **INITIAL GENERAL ENROLLMENT PERIOD.**—In the
22 case of an individual who attains age 65 before the first day
23 of the fourth month which begins after the date of the
24 enactment of this Act, the initial enrollment period shall

1 begin on the first day of the first month which begins after
2 such date of enactment and shall end 6 months later.

3 (c) ENROLLMENT ON ATTAINING AGE 65.—In the
4 case of an individual who attains age 65 on or after the first
5 day of the fourth month which begins after the date of the
6 enactment of this Act, his initial enrollment period shall
7 begin on the first day of the third month before the month
8 in which he attains such age and shall end 7 months later.

9 (d) SUBSEQUENT GENERAL ENROLLMENT PERIODS.—
10 Each general enrollment period after the period described
11 in subsection (b) shall be such period of 3 consecutive cal-
12 endar months as may be prescribed by the Secretary; ex-
13 cept that no such subsequent general enrollment period shall
14 begin less than 2 years after the date on which the imme-
15 diately preceding general enrollment period (under this
16 subsection or subsection (b), as the case may be) began.

17 **SEC. 222. BENEFIT PERIOD.**

18 (a) BEGINNING OF PERIOD.—Except as provided in
19 part III, the period during which an individual is entitled
20 to benefits under the insurance program established by this
21 Act (hereinafter referred to as his “benefit period”) shall
22 begin on a date provided in regulations prescribed by the
23 Secretary, except that no individual’s benefit period shall be-
24 gin before whichever of the following is the latest:

1 (1) January 1, 1966;

2 (2) the first day of the second month following the
3 month in which he enrolls pursuant to section 221; or

4 (3) the first day of the first month following the
5 month in which he attains age 65.

6 (b) END OF PERIOD.—Except as provided in part III,
7 an individual's benefit period shall continue until terminated—

8 (1) by the filing of notice, during a general en-
9 rollment period described in section 221 (d) , that the in-
10 dividual no longer wishes to participate in the insurance
11 program established by this Act,

12 (2) for nonpayment of premiums, or

13 (3) because replaced by coverage under an agree-
14 ment entered into under part III.

15 The date of the termination of the benefit period shall be
16 determined under regulations prescribed by the Secretary,
17 which regulations may include a grace period (not in ex-
18 cess of 90 days) in which overdue premiums may be paid
19 and coverage continued.

20 (c) EXPENSES MUST BE INCURRED IN BENEFIT
21 PERIOD.—No benefits may be paid to any individual under
22 this Act with respect to any expenses unless such expenses
23 were incurred by such individual during a period which,
24 with respect to him, is a benefit period.

1 **SEC. 223. AMOUNT OF PREMIUMS.**

2 (a) **INDIVIDUALS ENTITLED TO MONTHLY BENEFITS**
3 **UNDER TITLE II OF THE SOCIAL SECURITY ACT.**—Except
4 as otherwise provided in this section, in the case of an in-
5 dividual who is entitled to a monthly benefit under title II of
6 the Social Security Act, the monthly premium for participa-
7 tion in the insurance program established by this Act shall be
8 an amount equal to the sum of—

9 (1) 10 percent of so much of such monthly bene-
10 fit as does not exceed the first figure in column IV of
11 the table in section 215 (a) of the Social Security Act,
12 and

13 (2) 5 percent of so much of such monthly benefit
14 as exceeds such first figure.

15 For purposes of this subsection, the monthly benefit shall be
16 determined after the application of any reduction or deduc-
17 tion under section 202 (q) (relating to reduction by reason
18 of age of beneficiary), 203 (a) (relating to reduction by
19 reason of family maximum), 203 (b), (c), or (d) (relat-
20 ing to deduction by reason of work), or any other provision
21 of title II of the Social Security Act.

22 (b) **INDIVIDUALS ENTITLED TO RAILROAD RETIRE-**
23 **MENT ANNUITIES AND PENSIONS.**—Except as otherwise
24 provided in this section, in the case of an individual who is

1 eligible for, and has applied for, an annuity or pension under
2 the Railroad Retirement Act of 1937, the monthly premium
3 for participation in the insurance program established by
4 this Act shall be the amount which would be determined
5 under subsection (a) if the monthly amount of such annuity
6 or pension constituted a monthly benefit under title II of
7 the Social Security Act; except that such monthly premium
8 shall not exceed the maximum monthly premium then deter-
9 minable with respect to an individual described in subsection
10 (a) (or, where applicable, with respect to a husband and
11 wife entitled to monthly benefits under title II of the Social
12 Security Act described in subsection (c)). For purposes
13 of the preceding sentence, the monthly amount of any
14 annuity or pension shall be determined after the application
15 of any reduction or deduction under section 5 (i) (relating
16 to deductions from annuities) or any other provision of the
17 Railroad Retirement Act of 1937. This subsection shall
18 not apply with respect to any individual to whom subsection
19 (a) applies.

20 (c) REDUCED PREMIUM IN THE CASE OF CERTAIN
21 HUSBANDS AND WIVES.—In the case of a husband and
22 wife—

23 (1) both of whom are entitled to monthly benefits
24 under title II of the Social Security Act on the basis
25 of the same individual's wages and self-employment

1 income, or both of whom are eligible for, and have
2 applied for, annuity or pension under the Railroad
3 Retirement Act of 1937 on the basis of the same
4 individual's compensation, and

5 (2) the current benefit period of each of whom
6 began pursuant to enrollment during his or her initial
7 enrollment period determined under subsection (b) or
8 (c) of section 221,

9 subsection (a) of this section shall be applied with respect
10 to their combined monthly benefits or their combined an-
11 nuities or pensions. Paragraph (1) of the preceding sen-
12 tence shall be deemed satisfied only if the wages and self-
13 employment income or compensation described therein is
14 that of the husband or wife.

15 (d) INDIVIDUALS WHO ARE ELIGIBLE FOR, BUT
16 HAVE NOT APPLIED FOR, TITLE II BENEFITS OR RAIL-
17 ROAD RETIREMENT ANNUITIES.—In the case of an indi-
18 vidual who has not applied for any monthly benefits under
19 title II of the Social Security Act or for any annuity or
20 pension under the Railroad Retirement Act of 1937 but who,
21 upon application, would be entitled to such a benefit, annuity,
22 or pension, the monthly premium shall be determined under
23 the preceding provisions of this section as if he had applied
24 therefor; except that (1) the monthly premium shall be
25 determined on the basis of the monthly benefit or monthly

1 annuity or pension to which he would have been entitled if
2 he had applied therefor in the month in which he enrolls for
3 participation (during his current benefit period) in the in-
4 surance program established by this Act, and (2) if he
5 would upon application be entitled to more than one such
6 benefit, annuity, or pension, the monthly premium shall be
7 determined as if he had applied for the benefit, annuity, or
8 pension which would be least in amount.

9 (e) OTHER INDIVIDUAL PARTICIPANTS.—Except as
10 otherwise provided in this section, in the case of an individ-
11 ual who is not an individual described in subsections (a),
12 (b), or (d), the monthly premium for participation in the
13 insurance program established by this Act shall be the
14 maximum monthly premium then determinable with respect
15 to an individual described in subsection (a). In the case
16 of a husband and wife both of whom are described in the
17 preceding sentence, if the current benefit period of each
18 began pursuant to an enrollment during his or her initial
19 enrollment period determined under subsection (b) or (c)
20 of section 221, then their monthly premium shall be the
21 maximum monthly premium then determinable with respect
22 to a husband and wife described in subsection (a) of this
23 section to whom subsection (c) of this section applies.

24 (f) INCREASED RATES FOR INDIVIDUALS WHO DO
25 NOT ENROLL DURING INITIAL ENROLLMENT PERIOD.—

1 In the case of an individual whose current benefit period
 2 began pursuant to an enrollment after his initial enrollment
 3 period (determined pursuant to subsection (b) or (c) of
 4 section 221), the monthly premium determined under sub-
 5 section (a), (b), (d), or (e) (whichever applies) shall
 6 be increased by a percentage determined in accordance with
 7 the following table:

| If participation begins— | The percentage increase shall be: |
|--|--|
| Before he attains age 68----- | 10. |
| After he attains age 68 but before he attains age 70----- | 20. |
| After he attains age 70 but before he attains age 72----- | 30. |
| After he attains age 72----- | 40. |

8 The preceding sentence shall not apply to an individual
 9 previously covered by an agreement with a State entered
 10 into pursuant to section 241, where his current benefit period
 11 began pursuant to an enrollment within such time (not in
 12 excess of ninety days) after he ceased to be eligible for such
 13 coverage as the Secretary may by regulations prescribe.

14 (g) ROUNDING.—If any monthly premium determined
 15 under the foregoing provisions of this section is not a mul-
 16 tiple of 10 cents, such premium shall be rounded to the next
 17 lower multiple of 10 cents.

18 **SEC. 224. PAYMENT OF PREMIUMS.**

19 (a) DEDUCTIONS FROM SOCIAL SECURITY BENEFITS;

1 TRANSFERS FROM FEDERAL OLD-AGE AND SURVIVORS
2 INSURANCE TRUST FUND.—

3 (1) DEDUCTIONS.—In the case of an individual
4 who is entitled (or upon application would be entitled)
5 to a benefit for any month under title II of the Social
6 Security Act, his monthly premium for such month
7 under the insurance program established by this Act
8 shall be collected by deducting the amount of such
9 premium from the amount of such benefit. If the
10 amount of the monthly benefit which is payable to him
11 for such month is less than the amount of the monthly
12 premium (by reason of failure to apply for monthly
13 benefits, by reason of the application of section 203
14 (b) (c), or (d) of such Act (relating to deductions on
15 account of work), or for any other reason) the differ-
16 ence shall be deemed to have been deducted from his
17 monthly benefit.

18 (2) TRANSFERS.—The Secretary of the Treasury
19 shall, from time to time, transfer from the Federal Old-
20 Age and Survivors Insurance Trust Fund to the Com-
21 prehensive Health Insurance Fund for the Aged the
22 aggregate amount deducted (or deemed deducted) under
23 this subsection for the period to which such transfer
24 relates. Such transfer shall be made on the basis of a
25 certification by the Secretary of Health, Education, and

1 Welfare and shall be appropriately adjusted to the ex-
2 tent that prior transfers were too great or too small.

3 (b) DEDUCTIONS FROM RAILROAD RETIREMENT AN-
4 NUITIES OR PENSIONS; TRANSFERS FROM RAILROAD RE-
5 TIREMENT ACCOUNT.—

6 (1) DEDUCTIONS.—In the case of an individual
7 who is entitled (or upon application would be entitled)
8 to receive for a month an annuity or pension under the
9 Railroad Retirement Act of 1937, his monthly premium
10 for such month under the insurance program established
11 by this Act shall be collected by deducting the amount
12 of such premium from such annuity or pension. If the
13 amount of the annuity or pension which is payable to
14 him for such month is less than the amount of such
15 monthly premium (by reason of failure to apply for
16 annuity or pension or for any other reason), the differ-
17 ence shall be deemed to have been deducted from such
18 annuity or pension.

19 (2) TRANSFERS.—The Secretary of the Treasury
20 shall, from time to time, transfer from the Railroad Re-
21 tirement Account to the Comprehensive Health Insur-
22 ance Fund for the Aged the aggregate amount deducted
23 (or deemed deducted) under this subsection for the
24 period to which such transfer relates. Such transfer
25 shall be made on the basis of a certification by the Rail-

1 road Retirement Board and shall be appropriately ad-
2 justed to the extent that prior transfers were too great
3 or too small.

4 (c) OTHER INDIVIDUAL PARTICIPANTS.—In the case
5 of an individual who participates in the insurance program
6 established by this Act but with respect to whom neither sub-
7 section (a) nor subsection (b) applies, the premiums shall
8 be paid to the Secretary at such times, and in such manner,
9 as the Secretary shall by regulations prescribe.

10 (d) PREMIUMS DURING WAITING PERIOD.—In the
11 case of an individual who enrolls pursuant to section 221 in
12 the insurance program established by this Act, monthly
13 premiums shall be payable commencing with the month
14 immediately preceding the beginning of his benefit period;
15 except that this subsection shall not apply to (1) any month
16 before 1966, or (2) the month in which the individual
17 attains age 65.

18 **SEC. 225. THIS PART NOT TO APPLY TO INDIVIDUALS**
19 **COVERED BY STATE AGREEMENTS.**

20 Under regulations prescribed by the Secretary, sections
21 223 and 224 shall not apply to the monthly premium of an
22 individual for any month for which the premium is payable
23 with respect to such individual pursuant to an agreement
24 with a State entered into under section 241. Section 223 (c)
25 shall not apply with respect to a husband and wife if the

1 premium is payable with respect to either of them pursuant
2 to such an agreement; and the preceding sentence shall be
3 applied to them separately.

4 **PART III—AGREEMENTS WITH STATES**

5 **SEC. 241. STATE ACTION TO PROVIDE PARTICIPATION UN-**
6 **DER ITS OLD-AGE ASSISTANCE, AID TO THE**
7 **AGED, BLIND, OR DISABLED, OR MEDICAL AS-**
8 **SISTANCE FOR THE AGED PROGRAM.**

9 (a) **AGREEMENTS.**—The Secretary shall, at the request
10 of a State made at least three months before the beginning
11 of any calendar year, enter into an agreement with such
12 State pursuant to which all eligible individuals (within the
13 meaning of section 201) in any one or more of the cover-
14 age groups described in subsection (b) (as specified in the
15 agreement) will participate, during such calendar year, in
16 the insurance program established by this Act.

17 (b) **COVERAGE GROUPS.**—An agreement entered into
18 with any State pursuant to subsection (a) may be applica-
19 ble to any one or more of the following groups:

20 (1) Individuals qualified for old-age assistance un-
21 der the plan of such State approved under title I of the
22 Social Security Act.

23 (2) Individuals qualified for medical assistance for
24 the aged under the plan of such State approved under
25 title I of such Act.

1 (3) Individuals qualified for aid to the aged, blind,
2 or disabled under the plan of such State approved under
3 title XVI of such Act.

4 (4) Individuals qualified for medical assistance for
5 the aged under the plan of such State approved under
6 title XVI of such Act.

7 (c) EXCEPTION FOR INDIVIDUALS ENTITLED TO SO-
8 CIAL SECURITY OR RAILROAD RETIREMENT BENEFITS.—
9 Notwithstanding subsection (a), any agreement entered into
10 with a State pursuant to this section may exclude from
11 coverage thereunder (and from any coverage group) any
12 individual who is entitled (or upon application would be
13 entitled) to monthly insurance benefits under title II of the
14 Social Security Act, or who is entitled to receive (or upon
15 application would be entitled to receive) an annuity or
16 pension under the Railroad Retirement Act of 1937.

17 (d) ENTITLEMENT TO INSURANCE BENEFITS UNDER
18 STATE AGREEMENTS.—

19 (1) ENROLLMENT AND BEGINNING OF BENEFIT
20 PERIOD.—

21 (A) INDIVIDUALS RECEIVING ASSISTANCE OR
22 AID IN FORM OF MONEY PAYMENTS.—Any individ-
23 ual who during a calendar year receives old-age
24 assistance or aid to the aged, blind, or disabled
25 in the form of money payments, as a member of a

1 coverage group included under an agreement en-
2 tered into pursuant to this section, shall be deemed
3 to have enrolled in the insurance program estab-
4 lished by this Act, and shall become entitled to
5 benefits under such program pursuant to such agree-
6 ment, on the first day of the first month in such year
7 for which he receives such assistance or aid.

8 (B) CERTAIN INDIVIDUALS ENTITLED TO
9 BENEFITS IN PRECEDING YEAR.—Any individual
10 who is qualified in the first month of a calendar year
11 for any assistance or aid as a member of a coverage
12 group included under an agreement entered into
13 pursuant to this section for any calendar year, and
14 who was entitled to benefits under the insurance
15 program established by this Act for the last month
16 of the preceding calendar year (pursuant to an
17 agreement entered into under this section with the
18 same State), shall be deemed to have enrolled in
19 the insurance program established by this Act, and
20 shall become entitled to benefits under such program
21 pursuant to such agreement, on the first day of such
22 year, unless he elects (in such manner and form as
23 the State agency may prescribe) not to be covered
24 by such program for such year.

25 (C) OTHER INDIVIDUALS QUALIFIED FOR

1 ASSISTANCE OR AID.—Any individual, other than
2 an individual to whom subparagraph (A) or (B)
3 applies, who during a calendar year is qualified for
4 any assistance or aid as a member of a coverage
5 group included under an agreement entered into
6 pursuant to this section may enroll in the insurance
7 program established by this Act, under such agree-
8 ment, at any time and in such manner and form as
9 the State agency may prescribe; and he shall become
10 entitled to benefits under such program pursuant to
11 such agreement on the first day of the second month
12 after the month in which such enrollment occurs or
13 on the first day of such year, whichever is later.

14 (2) END OF BENEFIT PERIOD.—Any individual
15 who has become entitled, pursuant to State agreement
16 as provided in paragraph (1), to benefits under the in-
17 surance program established by this Act in any calendar
18 year shall cease to be so entitled (subject to paragraph
19 (3)) on the last day of such year, or, if he ceases before
20 that time to be qualified for assistance or aid as a mem-
21 ber of any coverage group included under the agree-
22 ment, at the close of the month immediately preceding
23 the first month in such year (after the first month for
24 which he was so qualified) for which he is not so
25 qualified.

1 (3) GRACE PERIOD.—If an individual becomes en-
2 titled in any calendar year to benefits under the insur-
3 ance program established by this Act pursuant to an
4 agreement entered into under this section, but his bene-
5 fit period ends before the close of such year, such in-
6 dividual shall (notwithstanding section 221) be per-
7 mitted to enroll as an individual participant in the
8 insurance program established by this Act at any time
9 before the close of the third month following the last
10 month of such benefit period, and he shall (notwith-
11 standing paragraph (2) of this subsection) continue to
12 be entitled to benefits pursuant to (and to have the
13 payment of his premiums governed by) such agreement
14 until—

15 (A) the first day on which he is entitled to
16 benefits under the insurance program established
17 by this Act pursuant to his enrollment under this
18 paragraph,

19 (B) the close of the third month following the
20 last month of such benefit period, or

21 (C) the last day of such year (but only if the
22 coverage group of which he was a member is not
23 included under an agreement entered into by the
24 State pursuant to this section for the following
25 calendar year),

1 whichever is the earliest. For purposes of section
2 223 (c), an individual's enrollment under this paragraph
3 shall be considered an enrollment during his initial
4 enrollment period determined under section 221 (c).

5 (e) **INDIVIDUALS CHANGING COVERAGE GROUPS DUR-**
6 **ING A YEAR.**—If an individual is entitled in any calendar
7 year as a member of any coverage group to benefits under
8 the insurance program established by this Act pursuant to
9 an agreement entered into under this section, and subse-
10 quently (during such year) becomes a member of a differ-
11 ent coverage group which is also included under such agree-
12 ment (while remaining continuously qualified for assistance
13 or aid), such individual shall be deemed to remain continu-
14 ously enrolled in (and to be continuously entitled to benefits
15 under) the insurance program established by this Act.

16 (f) **QUALIFIED INDIVIDUAL DEFINED.**—For purposes
17 of this section, an individual shall be considered as qualified
18 for old-age assistance, aid to the aged, blind, or disabled,
19 or medical assistance for the aged at any time if at such
20 time he is receiving, or upon incurring costs for necessary
21 medical services and making application would receive,
22 such assistance or aid; except that the State, in determining
23 the standards to be applied under title I or XVI of the
24 Social Security Act with respect to assistance or aid pro-
25 vided by means of the insurance program established by

1 this Act, may provide that no individual will be considered
2 to have income and resources insufficient to meet the costs
3 of necessary medical services unless such income and re-
4 sources are insufficient (taking into account other necessary
5 living expenses recognized under the State plan) to meet
6 the costs of the premiums which would be payable with
7 respect to his coverage under the insurance program estab-
8 lished by this Act, as determined under section 223.

9 **SEC. 242. PREMIUMS FOR INDIVIDUALS PARTICIPATING**
10 **PURSUANT TO STATE AGREEMENT.**

11 (a) **AMOUNT OF PREMIUM.**—The monthly premium
12 payable on behalf of each individual participating in the
13 insurance program established by this Act pursuant to an
14 agreement with a State entered into under section 241 shall
15 be in an amount equal to the average monthly premium
16 payable under such program (by deduction under section
17 224 (a)) by individuals who are entitled to monthly benefits
18 under title II of the Social Security Act, as determined and
19 promulgated in the manner provided by subsection (b).

20 (b) **DETERMINATION OF AMOUNT.**—The Secretary
21 shall determine and promulgate, as of July 1 of each odd-
22 numbered year, the amount of the average monthly premium
23 paid for the month of June in such year (by deduction from
24 benefits under section 224 (a)) by individuals entitled to
25 monthly benefits under title II of the Social Security Act.

1 (except that in 1965 the Secretary shall determine such
2 amount by estimating the average monthly premium that
3 would have been so paid for June 1965 if the insurance pro-
4 gram established by this Act had then been in effect, and
5 may promulgate such amount at any time within 60 days
6 after the date of the enactment of this Act). The amount
7 so determined and promulgated in any year shall be effective
8 for purposes of subsection (a) for the two following calendar
9 years.

10 (c) **FIRST MONTH FOR WHICH PREMIUM PAYABLE.—**

11 In the case of an individual covered under the insurance pro-
12 gram established by this Act pursuant to an agreement
13 entered into under this part, monthly premiums shall be
14 payable commencing with the first month of his benefit
15 period if he is deemed to have enrolled under subparagraph
16 (A) or (B) of section 241 (d) (1) or commencing with
17 the month preceding the first month of his benefit period if
18 he enrolled under subparagraph (C) of such section; except
19 that no premium shall be payable for (1) any month before
20 1966, or (2) the month in which the individual attains
21 age 65.

22 **SEC. 243. PAYMENTS BY STATES.**

23 In the case of a State which has entered into an agree-
24 ment under section 241, the premiums determined under sec-
25 tion 242 with respect to coverage under such agreement

1 shall be paid at such times and in such manner as may be
2 provided in such agreement and shall be deposited in the
3 Comprehensive Health Insurance Fund for the Aged.

4 **PART IV—GOVERNMENT CONTRIBUTIONS**

5 **SEC. 261. AUTHORIZATION OF APPROPRIATIONS.**

6 There are hereby authorized to be appropriated from
7 time to time, out of any moneys in the Treasury not other-
8 wise appropriated, to the Comprehensive Health Insurance
9 Fund for the Aged, such funds as may be necessary to
10 insure—

11 (1) the prompt payment of all benefits provided
12 by this Act,

13 (2) the payment of all administrative expenses
14 which, under this Act, are payable out of such Fund,
15 and

16 (3) the maintenance of a proper contingency re-
17 serve in such Fund.

18 **TITLE III—ADMINISTRATIVE, ETC.,**
19 **PROVISIONS**

20 **PART I—COMPREHENSIVE HEALTH INSURANCE**
21 **FUND FOR THE AGED**

22 **SEC. 301. ESTABLISHMENT OF FUND.**

23 There is hereby created on the books of the Treasury
24 of the United States a trust fund to be known as the “Com-
25 prehensive Health Insurance Fund for the Aged” (herein-

1 after in this part referred to as the "Fund"). The Fund
2 shall consist of such amounts as may be deposited in, or ap-
3 propriated to, such fund as provided in title II.

4 **SEC. 302. MANAGEMENT OF FUND.**

5 The Secretary of the Treasury shall manage the Fund.

6 It shall be his duty to—

7 (1) Hold the Fund;

8 (2) Report to the Congress not later than the first
9 day of March of each year on the operation and status
10 of the Fund during the preceding fiscal year and on its
11 expected operation and status during the next ensuing
12 5 fiscal years;

13 (3) Report immediately to the Congress whenever
14 he is of the opinion that the amount of the Fund is un-
15 duly small; and

16 (4) Review the general policies followed in man-
17 aging the Fund, and recommend changes in such poli-
18 cies, including necessary changes in the provisions of the
19 law which govern the way in which the Fund is to be
20 managed.

21 The report provided for in paragraph (2) shall include a
22 statement of the assets of, and the disbursements made from,
23 the Fund during the preceding fiscal year, an estimate of
24 the expected future income to, and disbursements to be made

1 from, the Fund during each of the next ensuing 5 fiscal years,
2 and a statement of the actuarial status of the Fund. Such
3 report shall be printed as a House document of the session of
4 the Congress to which the report is made.

5 **SEC. 303. INVESTMENT OF MONEYS IN THE FUND.**

6 The Secretary of the Treasury is authorized to invest
7 and reinvest any of the moneys in the Fund in interest-bear-
8 ing obligations of the United States and to sell such obliga-
9 tions of the United States for the purposes of the Fund.
10 The interest on and the proceeds from the sale of any such
11 obligations shall become a part of the Fund.

12 **SEC. 304. DISBURSEMENTS FROM FUND.**

13 The Secretary of the Treasury shall pay from time to
14 to time from the Fund such amounts as the Secretary of
15 Health, Education, and Welfare certifies are necessary (1)
16 to pay the benefits provided by this Act, and (2) to pay the
17 fees and handling charges imposed by carriers for their
18 services under contracts entered into pursuant to section 322.

19 **PART II—ADMINISTRATION OF INSURANCE**
20 **PROGRAM**

21 **SEC. 321. FUNCTIONS OF THE DEPARTMENT OF HEALTH,**
22 **EDUCATION, AND WELFARE.**

23 Except as otherwise provided in this Act, the insurance
24 program established by this Act shall be administered by the
25 Secretary, acting through the Surgeon General. The Secre-

1 tary shall prescribe such regulations as may be necessary to
2 carry out the administration of such program.

3 **SEC. 322. USE OF CARRIERS TO PROCESS AND PAY**
4 **CLAIMS.**

5 (a) **IN GENERAL.**—To the maximum extent practi-
6 cable, the processing and payment of claims under the insur-
7 ance program established by this Act shall be performed by
8 the Secretary through contracts with carriers. For such
9 purpose, the Secretary is authorized, without regard to sec-
10 tion 3709 of the Revised Statutes or any other provision of
11 law requiring competitive bidding, to enter into contracts
12 with carriers. Contracts entered into under this section shall
13 contain or be subject to such terms and conditions (includ-
14 ing requirements for the bonding of any of the carriers' offi-
15 cers and employees who certify payments or disburse funds)
16 as the Secretary may consider necessary or appropriate to
17 ensure that the purposes of this Act will be carried out.
18 Each such contract shall be for a uniform term of at least
19 one year, but may be made automatically renewable from
20 term to term in the absence of notice by either party of in-
21 tention to terminate at the end of the current term; except
22 that the Secretary may terminate any such contract at any
23 time (upon such notice, and after such opportunity for hear-
24 ing to the carrier involved, as he may provide in regulations)
25 if he finds that the carrier has failed substantially to carry out

1 the contract or is carrying out the contract in a manner incon-
2 sistent with the efficient administration of the insurance pro-
3 gram established by this Act. To the extent feasible, con-
4 tracts under this section shall be entered into with carriers
5 in such numbers, of such types, and in such geographical
6 locations as will assure individuals participating in such pro-
7 gram of a wide selection of easily accessible services in con-
8 nection with such participation.

9 (b) CARRIER DEFINED.—For purposes of this Act, the
10 term “carrier” means a voluntary association, corporation,
11 partnership, or other nongovernmental organization which is
12 lawfully engaged in providing, paying for, or reimbursing
13 the cost of, health services under group insurance policies
14 or contracts, medical or hospital service agreements, mem-
15 bership or subscription contracts, or similar group arrange-
16 ments, in consideration of premiums or other periodic charges
17 payable to the carrier, including a health benefits plan duly
18 sponsored or underwritten by an employee organization.

19 PART III—MISCELLANEOUS

20 SEC. 341. DETERMINATIONS; APPEALS.

21 (a) BY INSURED.—

22 (1) DETERMINATION OF ENTITLEMENT AND
23 AMOUNT OF BENEFITS.—The determination of whether
24 an individual is entitled to benefits under this Act, and

1 the amount of such benefits, shall be made by the Sec-
2 retary in accordance with regulations prescribed by him.

3 (2) **HEARING AND REVIEW.**—Any individual dis-
4 satisfied with any determination under paragraph (1)
5 shall be entitled to a hearing thereon by the Secretary
6 to the same extent as is provided in section 205 (b) of
7 the Social Security Act, and to judicial review of the
8 Secretary's final decision after such hearing as is pro-
9 vided in section 205 (g) of such Act.

10 (b) **BY CARRIERS, PROVIDERS OF SERVICES, AND**
11 **STATES.**—The district courts of the United States shall have
12 original jurisdiction, concurrent with the Court of Claims, of
13 any civil action or claim of a carrier, a provided of services,
14 or a State against the United States founded upon this Act.

15 **SEC. 342. STUDIES, REPORTS, AND AUDITS.**

16 (a) **CONTINUING STUDY.**—The Secretary shall make a
17 continuing study of the operation and administration of the
18 insurance program established by this Act.

19 (b) **CONTRACTS WITH CARRIERS.**—The Secretary shall
20 include provisions in contracts with carriers which would re-
21 quire carriers to (1) furnish such reasonable reports as the
22 Secretary determines to be necessary to enable him to carry
23 out his functions under this Act, and (2) permit the Secre-
24 tary and representatives of the General Accounting Office to

1 examine records of the carriers as may be necessary to carry
2 out the purposes of this Act.

3 (c) REPORTS TO CONGRESS.—The Secretary shall trans-
4 mit to the Congress annually a report concerning the opera-
5 tion of the insurance program established by this Act.

6 **SEC. 343. ADVISORY COUNCIL ON HEALTH INSURANCE**
7 **FOR THE AGED.**

8 (a) IN GENERAL.—For the purpose of advising the Sec-
9 retary on matters of general policy in the administration of
10 the insurance program established by this Act, there is hereby
11 created an Advisory Council on Health Insurance for the
12 Aged, which shall consist of the Secretary, the Surgeon Gen-
13 eral, three representatives of the general public, one repre-
14 sentative of the carriers qualified to participate in the program
15 under section 322, and at least five representatives of the
16 medical, nursing, hospital, and other health professions. The
17 Secretary shall appoint the members of the Council (other
18 than himself and the Surgeon General), and shall serve as
19 Chairman of the Council. No appointed member shall be an
20 individual otherwise in the employ of the United States.
21 Each appointed member shall serve for a term of 2 years,
22 except that any member appointed to fill a vacancy prior to
23 the expiration of the term for which his predecessor was ap-
24 pointed shall be appointed for the remainder of such term.

1 The Council shall meet as frequently as the Secretary deems
2 necessary; but it shall be the duty of the Secretary to call
3 a meeting of the Council upon the request of any 4 members.

4 (b) SPECIAL COMMITTEES.—The Secretary may, at
5 the request of the Council or otherwise, appoint such special
6 advisory or technical committees as may be useful in carry-
7 ing out this Act.

8 (c) COMPENSATION.—Appointed members of the
9 Council, and members of any special advisory or technical
10 committee appointed under subsection (b), while attending
11 meetings or conferences thereof or otherwise serving on the
12 business of the Council or such committee, shall be entitled
13 to receive compensation at rates fixed by the Secretary, but
14 not exceeding \$100 per day, including travel time, and while
15 so serving away from their homes or regular places of busi-
16 ness they may be allowed travel expenses, including per
17 diem in lieu of subsistence, as authorized by section 5 of the
18 Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for
19 persons in the Government service employed intermittently.

20 **SEC. 344. APPROPRIATIONS FOR ADMINISTRATIVE EX-**
21 **PENSES.**

22 There are authorized to be appropriated such sums as
23 may be necessary for the administrative expenses incurred
24 by the Secretary of Health, Education, and Welfare and

1 the Secretary of the Treasury in carrying out their respective
2 functions and duties under this Act.

3 **SEC. 345. PENALTIES.**

4 Whoever, with the intent to defraud any person, shall
5 make or cause to be made any false representation concern-
6 ing the requirements of this Act or the insurance program
7 established by this Act, or of any rules or regulations issued
8 thereunder, knowing such representations to be false, shall
9 be deemed guilty of a misdemeanor, and, upon conviction
10 thereof, shall be punished by a fine not exceeding \$1,000, or
11 by imprisonment not exceeding one year, or both.

12 **SEC. 346. SUSPENSION IN CASE OF CERTAIN ALIENS;**
13 **INELIGIBILITY OF PERSONS CONVICTED OF**
14 **SUBVERSIVE ACTIVITIES.**

15 (a) **SUSPENSION IN CASE OF CERTAIN ALIENS.**—No
16 benefits shall be paid under this Act with respect to expenses
17 incurred by an individual during any month for which such
18 individual may not be paid monthly benefits under title II
19 of the Social Security Act (or for which such monthly bene-
20 fits would be suspended if he were otherwise entitled thereto)
21 by reason of section 202 (t) of such Act (relating to sus-
22 pension of benefits of aliens who are outside the United
23 States).

24 (b) **INELIGIBILITY OF PERSONS CONVICTED OF SUB-**

1 **VERSIVE ACTIVITIES.**—No benefits shall be paid under this
2 Act with respect to any individual convicted of any offense
3 under (1) chapter 37 (relating to espionage and censor-
4 ship), chapter 105 (relating to sabotage), or chapter 115
5 (relating to treason, sedition, and subversive activities) of
6 title 18 of the United States Code, or (2) section 4, 112, or
7 113 of the Internal Security Act of 1950, as amended.

8 **SEC. 347. AMENDMENTS TO TITLES I AND XVI OF THE**
9 **SOCIAL SECURITY ACT TO ASSURE CONFORM-**
10 **ITY WITH THIS ACT.**

11 (a) **STANDARDS FOR DETERMINING ELIGIBILITY FOR**
12 **AND EXTENT OF ASSISTANCE.**—

13 (1) **UNDER TITLE I.**—Section 2 (a) of the Social
14 Security Act is amended by inserting at the end
15 thereof (after and below paragraph (11)) the following
16 new sentence:

17 “Standards determined in accordance with section 241 (f)
18 of the Comprehensive Health Insurance Act for the Aged
19 shall be deemed to satisfy paragraphs (10) (B) and (11)
20 (D) of this subsection to the extent that they relate to old-
21 age assistance in the form of medical or other remedial care,
22 or medical assistance for the aged, as the case may be,
23 which is provided by means of insurance under part III of
24 title II of such Act.”

25 (2) **UNDER TITLE XVI.**—Section 1602 (a) of such

1 Act is amended by adding at the end thereof the fol-
 2 lowing new sentence: "Standards determined in accord-
 3 ance with section 241 (f) of the Comprehensive Health
 4 Insurance Act for the Aged shall be deemed to satisfy
 5 paragraph (13) of this subsection to the extent that
 6 they relate to aid to the aged, blind, or disabled in the
 7 form of medical or other remedial care, or medical as-
 8 sistance for the aged, as the case may be, which is
 9 provided by means of insurance under part III of title
 10 II of such Act."

11 (b) AMENDMENTS TO DEFINITIONS OF ASSISTANCE
 12 OR AID.—

13 (1) OLD-AGE ASSISTANCE UNDER TITLE I.—Sec.
 14 tion 6 (a) of the Social Security Act is amended—

15 (A) by striking out "but does not include"
 16 and inserting in lieu thereof "but (subject to the
 17 last sentence of this subsection) such term does not
 18 include"; and

19 (B) by adding at the end thereof (after and
 20 below paragraph (3)) the following new sentence:
 21 "Such term also includes the payment of monthly premiums
 22 to provide medical or remedial care by means of insurance
 23 under part III of title II of the Comprehensive Health Insur-
 24 ance Act for the Aged (or under any other plan if the
 25 provision of such care by means of such other plan is consist-

1 ent with the provisions of this title other than this
2 sentence).”

3 (2) MEDICAL ASSISTANCE FOR THE AGED UNDER
4 TITLE I.—Section 6 (b) of such Act is amended—

5 (A) by striking out “except that such term”
6 and inserting in lieu thereof “except that (subject
7 to the last sentence of this subsection) such term”;
8 and

9 (B) by adding at the end thereof (after and
10 below subdivision (B)) the following new
11 sentence:

12 “Such term also includes the payment of monthly premiums
13 to provide care and services by means of insurance under
14 part III of title II of the Comprehensive Health Insurance
15 Act for the Aged (or under any other plan if the provision
16 of such care and services by means of such other plan is con-
17 sistent with the provisions of this title other than this
18 sentence).”

19 (3) AID TO THE AGED, BLIND, OR DISABLED UNDER
20 TITLE XVI.—Section 1605 (a) of such Act is amended—

21 (A) by striking out “but does not include”
22 and inserting in lieu thereof “but (subject to the
23 last sentence of this subsection) such term does not
24 include”; and

1 (B) by adding at the end thereof (after and
 2 below paragraph (3)) the following new sentence:
 3 “Such term also includes the payment of monthly premiums
 4 to provide medical or remedial care for individuals who are
 5 65 years of age or over by means of insurance under part
 6 III of title II of the Comprehensive Health Insurance Act
 7 for the Aged (or under any other plan if the provision of
 8 such care by means of such other plan is consistent with the
 9 provisions of this title other than this sentence).”

10 (4) MEDICAL ASSISTANCE FOR THE AGED UNDER
 11 TITLE XVI.—Section 1605 (b) of such Act is amended—

12 (A) by striking out “except that such term”
 13 and inserting in lieu thereof “except that (subject
 14 to the last sentence of this subsection) such term”;
 15 and

16 (B) by adding at the end thereof (after and
 17 below subdivision (B)) the following new sen-
 18 tence:

19 “Such term also includes the payment of monthly premiums
 20 to provide care and services by means of insurance under
 21 part III of title II of the Comprehensive Health Insurance
 22 Act for the Aged (or under any other plan if the provision
 23 of such care and services by means of such other plan is con-

1 sistent with the provisions of this title other than this sen-
2 tence).”

3 (c) **EFFECTIVE DATE.**—The amendments made by this
4 section shall be effective with respect to expenditures made
5 for months after December 1965.

6 **SEC. 348. DEFINITION OF “SECRETARY”.**

7 As used in this Act, except where the context indicates
8 otherwise, the term “Secretary” means the Secretary of
9 Health, Education, and Welfare.

10 **SEC. 349. EFFECTIVE DATE.**

11 The insurance program established by this Act shall be
12 effective with respect to expenses incurred on and after Jan-
13 uary 1, 1966.

89TH CONGRESS
1ST SESSION

H. R. 4351

A BILL

To establish a program of voluntary comprehensive health insurance for all persons aged 65 or over.

By Mr. BYRNES of Wisconsin

FEBRUARY 4, 1965

Referred to the Committee on Ways and Means

in effect. It will cover up to \$40,000 of expenses.

The administration plan is compulsory. This plan is voluntary and every citizen over 65, without a means test, will be eligible for coverage under it.

The administration plan is inequitable. It requires wage earners to pay a regressive payroll tax chargeable to the lowest levels of income to provide medical benefits for others—a tax misleadingly justified on the basis that workers are prepaying for their own care. This plan will mainly be financed from two sources—the beneficiaries themselves based upon their ability to pay, and by the Federal Government through general revenues derived from taxes collected on the same principle. In addition, provision will be made for the States to share in financing full participation for the medically indigent.

The administration plan endangers the adequacy of retirement, death, and disability benefits under the social security system by pushing the regressive payroll tax to the limits of acceptability. The insurance concept of this plan, its method of financing, and its administration are completely independent of the social security system. Social security benefits are used merely as a test of ability to pay the individual contribution. The social security system's only involvement is the assignment of a specified percentage of an individual's social security benefits to a health insurance fund administered by the Secretary of the Treasury.

In summary, the administration's medicare proposal is unsound and dangerous. Its enactment would start us down a path from which there is no returning—the path toward regimented and deteriorating medical care. We propose a solution which we believe is typically American—comprehensive, fair, voluntary, and oriented to individual freedom and initiative. This is the way to meet the urgent needs of our elder citizens in the financing of medical care.

In brief outline, the plan would work as follows:

All persons aged 65 or over would be eligible, on a uniform basis, for insurance protection equivalent to the Government-wide indemnity benefit plan. Their participation would be voluntary; there would be no means test. Enrollment would be during an initial enrollment period, followed by periodic enrollment periods.

For those under social security—or railroad retirement—enrollment would be exercised by an assignment of a premium contribution to be taken out of, or checked off, the individual's current social security benefit. Those not under social security would execute an application accompanying it with their initial premium contribution. State agencies would be granted an option to purchase the insurance for their old-age assistance and medical assistance for the aged recipients at a group rate.

Premium contributions by individuals would be based upon the cash benefits which they would either receive, or be entitled to receive, upon reaching age 65.

COMPREHENSIVE HEALTH CARE PLAN

(Mr. BYRNES of Wisconsin (at the request of Mr. DON H. CLAUSEN) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BYRNES of Wisconsin. Mr. Speaker, I am today introducing a bill to provide for comprehensive health insurance for all persons aged 65 and over on a uniform basis throughout the United States. The cost of the program will be shared by the individual participants and the Federal Government. The program will be entirely voluntary.

I am happy to state that joining me today in the introduction of identical bills are Hon. JAMES B. UTT, of California; Hon. JACKSON E. BETTS, of Ohio; Hon. HERMAN T. SCHNEEBELI, of Pennsylvania; Hon. HAROLD R. COLLIER, of Illinois; Hon. MELVIN R. LAIRD, of Wisconsin; Hon. BEN REIFEL, of South Dakota; Hon. WILLIAM L. DICKINSON, of Alabama.

The plan will more adequately meet the medical needs of the aged than the administration's medicare proposal. It will be more equitable. It will not endanger the soundness of the social security system. It will be voluntary instead of compulsory.

The administration plan is generally limited to hospital and nursing home expenses. This plan will cover both hospital and nursing home care and surgical and medical expenses. It is both comprehensive in scope and comprehensive

The premium would be 10 percent of the minimum social security benefit and 5 percent of the balance. Those receiving the lowest social security benefits would pay the least. The average premium contribution on the basis of today's benefit levels would be \$6 per month per person. Persons not under social security would pay a premium equivalent to the maximum contribution of an individual under social security. The remainder of the cost of the insurance would be paid by the Federal Government out of general revenues.

Benefits would be paid out of a national health insurance fund. The fund would receive as deposits the contributions of individuals, contributions from the social security system and Railroad Retirement Board on behalf of individuals covered under those systems, State contributions for OAA and MAA recipients, and annual appropriations from the Federal Treasury. The Secretary of the Treasury would administer the fund. The insurance program would be administered by the Department of Health, Education, and Welfare, which would be charged with general administration, recordkeeping, and so forth, but would not process the claims or bills of hospitals, physicians, and the like. The Surgeon General would contract with private agencies—Blue Cross-Blue Shield, for example—which would process and pay the claims of those furnishing services and would then be reimbursed from the national health insurance fund.

DESCRIPTION OF COMPREHENSIVE HEALTH INSURANCE BILL

SUMMARY OF BENEFITS

The program will provide for comprehensive health insurance equivalent to the medical services available to Government employees under the high option of the Governmentwide indemnity plan, modified in order to meet the special needs of the aged.

The benefits under the program will greatly exceed the benefits provided for in the King-Anderson bill (H.R. 1). The program provides for full coverage of the first \$1,000 of hospital—or nursing home—room and board plus 80 percent of any balance. This is the equivalent to 50 days in the hospital or 100 days of a qualified nursing home without a deductible.

In addition, the program provides for 80 percent of all other hospital, surgical, and medical expenses, after a deductible of \$50, of which only \$25 will apply to other hospital charges. This includes professional services of doctors, such as surgery, consultations, and home, office, and hospital calls, professional services of registered nurses, diagnostic services, rental of medical equipment, ambulance service, and prescribed drugs and medicines.

The program covers the catastrophic illness, with up to \$40,000 in benefits. No longer will the life savings of an elderly person be wiped out because of a major illness.

The program will pay the actual charges for the service, subject to the reasonable and customary test used by private insurers.

Except for the liberalization of the coverage of hospital room and board to include nursing homes, the program is in all respects identical to the high option of the governmentwide indemnity plan offered to Federal employees. This means that an individual can undergo major surgery and have paid in full the first \$1,000 of hospital room and board plus 80 percent of all other hospital and medical expense incident to that operation after a deductible of not more than \$50. In addition, the program will cover 80 percent of all posthospital medical expense after the deductible of \$50 has been exceeded by prior expense, including the \$25 deductible applicable to the hospital charges.

METHOD OF FINANCING

The program would be financed by a graduated premium contribution by the individual participants based on ability to pay, supplemented by an annual appropriation from the general revenues.

By including a contribution or premium charge, the cost of the program is shared by those who receive the benefits and by the Government.

Unlike the King-Anderson bill, the program does not rely upon a regressive payroll tax for financing. The program thus avoids the dangerous fiction inherent in the King-Anderson bill that, through the use of a payroll tax, today's workers and their employers are prepaying the cost of health protection for their later years. The fact is that the regressive payroll tax will be financing the cost of medicare for those currently over 65. Under our program, the Government's share of this cost will be paid from the general funds of the Government.

ELIGIBILITY FOR COVERAGE

All persons upon attaining age 65 will be eligible for coverage on a voluntary basis. Following enactment of the program, there will be a 6-month enrollment period during which all persons 65 years of age and over will be eligible to elect to participate. Thereafter, there will be periodic enrollment periods. All persons upon reaching age 65 will have 7 months within which to elect to participate.

Under the King-Anderson bill, all persons aged 65 and over—except Federal employees—are automatically covered regardless of their wishes in the matter. This results in the inclusion of persons opposed to such coverage, for example, the Amish, Christian Scientists, as well as those already covered by group insurance programs.

The voluntary concept avoids excess coverage. Since there is a cost to the insured, those who already have adequate programs paid for by their former employers or through associations and the like, may decide not to participate in the Government-sponsored program. The automotive workers, the chemical workers, and other large industrial groups, have fully paid comprehensive health plans for retired workers. To the extent that these do not participate, the cost to the Government is reduced.

MANNER OF ELECTION

For those under social security—or railroad retirement—the election will be

exercised by authorizing a "check-off" or assignment of the prescribed premium contribution out of the individual's current monthly social security benefit. An election by those not under social security—or railroad retirement—will be evidenced by execution of an application for participation in the program and the payment of premium contributions.

BASIS FOR PREMIUM CONTRIBUTIONS

The premium contributions by the participants are graduated according to ability to pay as evidenced by their old-age insurance benefit. The premium is an amount equal to 10 percent of the minimum cash benefit of a primary beneficiary—currently \$40 per month—plus 5 percent of the additional cash benefit payable to the primary beneficiary and his spouse—if over age 65. This will result in an average premium contribution of \$6 per month per person.

If an individual otherwise entitled to receive cash benefits under social security is ineligible for such benefits—or such benefits are reduced—on account of the earnings test, this will not affect the individual's contribution. The amount of the individual's contribution will be paid by the Social Security Administrator to the insurance program irrespective of earnings. To this extent, there is an automatic liberalization of the earnings test.

At the existing level of social security cash benefits, the premium contributions required for select benefit levels would be as follows:

| <i>Monthly benefit of aged family unit and monthly health contribution</i> | |
|--|--------|
| \$40 (single worker)----- | \$4.00 |
| \$60 ¹ ----- | 5.00 |
| \$75----- | 5.75 |
| \$105----- | 7.25 |
| \$150----- | 9.50 |
| \$190 ² ----- | 11.60 |

¹ Present monthly minimum of \$40 for worker and \$20 for wife.

² Present monthly maximum of \$127 for worker and \$63 for wife.

Railroad retirement contributions would be based upon the same formula as the social security contributions, up to the maximum payable by social security participants.

For a couple receiving the maximum social security benefit—currently \$190—the cost of the insurance will be \$11.50 per month. A couple receiving the minimum social security benefit—currently \$60—will be able to buy the same health insurance at a cost of \$5 per month. The amount of the Government subsidy thus varies with the economic status of the individual, as measured by social security benefits.

At the conference on the social security amendments bill of 1964, it was virtually agreed that OASI cash benefits should be increased by 7 percent with a minimum increase of \$5 per month. We can assume that an increase will be enacted this year at least equal in amount. This will provide the OASI beneficiaries with additional funds required to participate in the insurance program.

Persons who are not under social security may participate by a premium contribution equal in amount to the maxi-

mum contribution of those eligible under social security. Where payment of the premium would represent an undue hardship, such as in the case of a person under old-age assistance, the individual could be included under the group buy-in option extended to the States.

The insurance concept is completely independent of the social security system. Social security benefits are used merely as a test of ability to pay in determining the amount of the individual contribution. The assignment of a predetermined percentage of these benefits to the health insurance fund is the only relationship of the program to the OASDI system.

PARTICIPATION BY STATE AGENCIES—GROUP BUY-IN OPTION

State agencies will have the option to purchase the plan benefits for their old-age assistance—OAA—and medical assistance for the aged—MAA—recipients at a group rate equivalent to the weighted average rate applicable to the social security beneficiaries, which is presently about \$6 per month.

The program preserves fully the role of the States in providing for those who are in need. The State agency will have considerable flexibility in meeting the requirements of these groups. If the individual is a social security beneficiary, presumably the State would require the individual to elect the benefits through the assignment of social security benefits and increase the individual's old-age assistance cash allowance to make up the difference. Other recipients of State aid could be blanketed in at the group rate.

Thus, while the individual contributions will vary, all persons over 65 will be eligible for the identical comprehensive protection. No distinction is made between the person covered on an individual basis, the recipient of OAA or the recipient of MAA.

ADMINISTRATION OF PROGRAM

There will be established a national health insurance fund. The fund will be administered by the Secretary of the Treasury. Premium contributions of the individual participants will be deposited directly to the credit of the fund. An appropriation will be made annually to provide for the additional amount required by the fund in order to finance benefits for the ensuing benefit period.

The general administration of the insurance program will be entrusted to the Department of Health, Education, and Welfare. That Department will be charged with the responsibility of making known the program to those presently over age 65; notifying those reaching age 65 in the future of their rights to participate; maintaining records; preparing actuarial studies; and presenting the appropriation requests for the program to the committees of the Congress, and so forth.

The Office of the Surgeon General will be charged with the administration of the benefit provisions of the program. The Surgeon General will utilize established health insurance organizations to process the claims—bills—of the hos-

pitals, physicians, and other organizations rendering the service. Payment for health service will be processed in the same manner as a charge presently covered by Blue Cross-Blue Shield or a private insurer. The hospital, physician, and the like will send their bills to the accredited health organization designated to process claims. After the customary verification, such organization will pay the charge. The paying organization will then be reimbursed by the Treasury for the charges paid together with an agreed upon fee or handling charge.

Examples showing comparable benefits under King-Anderson bill (H.R. 1) and under this program

| CASE A—HOSPITAL | | <i>Amount</i> |
|--|--|---------------|
| Hospital room and board..... | | \$441 |
| Hospital ancillary charges..... | | 353 |
| Surgeon and anesthetist..... | | 260 |
| Other physicians..... | | 200 |
| Private duty nurse..... | | 85 |
| Out-of-hospital drugs..... | | 75 |
| Other expense..... | | 15 |
| Total medical expense..... | | 1,429 |
| Recovery under King-Anderson bill.... | | -754 |
| Cost to insured under King-Anderson bill..... | | 675 |
| Additional recovery under this program..... | | -438 |
| Cost to insured under this program..... | | 237 |
| CASE B—NONHOSPITAL | | |
| Surgery..... | | 10 |
| Nonhospital physician visits..... | | 120 |
| Nonhospital nurse visits..... | | 8 |
| Prescribed drugs..... | | 94 |
| Other nonhospital care..... | | 18 |
| Total medical expense..... | | 250 |
| Recovery under King-Anderson bill.... | | 0 |
| Cost to insured under King-Anderson bill..... | | 250 |
| Additional recovery under this program..... | | -160 |
| Cost to insured under this program..... | | 90 |

Social Security Amendments of 1965: Summary and Legislative History

BY WILBUR J. COHEN AND ROBERT M. BALL*

WITH THE SIGNING on July 30, 1965, of H.R. 6675, the Social Security Amendments of 1965 became law. The historic legislation, Public Law 89-97, establishes two coordinated health insurance programs for the aged and makes a number of substantial improvements in the existing old-age, survivors, and disability insurance (OASDI) program and other programs under the Social Security Act.

The most significant changes in the social security system are the following:

1. Establishment of two related national health insurance programs for the aged—(a) a basic plan affording protection against the costs of hospital and related care, and (b) a voluntary supplementary plan covering payments for physicians' services and other medical and health services.

2. A 7-percent increase in OASDI benefits.
3. Liberalization of the definition of disability.
4. Liberalization of the retirement test.
5. Payment of benefits to eligible children aged 18-21 who are attending school.
6. Payment of benefits to widows at age 60 on an actuarially reduced basis.
7. Coverage of self-employed physicians.
8. Coverage of tips as wages.
9. Liberalization of insured-status requirements for persons already aged 72 or over.
10. Increase to \$6,600 in the contribution and benefit base.
11. Increase in the contribution rate schedule.

The amendments include the following important changes in the public assistance titles of the Social Security Act.¹

* Mr. Cohen is Under Secretary of Health, Education, and Welfare and Mr. Ball is the Commissioner of Social Security.

¹ For a brief summary of the amendments affecting public assistance and the maternal and child health and child welfare programs, see pages 16-19. *Welfare in Review* (Welfare Administration), August 1965, carries a legislative history and a fuller description of the welfare provisions of P. L. 89-97.

1. Establishment, under a new title, of a program to provide medical assistance for needy or medically needy aged, blind, or disabled persons and dependent children.

2. Increased Federal sharing in assistance payments to the aged, the blind, the disabled, and dependent children.

3. Removal of limitations on Federal participation in assistance payments with respect to aged persons in tuberculosis and mental disease hospitals under certain conditions.

4. New or increased amounts of income received by assistance recipients that may be disregarded in determining need.

The major changes in the maternal and child health and child welfare services are the following:

1. Increase in the annual authorizations of Federal funds for the three programs.
2. Authorization of special project grants to provide comprehensive health care for children of low-income families.

Background and Legislative History of the Insurance Provisions

The Social Security Amendments of 1965 embody the most far-reaching social security legislation to be enacted since the original Social Security Act was passed 30 years earlier. The law closes one of the major gaps in the economic security of the elderly by providing protection against the high costs of hospital and medical care, and it brings the existing OASDI program more in line with current economic and social conditions.

Bills to provide hospital insurance and related health benefits as part of the social security system have been introduced in every Congress since 1952. The proposals did not receive active congressional consideration, however, until 1958,

when Representative Forand (D., R.I.) introduced a bill that became the subject of testimony in public hearings before the Committee on Ways and Means of the House of Representatives on the Social Security Amendments of 1958. The Committee concluded that more information was needed before legislation could be recommended, and no further action was taken on the proposal at that time.

In 1959 and 1960 the Committee on Ways and Means held public hearings on several proposals to amend the Social Security Act, including another bill (H.R. 4700) introduced by Representative Forand to provide "insurance against the costs of hospital, nursing-home, and surgical services for persons eligible for old-age and survivors insurance benefits." The Committee, after careful review of the many proposed solutions to the problem of meeting health costs in old age, concluded that Federal action was necessary but did not recommend adoption of the proposal for hospital insurance under the social security system. Instead, the Committee recommended additional medical assistance for the needy aged through liberalizations in the Federal-State public assistance programs. This proposed medical assistance legislation was later modified by the Senate Finance Committee, and the result was a new program of medical assistance for the aged. Before its passage, Senator Clinton P. Anderson (D., N. Mex.), Senator John F. Kennedy (D., Mass.) and eight other Senators proposed adding a program of hospital insurance for persons aged 68 and over who were eligible for OASDI benefits. The amendment was defeated by a vote of 51 to 44.

The medical assistance legislation — often referred to as the "Kerr-Mills" program—won bipartisan support and was enacted on September 13, 1960, as part of H.R. 12580 (P. L. 86-778). These amendments made Federal matching grants available to the States to help finance programs of medical assistance for older persons who do not receive old-age assistance payments but who cannot afford necessary medical care. The legislation also provided increased Federal grants to help the States furnish more nearly adequate medical aid to old-age assistance recipients.

With the election of President Kennedy in 1960, the proposal for hospital insurance for the

aged under the Social Security Act became part of the Administration's legislative program. In 1961 the Administration-sponsored hospital insurance proposal was contained in bills introduced by Representative King (D., Calif.) and by Senator Anderson (D., N. Mex.) and Senator Javits (R., N.Y.).

In 1962, Senator Anderson proposed, as an amendment to the public welfare bill, hospital insurance as part of the social security system. The Senate voted 52 to 48 to table the amendments, and no further action was taken on the proposal by the Eighty-seventh Congress.

ACTION IN THE EIGHTY-EIGHTH CONGRESS

In his State of the Union Message of January 14, 1963, President Kennedy urged the new Congress to enact a program of health insurance for the aged under the Social Security Act. He elaborated on this theme in both his special Message on a Health Program, submitted to Congress on February 7, and in his special Message on Elderly Citizens of Our Nation, submitted on February 21. In the latter message, the President recommended not only the enactment of a program of hospital insurance for the elderly but also numerous improvements in the OASDI program, such as increases in benefit amounts and in the contribution and benefit base. Representative King and Senator Anderson again introduced the proposed hospital insurance legislation on behalf of the Administration; the two companion bills were introduced on February 21, 1963.

On July 7, 1964, the House Committee on Ways and Means reported out H.R. 11865, which provided for a number of major improvements in the social security program, including a 5-percent increase in cash benefits and extension of coverage to additional groups. Although proposals for a hospital insurance program for the aged were considered by the Committee, the proponents did not request that the Committee vote either on the hospital insurance measure or on any changes in medical assistance for the aged. H.R. 11865 was passed by the House by a vote of 388 to 8.

The Senate Finance Committee rejected proposals to add to H.R. 11865 hospital insurance for the aged within the framework of the social

security program. During the Senate debate on H.R. 11865, however, an amendment to provide such a program was adopted by a vote of 49 to 44, and the Senate subsequently passed the bill by a vote of 60 to 28. The Conference Committee failed to reach agreement on the hospital insurance part of the bill as passed by the Senate, and H.R. 11865 died in the Conference Committee when the Eighty-eighth Congress came to an end on October 3, 1964.

CONGRESSIONAL ACTION IN 1965

As the Eighty-ninth Congress convened on January 3, 1965, there was every indication that major social security legislation related to both health insurance and increased cash benefits would be on its agenda for early consideration. The improvements in OASDI that had failed to be enacted 3 months earlier because the Conference Committee did not agree on the hospital insurance provisions of H.R. 11865 were considered to be noncontroversial. It was also generally conceded that the November elections had ensured passage by the House of any hospital insurance legislation that the Committee on Ways and Means might report out. Finally, the House, in an unusual action, changed the composition of the Ways and Means Committee—shortly after Congress convened—to reflect the large majority that the Democrats held in the House of Representatives.

On January 4, 1965, Representative King introduced H.R. 1—the Administration's proposals for hospital insurance and improvements in the OASDI program as well as in the public assistance programs. Senator Anderson introduced the companion bill, S. 1. The King-Anderson bills contained a number of the provisions that had been considered by Congress in 1964.

The major provisions of H.R. 1 were:

1. Hospital insurance for the aged.
2. A general increase of 7 percent in cash benefits.
3. An increase to \$5,600 in the contribution and benefit base.
4. An increase in the contribution schedule.
5. Coverage of self-employed doctors.
6. Coverage of tips.
7. Extension of the period for filing proof of

support and filing application for lump-sum death payments.

8. Automatic recomputation of benefits.

Action of Ways and Means Committee

On January 27 the Committee on Ways and Means began executive sessions on the King-Anderson bill and other bills, particularly H.R. 288, which was introduced by Representative Byrnes (R., Wis.)—the ranking minority member of the Committee. The OASDI provisions of H.R. 288 were similar to those in H.R. 11865, but there was no provision for hospital insurance.

Two other bills, which would have provided health insurance benefits for the aged under a system not related to social security, also received the Committee's attention. The "Eldercare" proposal—identical bills, H.R. 3727 and H.R. 3728—was made by Representative Herlong (D., Fla.) and Representative Curtis (R., Mo.). This proposal would have modified the provisions of the Kerr-Mills program to encourage the States to provide medical assistance for the aged, the blind, and the disabled in the form of private health insurance coverage.

The second proposal, H.R. 4351, was introduced by Representative Byrnes and was supported by five of the eight Republican Committee members. It would have established a Federal health insurance program for the aged, financed from Federal general revenues and from premiums paid by participants. Enrollment would have been voluntary, and premium amounts would have been scaled to the amount of the participant's OASDI benefits.

After 2 months of deliberations, Chairman Mills introduced H.R. 6675, embodying the decisions made during the executive sessions of the Committee. The new bill provided for two related health insurance programs. The first was a basic program, under the social security system, of protection against hospital and related health costs, similar to the program proposed by the King-Anderson bill. Unlike that bill, however, the Committee's bill called for financing by an earnings tax identified separately from the present social security taxes.

The second health program for the aged proposed in the Committee's bill was a voluntary

program of protection against the cost of physicians' and certain other medical and health services not covered under the basic program. The supplementary program was to be financed by premiums from enrollees and a matching amount paid by the Federal Government from Federal tax revenues.

The Committee's reasons for recommending the health insurance programs were stated in its report² as follows:

Although your committee believes that the Kerr-Mills legislation as a whole has been very beneficial to the needy aged in our country, it has now concluded that the overall national problem of adequate medical care for the aged has not been met to the extent desired under existing legislation because of the failure of some States to implement to the extent anticipated and thus the existing program is inadequate to solve the problem. Your committee, therefore, has concluded that a more comprehensive Federal program as to both persons who can qualify and protection afforded is required.

Therefore, a threefold approach to meet this national problem has been developed. First, since your committee believes that Government action should not be limited to measures that assist the aged only after they have become needy, your committee recommends more adequate and feasible health insurance protection under two separate but complementary programs which would contribute toward making economic security in old age more realistic, a more nearly attainable goal for most Americans. In addition, your committee recommends . . . a strengthening of the medical assistance provisions of the Social Security Act so that adequate medical aid may be provided for needy people.

In addition to the OASDI provisions of H.R. 1, the Committee adopted the following provisions of H.R. 288:

1. Payment of actuarially reduced benefits to widows at age 60.

2. Payment of child's insurance benefits after attainment of age 18 and up to the age of 22 for a full-time student.

3. Payment of benefits to certain uninsured persons already aged 72 and over who have fewer than 6 quarters of coverage under transitional provisions that would permit benefits to be paid on the basis of 3, 4, or 5 quarters of coverage.

4. Provision for members of certain religious sects to be exempt from social security self-employment taxes upon application accompanied by a waiver of all benefits and other payments under the Social Security Act.

² *Social Security Amendments of 1965: Report of the Committee on Ways and Means on H.R. 6675*, (House Report No. 213, 89th Cong., 1st sess.), 1965, page 20.

5. An increase from \$1,800 to \$2,400 in the maximum amount of gross farm income that farmers may use in computing covered farm self-employment income under the optional method of reporting such income.

6. An increase from \$1,700 to \$2,400 in the span of earnings over which \$1 in benefits is withheld for each \$2 in earnings.

The Committee also adopted the following provisions:

1. Payment of wife's or widow's benefits to a divorced wife aged 62 or over if she had been married to the worker for at least 20 years and if her divorced husband was making a substantial contribution to her support when he became entitled to benefits or died, and restoration of benefit rights that were terminated by remarriage if the marriage ended in divorce after 20 years.

2. Exclusion from gross income of a self-employed person who has attained age 65, for retirement test purposes, of royalties received in or after the year of attaining age 65 from a copyright or patent obtained before that year.

3. Elimination of the requirement that a worker's disability must be expected to result in death or to be of long-continued and indefinite duration, and provision instead for an insured worker to be eligible for disability benefits if totally disabled throughout a continuous period of at least 6 calendar months.

4. Payment of disability benefits beginning with the last month of the 6-month waiting period rather than after the 6-month waiting period.

H.R. 6675 was reported to the House of Representatives on March 29. On April 8, after 2 days of debate on H.R. 6675 under a closed rule, the House passed the bill, without amendment, by a vote of 313 to 115.

Action of Senate Finance Committee

The Senate Finance Committee held 15 days of public hearings (April 29 through May 19) on H.R. 6675. In testifying for the Administration the Secretary of Health, Education, and Welfare, Anthony J. Celebrezze, endorsed the proposed health insurance programs for the aged and recommended adoption with only one major change.

The Secretary recommended that physicians' services in the fields of radiology, anesthesiology, pathology, and physical medicine be covered under the hospital insurance program rather than the supplementary program, where the services are furnished through an arrangement under which the physician bills for his services through the hospital.

Throughout the public hearings of the Senate Finance Committee, testimony centered on the proposed health insurance programs. Opposition to the programs came largely from the American Medical Association and various State and local medical societies. The American Medical Association based its opposition on the belief that the programs would eventually lead to Government intervention into the practice of medicine. Some medical groups, however, testified in support of the health insurance provisions of the bill.

During executive sessions, the Senate Finance Committee adopted the Secretary's recommendation, as proposed in an amendment by Senator Douglas (D., Ill.). Under this proposal, the professional services of radiologists, anesthesiologists, pathologists, and physiatrists, when provided under arrangements with hospitals, would be covered under the hospital insurance plan rather than under the supplementary plan (as the House bill had provided). The Committee also increased the maximum duration of hospital benefits from 60 days to 120, with the last 60 days of benefits subject to coinsurance payments by the beneficiary, and adopted several changes that liberalized benefits under the two proposed health insurance programs.

In addition, the Committee adopted a number of changes in the cash benefits provisions of the bill, including the following:

1. Liberalization of the House-approved retirement test provision by increasing to \$1,800 the annual amount of earnings exempt from the test, by extending the \$1-for-\$2 adjustment span to \$3,000 with a \$1-for-\$1 adjustment on earnings above \$3,000, and by raising to \$150 the amount that a beneficiary may earn in a month and still get full benefits for that month.

2. Amendment of the definition of disability to require that a qualifying disability be one that has lasted or can be expected to last at least 12 months (instead of 6, as under the House bill).

3. Deletion of the House provision under which payment of disability benefits would have started with the sixth full month of disability rather than the seventh month, as under present law.

4. Addition of a provision under which disability benefits under the Social Security Act would be reduced to take account of workmen's compensation payments when the combined monthly benefits exceed 80 percent of the recipient's average monthly earnings before his disablement.

5. Coverage of tips as self-employment income rather than as wages.

6. Payment of benefits to a child based on his father's earnings, without regard to State law, if the father was supporting him or had a legal obligation to do so.

7. Continuation of benefit payments based on a former spouse's earnings record, at the rate of 50 percent of his or her primary insurance amount, to widows aged 60 or over and to widowers aged 62 or over who remarry.

8. Restoration of the benefit rights lost because of remarriage for divorced wives, widows, surviving divorced wives, and surviving divorced mothers who are not currently married.

9. Addition of a provision authorizing limited expenditures from social security trust funds to reimburse State agencies for vocational rehabilitation services furnished to selected disability insurance beneficiaries.

10. Addition of a provision for payment of disabled child's benefits to a child who is disabled before reaching age 22 (instead of age 18, as under present law).

11. Addition of a provision under which an affiliated group of corporations would be considered a single employer for purposes of determining the maximum amount of annual wages subject to the employer tax.

12. Addition of a provision authorizing the Secretary to make disability determinations in those cases that can be promptly adjudicated on the basis of readily available medical and other evidence.

13. Revision of the financing provisions of the House bill to provide a \$6,600 contribution and benefit base, effective for 1966, and a contribution rate schedule under which rates would be somewhat lower in the immediate future than under

the House-passed bill but higher over the long run.

The Finance Committee reported the bill on June 30.

Senate Floor Debate

A number of amendments were adopted during the Senate debate, including the following:

1. Removal of the 120-day limit on the payment of inpatient hospital benefits; benefits beyond the sixtieth day would be reduced by a coinsurance payment of \$10 a day.

2. Elimination of the requirement under the basic hospital insurance plan that a person must have been in a hospital or extended-care facility in order to be eligible for home health benefits.

3. Appointment, to be made by the Secretary, of an Advisory Council on Social Security to make a comprehensive study of nursing homes and other extended-care facilities.

4. Provision for the Secretary to study the feasibility of covering prescription drugs under the supplementary medical insurance plan.

5. Reduction in the age of eligibility for cash benefits to 60 for everyone, with the benefits reduced to take account of the longer period over which they will be paid.

6. Exclusion of the increase in benefits under the Social Security Act from income considered for purposes of determining a person's eligibility for, or the amount of, a veteran's pension.

7. Payment of disability insurance benefits to blind persons on the basis of 6 quarters of coverage, without respect to their capacity to work.

8. Requirement that the most recent addresses of husbands and parents who have deserted their families be disclosed to a State public welfare agency or a court.

9. Addition of a provision under which adoption by a brother or sister would not terminate a child's benefits.

10. Revision of the contribution schedule to provide for slightly higher rates to meet the cost of the changes made on the Senate floor.

The Senate rejected a number of amendments. They included proposals to (1) provide for an automatic 3-percent OASDI benefit increase whenever there is a 3-percent increase in the cost

of living, by a vote of 21 for and 64 against; (2) provide under the two health insurance programs for alternate variable deductible amounts related to a person's income-tax liability, by a vote of 40 for and 52 against; (3) delete the health insurance provisions, by a vote of 26 for and 64 against; (4) delete the provision for compulsory coverage of self-employed physicians and interns, by a vote of 41 for and 50 against; and (5) provide that a worker under age 31 may qualify for disability insurance benefits if he had been in covered work for at least half the period between the date he attained age 21 and the time he became disabled, by a voice vote. The Senate rejected, by a vote of 26 for and 63 against, a motion to recommit the bill to the Finance Committee, with instructions to report the bill back immediately after eliminating the health insurance provisions and report later a bill providing medical insurance for the aged patterned after the health insurance program now in effect for retired civil-service employees, with premiums paid by those covered except those unable to pay.

On July 9 the Senate passed H.R. 6675, with amendments, by a vote of 68 to 21.

CONFERENCE COMMITTEE ACTION AND ENACTMENT

On July 14 the House and Senate conferees met to settle the differences between the two versions of H.R. 6675. On July 26 the conferees filed their report.

The bill as reported by the conferees departed from the Senate version in the following significant respects:

1. Adoption of the House provisions for covering the professional services of certain hospital-based specialists under the supplementary medical insurance program rather than under the hospital insurance plan.

2. Adoption of a compromise provision under which inpatient hospital benefits can be paid for a maximum of 90 days in a spell of illness; benefits for the first 60 days would be reduced by a \$40 deductible amount, and benefits for each day beyond the sixtieth would be reduced by a coinsurance payment of \$10.

3. Adoption of the House provisions requiring

that a person must have been in a hospital or extended-care facility in order to be eligible for home health benefits under the hospital insurance program.

4. Rejection of the Senate provisions under which a study of nursing homes and other extended-care facilities would have been made by an Advisory Council on Social Security and under which the Secretary would have been required to make a study of the feasibility of covering the cost of drugs under the supplementary medical insurance plan.

5. Adoption of a compromise provision under which the amount that a beneficiary may earn in a year and get full benefits for the year is increased from \$1,200 to \$1,500, with an increase from \$100 to \$125 in the monthly measure; \$1 in benefits is withheld for each \$2 of earnings above \$1,500 and up to \$2,700 a year and for each \$1 of earnings thereafter.

6. Deletion of the Senate provision under which the eligibility age for cash benefits would have been reduced to age 60 for everyone. (The provision under which widows can elect to get benefits at age 60 was retained.)

7. Adoption of a compromise provision under which cash tips are covered as wages for social security and income-tax withholding purposes, except that employers are not required to pay the social security employer tax on tips.

8. Deletion of the Senate provision under which the increase in benefits under the Social Security Act would have been excluded from countable income in determining eligibility for and the amount of a veteran's pension.

9. Deletion of the Senate provision under which an affiliated group of corporations would have been considered a single employer in determining the maximum amount of annual wages subject to the employer tax.

10. Deletion of the Senate provision under which childhood disability benefits would have been payable to a child who became disabled before reaching age 22.

11. Deletion of the Senate provision under which the Secretary would have been authorized to make disability determinations in certain cases.

12. Adoption of a compromise providing for (a) the payment of benefits to blind workers aged 55-65 who are unable to engage in their usual occupation and who are not doing substantial

work; and (b) an alternative disability insured-status requirement, applicable to workers who become blind before reaching age 31, under which such workers are insured if they have quarters of coverage in half the quarters elapsing after age 21 up to the time of disablement or, for those becoming disabled before age 24, quarters of coverage in at least half the 12 quarters preceding the quarter in which they become disabled.

13. Adoption of a compromise provision under which the most recent address of a deserting parent would be disclosed to a State or local welfare agency if the children are applicants for or recipients of assistance, if there is a court order for the support of the children, if the agency has attempted to obtain the information from all other reasonable sources, and if the information is to be used (by the agency or court) to obtain support for the children.

On July 27 the House adopted the conference report by a vote of 307 to 116. On July 29 the Senate approved the report by a vote of 70 to 24, and the bill was cleared for the President's signature.

On July 30, 1965, H.R. 6675 was signed by President Johnson and became Public Law 89-97.

Summary of Major Provisions

HEALTH INSURANCE FOR THE AGED

Public Law 89-97 adds to the Social Security Act a new title XVIII establishing two related health insurance programs for persons aged 65 and over: (1) a hospital insurance plan providing protection against the costs of hospital and related care, and (2) a medical insurance plan covering payments for physicians' services and other medical and health services to cover certain areas not covered by the hospital insurance plan.

The hospital insurance plan is financed through a separate earnings tax and a separate trust fund. Benefits for persons who are currently aged 65 and over who are not insured under the social security or the railroad retirement systems will be financed out of Federal general revenues.

Enrollment in the medical insurance plan is voluntary, and the plan is financed by a small

monthly premium (\$6 a month initially—\$3 paid by enrollees and an equal amount paid by the Federal Government from general revenues). The premiums for social security and railroad retirement beneficiaries and for civil-service retirement annuitants who enroll will be deducted from their monthly benefits. Uninsured persons desiring the medical insurance plan will make the periodic premium payments to the Government. State welfare programs may arrange for uninsured assistance recipients to be covered.

Hospital Insurance

Protection, financed by means of an earnings tax, is provided against the costs of inpatient hospital services, posthospital extended care, posthospital home health services, and outpatient hospital diagnostic services for beneficiaries under the social security and railroad retirement systems when they attain age 65. The same protection, financed from general revenues, is provided under a special transitional provision for essentially all persons who are now aged 65 or who will reach age 65 before 1968, but who are not eligible for social security or railroad retirement benefits. Together, these two groups make up virtually the entire aged population.

The persons not protected are Federal employees who are covered under the Federal Employees Health Benefits Act of 1959 or who, if they were retired after February 15, 1965, were covered or could have been covered under that act. Others excluded are aliens who have not been residents of the United States for 5 years, aliens who have not been admitted for permanent residence, and certain subversives.

Benefits will be first available on July 1, 1966, except for services in extended-care facilities, which will become available January 1, 1967.

Benefits.—The services for which payment is to be made under the hospital insurance plan include:

a. Inpatient hospital services for a maximum of 90 days in each spell of illness. The patient will pay a deductible amount of \$40 for the first 60 days, plus a coinsurance payment of \$10 a day for each day in excess of 60 during each spell of illness. Covered hospital services include almost all those ordinarily furnished by a hospital to its

inpatients. Payment will not be made, however, for private-duty nursing or for the hospital services of physicians (including radiologists, anesthesiologists, pathologists, and psychiatrists) except those provided by interns or residents in training under approved teaching programs. Inpatient psychiatric hospital services are covered, but a lifetime limitation of 190 days is imposed. Inpatient services in Christian Science sanatoriums are covered as inpatient hospital services, but only under such conditions and limitations (in lieu of or in addition to those applicable to hospitals) as are provided by regulations.

b. Posthospital extended care (in a qualified facility having an arrangement with a hospital for the timely transfer of patients and for furnishing medical information about patients and meeting certain other requirements) after the patient is transferred from a hospital (after at least a 3-day stay) for a maximum of 100 days in each spell of illness. After the first 20 days of care, the patient will pay \$5 a day for the remaining 80 days of extended care in a spell of illness. Under a special provision, extended care in Christian Science sanatoriums is covered for a maximum of 30 days, with the patient paying \$5 a day.

c. Outpatient hospital diagnostic services, with the patient paying a \$20 deductible amount and making a 20-percent coinsurance payment for each diagnostic study (that is, for diagnostic services furnished to him by the same hospital during a 20-day period).

d. Posthospital home health services for as many as 100 visits, after discharge from a hospital (after at least a 3-day stay) or from an extended-care facility and before the beginning of a new spell of illness. The person must be in the care of a physician and under a plan calling for such services that was established by a physician within 14 days of the patient's discharge, and the services must be provided by a qualified home health agency. These covered services include intermittent nursing care and physical therapy. The patient must be homebound except that payment may be made for services furnished at a hospital or extended-care facility or rehabilitation center that requires the use of equipment that cannot ordinarily be taken to the patient's home.

No service is covered as posthospital extended

care or as outpatient diagnostic or posthospital home health services if it is of a kind that could not be covered if it were furnished to a patient in a hospital.

A spell of illness is considered to begin when the individual enters a hospital and to end when he has not been an inpatient of a hospital or extended-care facility for 60 consecutive days.

The deductible amounts for inpatient hospital and outpatient hospital diagnostic services will be increased if necessary to keep pace with increases in hospital costs, but no increase will be made before 1969. For administrative simplicity, increases in the hospital deductible will be made only when a \$4 change is called for, and the outpatient deductible will change in \$2 steps.

Basis of reimbursement.—Payment of bills under the hospital insurance plan will be made to the providers of service on the basis of the “reasonable cost” incurred in providing care for beneficiaries.

Administration.—Basic responsibility for administration rests with the Secretary of Health, Education, and Welfare. The Secretary will use appropriate State agencies and private organizations (nominated by providers of services) to assist in administering the program. Provision is made for the establishment of an Advisory Council that will advise the Secretary on policy matters in connection with administration.

Financing.—Contributions to finance the hospital insurance plan, paid by employers, employees, and self-employed persons, are to be placed in a separate hospital insurance trust fund established in the Treasury. The earnings base—the amount of annual earnings subject to the new tax—is the same (\$6,600) as the earnings base for purposes of financing the cash benefits. The same contribution rates apply equally to employers, employees, and self-employed persons and are as follows:

| | <i>Percent</i> |
|---------------------------|----------------|
| 1966 ----- | 0.35 |
| 1967-72 ----- | .50 |
| 1973-75 ----- | .55 |
| 1976-79 ----- | .60 |
| 1980-96 ----- | .70 |
| 1987 and thereafter ----- | .80 |

The schedule of contribution rates is based on cost estimates that assume that the earnings base will not be increased above \$6,600. If Congress, in later years, should increase the base, the contri-

bution rates established can be reduced under the cost assumptions underlying the law. The cost of hospital insurance benefits for persons who are not beneficiaries under the social security or railroad retirement systems will be paid from general funds of the Treasury.

Medical Insurance Plan

A package of benefits supplementing those provided under the hospital insurance plan is available to all persons aged 65 and over. Individuals who enroll initially will pay \$3 a month (deducted, where possible, from social security, railroad retirement, or civil-service retirement benefits). The Government will match this amount with \$3 paid from general funds. Since the minimum increase in cash social security benefits for workers who are aged 65 or over when the benefit increase is effective for them is \$4 a month (\$6 a month for man and wife receiving benefits based on the same earnings record), the benefit increase fully covers the amount of monthly premiums.

Enrollment.—For persons aged 65 before January 1, 1966, an enrollment period will begin September 1, 1965, and end March 31, 1966. Persons attaining age 65 after December 31, 1965, will have enrollment periods of 7 months beginning 3 months before they attain age 65. In the future, general enrollment periods will be from October 1 to December 31, in each odd year, beginning in 1967. No person may enroll more than 3 years after the close of the first enrollment period in which he could have enrolled. Persons who are in the plan but drop out will have only one chance to reenroll, and reenrollment must occur within 3 years of termination of the previous enrollment. Coverage may be terminated by the individual, who must file notice during a general enrollment period, or by the Government for nonpayment of premiums. A State can provide the medical insurance protection for its public assistance recipients who are receiving cash assistance if it chooses to do so. Benefits will be available beginning July 1, 1966.

Benefits.—The medical insurance plan covers physicians’ services, home health services, and numerous other medical and health services in and out of medical institutions.

The plan covers 80 percent of the patient’s bill

(above an annual deductible of \$50) for the following services:

a. Physicians' and surgeons' services, whether furnished in a hospital, clinic, office, in the home, or elsewhere.

b. Home health services under an approved plan (with no requirement of earlier hospitalization) for a maximum of 100 visits during each calendar year.

c. Diagnostic X-ray and laboratory tests, and other diagnostic tests.

d. X-ray, radium, and radioactive isotope therapy.

e. Ambulance services.

f. Surgical dressings and splints, casts, and other devices for reduction of fractures and dislocations; rental of durable medical equipment, such as iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home; prosthetic devices (other than dental) that replace all or part of an internal body organ; and braces and artificial legs, arms, eyes, etc.

There is a special limitation on outside-the-hospital treatment of mental, psychoneurotic, and personality disorders. Payment for such treatment during any calendar year is limited, in effect, to \$250 or 50 percent of the expenses, whichever is smaller.

Administration by carriers: basis for reimbursement.—The Secretary of Health, Education, and Welfare is required, to the extent possible, to contract with carriers to carry out the major administrative functions of the medical insurance plan, such as determining rates of payments, holding and disbursing funds for benefit payments, and determining compliance and assisting in utilization review. No contract can be entered into by the Secretary unless he finds that the carrier will perform its obligations efficiently and effectively and will meet requirements, such as those relating to financial responsibility and legal authority and other matters as the Secretary finds pertinent.

The contract must provide that the carrier take necessary action to see that, where payments are made on a cost basis, the cost is reasonable. Where payments are on a charge basis the carrier must see that such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the carrier's other policyholders

and subscribers. In determining reasonable charges, the carriers will consider the customary charges for similar services generally made by the physician or other person or organization furnishing the covered services and also the prevailing charges in the locality for similar services. Payment by carrier for physicians' services will be made on the basis of a receipted bill or an assignment under which the reasonable charge will be the full charge for the service.

The requirement that the reasonable charge must be the full charge where an assignment procedure is used and that otherwise a receipted bill must be submitted would (1) assure that the amount shown on the bill was the actual charge for the services and (2) provide a safeguard especially for the less well-to-do who are covered under the plan, for whom it is probable that collection would normally be made through an assignment.

Financing.—Aged persons who enroll in the medical insurance plan will pay monthly premiums of \$3. If the individual is currently receiving monthly social security, railroad retirement, or civil-service retirement benefits, the premiums will be deducted from his benefits.

The Government will help finance the medical insurance plan through a payment from general revenues of \$3 a month per enrollee. To provide an operating fund when the medical insurance plan is first effective and to establish a contingency reserve, a Government appropriation will be available (on a repayable basis) equal to \$18 per aged person estimated to be eligible in July 1966, when the supplementary plan goes into effect. The individual and Government contributions will be placed in a separate trust fund for the medical insurance plan, and all benefit and administrative expenses will be paid from this trust fund.

The provision in the income tax law limiting medical expense deductions to amounts in excess of 3 percent of adjusted gross income for persons under age 65 will be reinstated for persons aged 65 and over. Thus, partial or full recovery of the Government contribution will be made from enrolled persons with incomes high enough to require them to pay income taxes. A special deduction (for taxpayers who itemize deductions) of half the amount of premiums for insurance covering medical care will, however, be added.

This deduction, applicable to taxpayers of all ages, cannot exceed \$150 a year.

Premium rates for enrolled persons (and the matching Government contribution) will be increased from time to time if costs rise, but not more often than once every 2 years. The premium rate for a person who enrolls after the first period when enrollment was open to him will be increased by 10 percent for each full year he stayed out of the program.

Cost of the Hospital Insurance and Medical Insurance Plans

Benefits under both plans become payable for services furnished in July 1966, except services in extended-care facilities, for which benefits become payable in January 1967. Benefits and administrative expenses under the hospital insurance plan will be about \$2.2 billion for the first year of operations. For those uninsured under the hospital insurance plan the annual cost (paid from general revenues) will be about \$290 million in the early years, with a substantial offset for public assistance savings. Benefit payments of the medical insurance plan will be about \$1.2 billion in the first year of operation.

Railroad Retirement Health Insurance Provisions

The basic administration of the health insurance benefits program will be handled by the Social Security Administration in much the same way for railroad retirement beneficiaries as for social security beneficiaries. That is, the Administration will be responsible for making payments to providers of services and carrying out related administrative functions.

The law contains provisions designed to ensure that the hospital insurance taxes paid on employment covered under the railroad retirement program will be the same as those paid on employment covered under social security. For years in which the annual earnings and tax bases of the two programs are equal, hospital insurance taxes on railroad employment will be levied under the railroad retirement taxing provisions of the law and then transferred to the Federal hospital insurance trust fund, with payments

made from that fund. In these years the Railroad Retirement Board will determine the rights of railroad retirement beneficiaries to hospital insurance benefits and provide hospital insurance protection, financed from the railroad retirement account, for railroad retirement beneficiaries in Canadian hospitals.

These provisions presumably anticipate the enactment of legislation making and keeping the railroad retirement wage and tax base equal to that under the Social Security Act. Should there be years, however, in which the tax and wage bases of the two programs are not equal, hospital insurance taxes for those years would be levied under the social security taxing provisions and hospital insurance protection for railroad beneficiaries would be provided under social security on the same basis as that for social security beneficiaries.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AMENDMENTS

Benefits

Increase in monthly cash benefits.—The law provides a 7-percent across-the-board benefit increase, effective retroactively beginning January 1965, with a minimum increase of \$4 for retired workers aged 65 and older. Benefits are increased for the 20 million social security beneficiaries on the rolls at the time of enactment and for all future beneficiaries.

The minimum monthly benefit for workers retiring at or after age 65 is now \$44. For the present, the maximum benefit will be \$135.90 (based on average monthly earnings of \$400, the highest amount possible under the \$4,800 base for contributions and benefits). In the future, the higher creditable earnings resulting from raising the base to \$6,600 a year will make possible a maximum benefit of \$168.

The maximum amount of benefits payable to a family on the basis of a single earnings record is related, at all earnings levels, to the worker's average monthly earnings with an ultimate family maximum of \$368.

The benefits of persons on the rolls will be re-computed automatically each year to take account

of any covered earnings that the worker might have had in the preceding year that can increase his benefit amount. The amendment is effective for calendar years after 1964.

Change in the retirement test.—Effective for taxable years ending after 1965, a beneficiary may have annual earnings of \$1,500 and still get all his benefits for the year; if his earnings exceed \$1,500, \$1 in benefits will be withheld for each \$2 of annual earnings up to \$2,700 and for each \$1 of earnings thereafter. He will get benefits, regardless of the amount of his annual earnings, for any month in which he earns \$125 or less in wages and does not render substantial services in self-employment.

Certain royalties that are received in or after the year in which a person reaches age 65 from copyrights and patents that were obtained before he reached that age are not counted as earnings for purposes of the test. This provision is effective for taxable years beginning after 1964.

Payment of child's insurance benefits to children aged 18–21 and attending school or college.—Child's insurance benefits are payable until the child reaches age 22, provided the child is attending a public or accredited school as a full-time student after he reaches age 18. Children of deceased, retired, and disabled workers are included. No person will be paid mother's or wife's benefits solely on the basis of having in her care a child who has attained age 18 and is in school. The change is effective for months after December 1964.

Changes in the disability program.—The law eliminates the requirement that a worker's disability must be expected to be of long-continued and indefinite duration. It provides instead that an insured worker is eligible for disability benefits (payable after the sixth month, as in the past) if he has been under a disability that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 calendar months. Benefits payable because of this change are payable beginning with benefits for September 1965.

The disability benefit under the Social Security Act for any month for which a worker is receiving a periodic workmen's compensation benefit

will be reduced to the extent that the total benefits payable to him and his dependents under both programs exceed 80 percent of his average monthly earnings before the onset of disability, but with the reduction periodically adjusted to take account of changes in national average earnings levels. Under this provision, the worker's average monthly earnings are defined as the higher of (a) his average monthly wage used for purposes of computing his disability benefit under the Social Security Act or (b) his average monthly earnings in covered employment during his highest 5 consecutive years after 1950. This offset provision applies to benefits payable after December 1965 on the basis of disabilities commencing after June 1, 1965.

Reimbursement will be made from the social security trust funds to State vocational rehabilitation agencies for the cost of rehabilitation services furnished to selected individuals who are entitled to disability insurance benefits or to disabled child's benefits. The total amount that may be made available from the trust funds for purposes of reimbursing State agencies cannot, in any year, exceed 1 percent of the disability benefits paid under the Social Security Act in the preceding year. This provision is effective immediately.

The disability provisions with respect to the blind are modified in two respects. First, the definition of disability now provides that an individual is considered to be disabled for purposes of entitlement to disability benefits if he is between the ages of 55 and 65, meets the definition of "blindness" (as provided for purposes of the disability "freeze") and is unable, because of such blindness, to engage in substantial gainful activity requiring skills or abilities comparable to those required in his past occupation or occupations. He will receive no payment, however, for any month in which he engages in substantial gainful activity.

Second, an alternative insured-status requirement is provided for persons who are disabled before they reach age 31 because of "blindness" as defined. Under this provision, the blind individual would be insured if he has quarters of coverage in half the quarters elapsing after attainment of age 21 and up to the point of disability, or, for those becoming disabled before they reach age 24, for at least half the 3 years

preceding the quarter in which he becomes disabled.

A person who becomes entitled before age 65 to a benefit payable on account of old age could later become entitled to disability insurance benefits. The amendment is effective beginning with monthly benefits for September 1965 on the basis of applications filed in or after July 1965.

Benefits for widows at age 60.—Widows can elect to receive benefits at age 60. The benefits payable to those who claim them before age 62 will be actuarially reduced to take account of the longer period over which they will be paid. This provision is effective beginning September 1965.

Transitional insured status.—The law sets up a “transitional insured status” provision. Persons who reached retirement age in 1955 or 1956 can qualify for benefits if they have 1 quarter of coverage for each year that elapsed after 1950 and up to retirement age (that is, 4 or 5 quarters), and those who reached retirement age in or before 1954 can qualify if they have 3 quarters of coverage instead of 6. Benefits are not payable under this provision until age 72.

The following tabulation shows the operation of the “transitional insured status” provision for workers:

| Age (in 1965) | Quarters of coverage required |
|------------------|----------------------------------|
| Men: | |
| 76 or over | 3 |
| 75 | 4 |
| 74 | 5 |
| Women: | |
| 73 or over | 3 |
| 72 | 4 |
| 71 | 5 |

Wife's benefits are payable at age 72 to a woman whose husband qualifies for benefits under the transitional provision if she attains age 72 before 1969. Widow's benefit will be payable at age 72 to a woman who reaches age 72 before 1969 if her husband was living in September 1965 and if he met the work requirements of the provision. A widow who reaches age 72 before 1969 but whose husband died before September 1965 can qualify if her husband attained age 65 or died before 1957 and if he had a specified number of quarters of coverage, as shown in the following tabulation.

| Year of husband's death (or attainment of age 65, if earlier) | Quarters of coverage required if the widow attains age 72 in— | | |
|---|---|------|------|
| | 1966 or before | 1967 | 1968 |
| 1954 or before..... | 3 | 4 | 5 |
| 1955..... | 4 | 4 | 5 |
| 1956..... | 5 | 5 | 5 |

Benefits of \$35 will be payable to retired workers and widows; wives of retired workers will receive \$17.50.

These provisions are effective for September 1965.

Dependents' benefits.—Under the new law a child can be paid benefits based on his father's earnings without regard to whether he has the status of a child under State inheritance laws if the father was supporting the child or had a legal obligation to do so. Benefits will be paid to a child on his father's earnings record, even though he cannot inherit the father's intestate personal property, if the father (1) had acknowledged the child in writing; (2) had been ordered by a court to contribute to the child's support; (3) had been judicially decreed to be the child's father; or (4) is shown by other satisfactory evidence to be the child's father and was living with or contributing to the support of the child. The amendment is effective with respect to monthly benefits beginning September 1965.

Benefits are payable to widows (and widowers) even though they have remarried if the remarriage was after they reached age 60 (age 62 for widowers). The amount of their benefit equals 50 percent of the primary insurance amount of the deceased spouse rather than 82½ percent of that amount, which is payable to widows and widowers while they are not married. The change is effective with respect to monthly benefits beginning with those payable for September 1965.

The law authorizes payment of wife's or widow's benefits to the divorced wife of a retired, deceased, or disabled worker if she had been married to the worker for at least 20 years before the date of the divorce and if her divorced husband was making (or was obligated by a court to make) a substantial contribution to her support when he became entitled to benefits, became disabled, or died. It also provides that a wife's benefits will not terminate when the woman and

her husband are divorced if the marriage has been in effect for 20 years. Provision is also made for the re-establishment of benefit rights for a divorced wife, a widow, a surviving divorced mother, or a surviving divorced wife who has remarried if the subsequent marriage has ended. These changes are effective for September 1965.

The provisions relating to the payment of benefits to children who are adopted by old-age insurance beneficiaries are changed to require that, if the adoption occurs after the worker becomes entitled to an old-age benefit, (1) the child be living with the worker (or adoption proceedings have begun) in or before the month the application for old-age benefits is filed; (2) the child has been receiving half his support for the year before the worker's entitlement; and (3) the adoption be completed within 2 years after the worker's entitlement. The amendment is effective with respect to applications filed on or after July 30, except that the 2-year time limit will not apply to adoptions completed within the 12 months following that date.

A wife, husband, widow, or widower may get benefits without regard to the generally applicable requirement that a marriage must have lasted at least a year, if, in the month preceding the marriage he or she was actually or potentially entitled to a widow's, widower's, parent's, or (if over age 18) child's annuity under the Railroad Retirement Act. Also, a woman worker's husband or widower who was entitled to a specified railroad retirement annuity before marriage to a person insured under the Social Security Act may get benefits without regard to the generally applicable requirement that the wife be currently insured and have provided at least half her husband's support. The amendment will be effective beginning with monthly benefits payable for September 1965.

The law extends indefinitely the period for filing proof of support for dependent husband's, widower's, and parent's benefits and applications for lump-sum death payments, where good cause exists for failure to file within the initial 2-year period. The amendment is effective for lump-sum payments and monthly benefits based on applications filed in or after July 1965.

Brothers and sisters are added to the list of relatives who may adopt a child after the death of the worker on whose earnings record he is get-

TABLE 1.—Number of persons immediately affected by OASDI amendments and amount of additional cash benefit payments in 1966 ¹

| Provision | Amount of payments in 1966 | Number of persons immediately affected |
|--|----------------------------|--|
| Total additional payments..... | \$2,320,000,000 | ----- |
| 7-percent benefit increase (\$4 minimum in primary benefits)..... | 1,470,000,000 | 20,000,000 |
| Reduced benefits for widows at age 60..... | ² 165,000,000 | 185,000 |
| Benefits for persons aged 72 and over with limited periods in covered work..... | 140,000,000 | 355,000 |
| Improvements in benefits for children: Benefits for children to age 22 if in school. Broadened definition of "child"..... | 195,000,000 10,000,000 | 295,000 20,000 |
| Modifications in disability provisions: Change in definition..... Liberalized requirements for benefits for the blind..... | 40,000,000 5,000,000 | 60,000 7,000 |
| Modification of earnings test..... | 295,000,000 | ³ 750,000 |

¹ First full year of operation.

² No long-range cost to the system because the benefits are actuarially reduced.

³ Number affected in 1966; modification does not become effective until then.

ting benefits without causing termination of the child's benefits. The amendment is effective with respect to monthly benefits beginning August 1965.

Coverage

Physicians and interns.—Coverage is extended to self-employment as a doctor of medicine, effective for taxable years ending on or after December 31, 1965. The employment of interns is covered, beginning on January 1, 1966, on the same basis as that of other employees working for the same employer.

Tips covered as wages.—Cash tips received after 1965 by an employee in the course of his employment are covered as wages for social security and income-tax withholding purposes, except that employers are not required to pay an employer tax on the tips.

The employee must give his employer a written report of his tips within 10 days after the end of the month in which the tips are received. To the extent that unpaid wages due an employee and in his employer's possession are insufficient to pay the employee social security tax due on the tips, the employee may make available to the employer sufficient funds to pay the tax. If an employee fails to report some or all of his cov-

ered tips to his employer, he is liable not only for the employee tax but also for an additional 50 percent of that tax.

The employer must withhold the employee tax only on tips reported to him within the specified time and for which he has sufficient funds of the employee out of which to pay the tax. He will be liable for withholding income tax on only those tips that are reported to him within 10 days after the end of the month in which the tips were received, and then, in general, only to the extent that he can collect the tax (at or after the time the tips are reported to him and before the close of the calendar year in which the tips were received) from unpaid wages (not including tips), or from funds turned over to him for that purpose remaining after the amount equal to the amount due for the social security tax has been subtracted.

Exemption of Amish and other religious sects.—Under specified conditions, members of religious sects may obtain exemption from social security self-employment taxes upon application accompanied by a waiver of benefit rights. To be eligible for exemption an individual must be found to be a member of a recognized religious sect (or a division of a sect) and to be an adherent of the established tenets or teachings of the sect by reason of which he is conscientiously opposed to accepting any private or public insurance benefits paid in the event of death, disability, old-age, or retirement, or paid toward the cost of, or providing services for, medical care (including the benefits of any insurance system established by the Social Security Act). It must be found that the sect has such teachings and has been in existence at all times since December 31, 1950, and that it is the practice for members to make provision for their dependent members that is reasonable in view of their general level of living. The application for exemption for taxable years ending on or before December 31, 1965, must be filed by April 15, 1966. The exemption may become effective as early as the first taxable year beginning after December 31, 1950.

Farmers.—Farm operators whose annual gross earnings are \$2,400 or less may report either their actual net earnings or two-thirds of their gross earnings, for taxable years beginning after December 31, 1965. When gross earnings are more

than \$2,400 they must report their actual net earnings if \$1,600 or more; if actual net earnings are less than \$1,600, they may report either that amount or \$1,600. (For taxable years beginning before January 1, 1966, farmers whose annual gross earnings are more than \$1,800 must report their actual net earnings if \$1,200 or more, but if actual net earnings are less than \$1,200, they may report either their actual net earnings or \$1,200.)

Ministers.—For ministers who have been in the ministry for at least 2 years since 1954 the period during which they may file waiver certificates electing coverage is reopened, through April 15, 1966. Coverage for ministers whose eligibility to file waiver certificates is reopened will ordinarily begin with 1963. In addition, social security credit may be obtained for the past earnings of certain ministers who die or file waiver certificates before April 16, 1966, where such earnings were reported for social security purposes but could not be credited.

Employees of nonprofit organizations.—Nonprofit organizations may file a waiver certificate and make it retroactive up to 5 years (formerly 1 year) before the quarter in which the certificate is filed. If an organization files a waiver certificate before 1966, the certificate may be amended during 1965 or 1966 to begin coverage as early as 5 years before the quarter in which the certificate is amended. Those employees to whom additional retroactive coverage is applicable (because the organization amends its certificate) are given an individual choice of such additional coverage. Employees who were reported erroneously and who are no longer employed when an organization files or amends its waiver certificate may validate the erroneous reportings for periods during which the certificate or amended certificate is in effect. In addition, certain employees whose wages were erroneously reported by a nonprofit organization during the period its waiver certificate was in effect may validate the erroneously reported wages. These provisions are effective immediately.

District of Columbia employees.—Coverage is provided for employees of the District of Columbia who are not covered by a retirement system.

The District of Columbia Commissioners may arrange also for the coverage of temporary and intermittent employees to be shifted from the Federal civil-service retirement system to the social security system. Coverage begins after the calendar quarter in which the Secretary of the Treasury receives a certificate from the District of Columbia Commissioners expressing their desire to have coverage extended to the affected employees.

State and local coverage changes. — Another opportunity is provided, through 1966, for the election of coverage by members of State and local government retirement systems who originally did not chose coverage under the divided retirement system provision, under which current employees have a choice of coverage. Alaska is added to the list of States that may use the divided retirement system provision. These provisions are effective immediately.

Iowa and North Dakota are permitted to modify their coverage agreements with the Secretary of Health, Education, and Welfare to exclude from coverage services performed by students, including services already covered, in the employ of a school, college, or university in any calendar quarter if the remuneration for such services is less than \$50. The modification may specify the effective date of the exclusion, but it may not be earlier than July 30, 1965.

The past coverage under the social security system of employees of certain school districts in Alaska that have been included in error as separate political subdivisions under the Alaska social security coverage agreements is validated. (The employees of the school districts involved should properly have been covered as employees of the political subdivisions of which the school districts are integral parts.) The provision is effective for 1965 and earlier years; coverage for years after 1965 must be under the general provisions of the law.

California is permitted to modify its coverage agreement to extend coverage to certain hospital employees whose positions were removed from a State or local government retirement system. The State will have until the end of January 1966 to take action under this provision.

Maine is given until July 1, 1967 (rather than July 1, 1965), to treat teaching and nonteaching employees who are in the same retirement system

as though they were under separate retirement systems for social security coverage purposes.

Miscellaneous Changes

The law also includes a number of administrative and technical changes, including provisions relating to the length of time an application for benefits is effective, treatment of underpayments and of payments to two or more members of the same family, attorney's fees, and disclosure of the whereabouts of a beneficiary.

In addition to these changes, the legislation revises the provisions authorizing reimbursement of the social security trust funds out of general revenue for gratuitous wage credits for servicemen so that reimbursement will be spread over the next 50 years, rather than 10 years.

Financing Old-Age, Survivors, and Disability Insurance Amendments

The old-age, survivors, and disability insurance provisions of the law are financed by (1) an increase in the earnings base from \$4,800 to \$6,600, effective January 1, 1966, and (2) a revised tax rate schedule. The revised schedule is shown below:

| Year | Employee | Employer | Self-employed |
|---------------------|----------|----------|---------------|
| 1966..... | 3.85 | 3.85 | 5.8 |
| 1967-68..... | 3.9 | 3.9 | 5.9 |
| 1969-72..... | 4.4 | 4.4 | 6.6 |
| 1973 and after..... | 4.85 | 4.85 | 7.0 |

An additional 0.20 percent of taxable wages and 0.15 percent of taxable self-employment income will be allocated to the disability insurance trust fund, bringing the total allocation to 0.70 percent of wages and 0.525 percent of self-employment income beginning in 1966.

PUBLIC ASSISTANCE AMENDMENTS

Medical Assistance Program

To provide a more effective program of medical care for needy persons, the law establishes

a program of medical assistance under a new title of the Social Security Act—title XIX.

This title is intended to replace the Kerr-Mills law—medical assistance for the aged—and the provisions for direct payments to suppliers of medical care and services under old-age assistance, aid to the blind, aid to families with dependent children, aid to the permanently and totally disabled, and the consolidated program for the aged, the blind, and the disabled. The program may be administered by a State agency designated for the purpose, but eligibility is to be determined by the State agency responsible for administering old-age assistance.

The program is to include all persons now receiving assistance for basic maintenance under the public assistance titles and also may include persons who are able to provide their maintenance but whose income and resources are not sufficient to meet their medical care costs. Services offered the former group may be no less in amount or scope than those for the latter group. If the medically needy are included, comparable eligibility provisions are to apply so that all persons similarly situated among the aged, the blind, the disabled, and dependent children would be included in the program. Other medically needy children could be included. No age requirement may be imposed that would exclude any person over age 65 or, after July 1, 1967, under age 21. A flexible income test taking medical expenses into account would be used.

The old provisions in the various public assistance titles of the Act providing vendor medical assistance terminate upon the adoption of the new program by a State but no later than December 31, 1969.

Scope of medical assistance.—Under the old provisions, the State has had to provide “some institutional and noninstitutional care” under the program of medical assistance for the aged. There have been no minimum benefit requirements with respect to vendor medical payments under the other public assistance programs. For the new program a State must, by July 1, 1967, provide inpatient hospital services, outpatient hospital services, other laboratory and X-ray services, skilled nursing home services for individuals aged 21 and over, and physician’s services (whether furnished in the office, the patient’s home, a hospital, or a skilled nursing home) in

order to receive Federal participation in vendor medical payments. Other items of medical service are optional with the States.

Eligibility.—The law improves the program for the needy elderly by requiring that the States establish a flexible income test that takes into account medical expenses; it may not set up rigid income standards that arbitrarily deny assistance to persons with large medical bills. In the same spirit the law provides that no deductible, cost-sharing, or similar charge may be imposed by the State for hospitalization under its program and that such a charge on other medical services must be reasonably related to the recipient’s income or resources. Elderly needy recipients under the State programs must be provided assistance to meet the deductibles imposed by the new basic program of hospital insurance. Where a portion of any deductible or cost-sharing under either program is met by a State program, it must be done in a manner reasonably related to the individual’s income and resources. No income can be imputed to an individual unless it is actually available, and the financial responsibility of an individual for an applicant may be taken into account only if the applicant is the individual’s spouse or child who is under age 21 or blind or disabled.

Increased Federal matching. — The Federal share of medical assistance expenditures under the new program is determined by a uniform formula, with no maximum on the amount of expenditures subject to participation—the procedure followed for medical assistance for the aged. The Federal share varies in relation to a State’s per capita income; States with a national average income receive 55 percent (rather than the 50 percent formerly received for medical assistance for the aged), and States at the lowest level receive as much as 83 percent (in contrast to 80 percent).

To receive any additional Federal funds as a result of expenditures under the new program, the States must continue their own expenditures at their present rate. For a specified period, no State would receive less in Federal funds because of the new formula than it had in the past, and any State that did not reduce its own expenditures would be assured of at least a 5-percent increase in Federal participation in medical care expenditures. The Federal share in the

cost of compensation and training of professional medical personnel is now 75 percent, compared with the 50-50 Federal-State sharing for other administrative expenses.

Other Public Assistance Provisions

Increased assistance payments.—The Federal share in old-age assistance, aid to the blind, and aid to the permanently and totally disabled is raised, effective January 1, 1966, to \$31 of the first \$37 of a State's average monthly payment per recipient (instead of \$29 of the first \$35) plus a proportion of the remainder up to \$75 (formerly \$70). In aid to families with dependent children the Federal share is increased to \$15 of the first \$18 of a State's average monthly payment per recipient (instead of \$14 of the first \$17), plus a proportion of the balance up to \$32 (formerly up to \$30). States receive no additional Federal funds except to the extent that they pass them on to individual recipients.

Tuberculous and mental patients.—In old-age assistance and medical assistance for the aged (and the combined program), the law removes the exclusion from Federal matching with respect to payments for aged individuals who are patients in institutions for tuberculosis or mental diseases or who have been diagnosed as having tuberculosis or psychosis and, as a result, are patients in a general medical institution. As a condition of Federal participation in such payments to, or for, mental patients, certain agreements and arrangements are required to ensure that better care results from the additional Federal money. States will receive no more in Federal funds under this provision than the increase in their expenditures for mental health purposes under public health and public welfare programs. Restrictions are removed on Federal matching in payments for the needy blind and the disabled who are tuberculous or psychotic and are in general medical institutions. The provision is effective January 1, 1966, and will cost about \$75 million a year.

Protective payments to third persons.—The law adds a provision, effective January 1, 1966, for protective payments to third persons on behalf of recipients of old-age assistance,

aid to the blind, aid to the permanently and totally disabled (and recipients under the combined title XVI program), who are unable to manage their money because of physical or mental incapacity.

Earnings and income exemptions.—The amount of earned or other income received by assistance recipients that may be disregarded by the States in determining need under various programs was increased by several provisions.

A State may, at its option, exempt the first \$20 (formerly \$10) of earned income received by persons on the old-age assistance rolls (and by the aged in a combined program) and half the next \$60 (formerly \$40) of a recipient's monthly earnings. This provision is effective October 1, 1965.

In aid to families with dependent children the States may disregard up to \$50 of earnings per child per month, but not more than \$150 in the same family may be exempted in determining need. The amendment, which is wholly permissive with the States, is effective July 1, 1965.

Recipients of aid to the permanently and totally disabled may have the same exemption of earnings that is provided under old-age assistance and the same exemption of income and resources, if they are under an approved rehabilitation plan, that is now provided for the blind. This amendment is also wholly permissive with the States and is effective October 1, 1965.

In addition to earnings, up to \$5 per recipient per month of any income may be exempted under any of the federally aided public assistance programs.

The States may disregard as much of the OASDI benefit increase as is attributable to its retroactive effective date.

The law also provides a grace period for action by States that have not had regular legislative sessions and whose public assistance statutes now prevent them from disregarding a recipient's earnings under the Economic Opportunity Act.

School attendance for child recipients.—The definition of a school in which a child aged 18-21 may receive aid to families with dependent children, at the State's option, is broadened to include colleges.

Definition of medical assistance for the aged.—The law modifies the definition of medical as-

sistance for the aged, effective July 1, 1965, to allow Federal sharing in payments in behalf of old-age assistance recipients for the month they are admitted to or discharged from a medical institution.

Judicial review.—A State dissatisfied with the Secretary's decision with respect to State public assistance plans may appeal to the courts for review.

Alternative formula.—Any State, at its option, after adopting title XIX (medical assistance) may claim Federal participation in its money payments under the formula provided under that title instead of under the different formulas in the other public assistance titles.

MATERNAL AND CHILD HEALTH AND CHILD WELFARE AMENDMENTS

Increase in Annual Authorizations

The law increases the amount authorized for maternal and child health services over current authorizations by \$5 million for fiscal year 1965-66 and by \$10 million in each succeeding fiscal year, as shown below.

| Fiscal year | Old law | New law |
|------------------------|--------------|--------------|
| 1965-66..... | \$40,000,000 | \$45,000,000 |
| 1966-67..... | 40,000,000 | 50,000,000 |
| 1967-68..... | 45,000,000 | 55,000,000 |
| 1968-69..... | 45,000,000 | 55,000,000 |
| 1969-70 and after..... | 50,000,000 | 60,000,000 |

The authorizations for crippled children's services and child welfare services are increased to the same amounts. Such increases will assist the States, in all these programs, to move toward the goal of extending services and making them available to children in all parts of the State by July 1, 1975.

Training Personnel For Care of Crippled Children

The law also authorizes \$5 million for the fiscal year 1966-67, \$10 million for 1967-68, and \$17.5 million for each succeeding fiscal year in grants to institutions of higher learning to be used in training professional personnel for the care of crippled children, particularly mentally retarded children with multiple handicaps.

Health Care for the Children of Low-Income Families

A new provision authorizes the Secretary of Health, Education, and Welfare to carry out a 5-year program of special project grants to provide comprehensive health care and services for children of school age, or for preschool children, particularly in areas with concentrations of low-income families. The grants (not to exceed 75 percent of the cost of the project) will be made to State health agencies, State agencies administering the crippled children's program, any school of medicine (with appropriate participation by a school of dentistry), and any teaching hospital affiliated with such a school. Projects will provide screening, diagnosis, preventive services, treatment, correction of defects, and aftercare, including dental services, for children in low-income families.

An appropriation of \$15 million is authorized for the fiscal year ending June 30, 1966; \$35 million for the year ending June 30, 1967; \$40 million for the year ending June 30, 1968; \$45 million for the year ending June 30, 1969; and \$50 million for the year ending June 30, 1970.

Mental Retardation

Grants totaling \$2,750,000 are authorized for each of 2 fiscal years—1965-66 and 1966-67. The grants will be available during the year for which the appropriation is authorized and during the succeeding fiscal year. They are for the purpose of assisting States to implement and follow up on plans and other steps to combat mental retardation, as authorized under section 1701 of the Social Security Act.

Study of Resources Relating to Children's Emotional Illness

The Secretary of Health, Education, and Welfare is authorized to make grants for carrying out a program of research into resources, methods, and practices for diagnosing or preventing emotional illness in children and of treating, caring for, and rehabilitating children with emotional illness.

Commissioner's Bulletin

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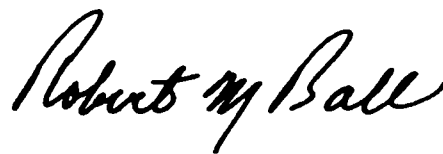
SENATE COMMITTEE ON FINANCE ACTS ON H. R. 6675

To Administrative, Supervisory,
and Technical Employees

The Senate Committee on Finance voted 12 to 5 on June 24 to report favorably H. R. 6675, the Social Security Amendments of 1965, with amendments. Enclosed is a list of changes in social security and public welfare that were made by the Committee in the provisions of the bill as passed by the House (the latter were described in Commissioner's Bulletins Nos. 23 and 24). A number of minor changes are not included in the listing.

The Committee expects to file its bill and the accompanying report in the Senate on Wednesday, June 30. Copies of the bill and the report will be sent to all offices of the Social Security Administration as soon as they are available.

The Senate is expected to begin its debate on the bill the week of July 5. We will, of course, keep you informed on congressional action on the bill.



Robert M. Ball
Commissioner

Enclosure

SOCIAL SECURITY AMENDMENTS OF 1965
CHANGES MADE BY THE SENATE COMMITTEE ON FINANCE IN H.R. 6675

HEALTH INSURANCE

1. Inpatient hospital services would be covered under the basic hospital insurance program for up to 120 days in each spell of illness, rather than the 60 days in the House bill, but the beneficiary would share in the cost of the last 60 days through a coinsurance payment for each such day equal to one-fourth of the inpatient hospital deductible (a \$10 daily payment initially).
2. As in the House bill, a maximum of 100 days of post-hospital extended care services would be covered under the basic hospital insurance program during a spell of illness. The Committee bill, however, eliminates the provision of the House bill under which the number of days of inpatient hospital services to which a beneficiary is entitled would be reduced by one day for each two days of extended care services he uses beyond 20 days. The Committee bill provides instead for a coinsurance payment by the beneficiary, for each day of extended care services beyond the 20th day, equal to one-eighth of the inpatient hospital deductible (a \$5 daily payment initially).
3. Post-hospital home health services for up to 175, rather than 100, visits would be covered under the basic hospital insurance program after discharge from a hospital and before the beginning of a new spell of illness. There would be no change with respect to home health services under the supplementary insurance program.
4. The medical services of certain specialists--radiologists, anesthesiologists, pathologists, and physiatrists--would be covered under the basic hospital insurance program where billing is done through the hospital, rather than, as under the House bill, only under the supplementary insurance program.
5. Inpatient psychiatric hospital services would be covered under the basic hospital insurance program, rather than under the supplementary insurance program as under the House bill, and the lifetime limit on such coverage would be increased from 180 to 210 days.
6. Benefits under the supplementary insurance program would be payable for services furnished on or after January 1, 1967, rather than on or after July 1, 1966, as in the House bill.
7. The Committee added provisions to the bill as passed by the House which, subject to an effective date proviso, would make certain changes in the financing and administration of hospital insurance benefits for beneficiaries under the railroad retirement program. The House bill provides that hospital insurance taxes imposed under the Federal Insurance Contributions Act would be imposed on railroad employment in the same amount and in the same manner as hospital insurance taxes on employment covered under social security. Under the committee amendment,

the taxes of the hospital insurance program would be levied under the Railroad Retirement Tax Act, and financial interchange provisions comparable to those that apply to cash benefits would apply to hospital insurance benefits. Also, under the Committee amendment the Railroad Retirement Board would be authorized to enter into agreements with Canadian hospitals and with hospitals devoted primarily to railroad employees, for the purpose of providing hospital insurance benefits for railroad retirement beneficiaries. However, the amendment would become effective only after the railroad earnings base is raised to at least \$550 a month (matching the social security \$6600 base provided by the bill) and until that time railroad coverage would be provided in the same manner as social security coverage.

8. The Committee bill omits the provision of the House bill which would amend the income tax law to allow medical expense deductions for the aged only to the extent that the expenses exceed 3 percent of adjusted gross income (under present law, as under the Committee bill, the 3 percent "floor" applies only with respect to people under 65).
9. The Committee bill deletes the provision of the House bill which would permit the deductible amount paid by the patient for outpatient hospital diagnostic services to be credited in certain instances against the inpatient hospital deductible where the patient is hospitalized after receiving outpatient diagnostic services. Under the Committee bill, the outpatient deductible would be counted as an incurred expense under the supplementary insurance program--that is, it would count toward the \$50 deductible and as an expense for which reimbursement could be made under the supplementary program. Under the House bill the full cost of the outpatient hospital diagnostic services, above the deductible amount, would be covered but under the Committee bill the program would cover only 80 percent of the cost and the beneficiary would pay the remainder. The effect of this change would be to cover outpatient hospital services and other outpatient services on a comparable basis.
10. The Committee bill would add to the House bill, provisions, subject to conditions to be prescribed in regulations, for payment for Christian Science nursing home services under the extended care provisions and for payment for Christian Science visiting nurse services under the home health provisions.
11. The Committee bill would add to the services covered under the supplementary medical insurance program those performed by podiatrists and chiropractors.
12. The House bill provides for the deduction from monthly social security or railroad retirement benefits of premiums under the supplementary medical insurance plan. The Committee bill would provide also for the deduction of such premiums from civil service retirement annuities.

13. The House bill would exclude from coverage under the transitional provision for the noninsured all persons who are enrolled or who could have enrolled in a health benefits plan for Federal employees. The Committee bill would modify the provision so that it would exclude only persons who are actually enrolled in such a plan.

OASDI

Earnings Base

The contribution and benefit base would be \$6600 in 1966 and all future years, rather than \$5600 beginning with 1966 and \$6600 beginning with 1971.

Retirement Test

The bill substitutes for the provision to extend the ceiling on the \$1-for-\$2 adjustment span from \$1700 to \$2400, passed by the House, a provision to (1) increase from \$1200 to \$1800 the annual amount of earnings a person may have and still get full benefits for the year; (2) extend the ceiling on the \$1-for-\$2 adjustment span to \$3000 (the \$1-for-\$1 adjustment would continue to apply to earnings above \$3000); and (3) raise from \$100 to \$150 the amount that a beneficiary may earn in a month and still get full benefits for that month.

Definition of Disability

The Committee amended the House bill to provide that an insured worker would be eligible for disability benefits if he has been under a disability which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 calendar months. Both the House bill and the Committee bill would eliminate the requirement that a worker's disability must be expected to be of long-continued and indefinite duration; however, under the provisions of the House bill an insured worker would be eligible for disability benefits if he has been totally disabled throughout a continuous period of at least 6 calendar months regardless of future duration of the disability. As under the House bill, the Committee bill provides that benefits payable by reason of the change in definition of disability would be paid for the second month following the month of enactment. The House bill provided for payment for the 6th month of disability, but the Committee amended bill provides, as under present law, that benefits be first paid for the 7th full month of disability.

Workmen's Compensation

The Committee bill adds to the House bill a disability benefits offset provision under which the social security disability benefit for any month for which a worker is receiving a periodic workmen's compensation benefit will be reduced to the extent that the total benefits payable to him and his dependents under both programs exceed 80 percent of his average monthly earnings prior to the onset of disability, but with the reduction periodically adjusted to take account of changes in earnings levels.

Rehabilitation Services

The Committee bill adds to the House bill a provision for reimbursement from social security trust funds to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries. The total amount of the funds that may be made available for purposes of reimbursing State agencies for such services could not, in any year, exceed 1 percent of the social security disability benefits paid in the previous year.

Childhood Disability Benefits

The Committee bill would provide for disabled child's benefits for a child who is disabled before reaching age 22 (rather than before age 18 as in present law), should his parent die, become disabled or retire. The mother of the child would also be eligible for benefits so long as she continued to have the child in her care.

Disability Determinations

The Committee bill would add to the House bill provisions authorizing the Social Security Administration to make disability determinations in those cases which can be promptly adjudicated on the basis of readily available medical and other evidence furnished by or on behalf of the applicant from existing sources of information and to terminate entitlement to disability benefits in cases of recovery based on such evidence or on evidence received that a beneficiary has returned to gainful work. Under present law disability determinations, including determinations that a disabled person had recovered, generally must be made by State agencies under agreements with the Social Security Administration.

Life of Applications

The House bill would not change the provisions of present law under which the life of an application for benefits is 3 months (9 months for disability benefits)--i.e., an applicant has 3 months from the date of application to qualify for benefits before his application expires. The Committee bill would extend the life of applications for social security benefits to the date of the final decision thereon by the Secretary.

Tips

The bill substitutes for the provision to cover tips as wages that was passed by the House of Representatives a provision to cover tips as earnings from self-employment.

Physicians

The Committee amended the provision in the House bill which would extend social security coverage to self-employed doctors of medicine by making such coverage effective for taxable years ending on or after December 31, 1965, rather than for taxable years ending after December 31, 1965, as

provided by the House bill. This change would provide social security coverage for most self-employed doctors a year earlier than under the House bill.

Definition of Child

The Committee adopted the Advisory Council's recommendation that benefits be paid to an illegitimate child if the father had acknowledged the child in writing, had been ordered by a court to contribute to the child's support, had been judicially decreed to be the child's father, or had been shown by other satisfactory evidence to be the child's father and was living with or contributing to the support of the child.

Remarriage of Widow or Widower

Benefits based on a prior spouse's earnings record would be payable to widows age 60 or over and to widowers age 62 or over who remarry. The amount of the remarried widow's or widower's benefit would be 50 percent of the primary insurance amount of the deceased spouse, rather than 82 1/2 percent as in the case of unremarried widows and widowers. If a larger benefit would be payable based on the new spouse's earnings record, the excess of that benefit over the benefit based on the prior spouse's earnings would be paid to the remarried widow or widower.

Restoration of Benefit Rights

H.R. 6675 as passed by the House contains several complex provisions relating to special treatment in cases where a divorced woman remarries. The Senate bill simplifies and extends the House bill so that an aged divorced wife, widow, or surviving divorced wife who is not married would be eligible for benefits regardless of intervening marriages. Similar changes would be made in the case of mother's insurance benefits for young widows and "surviving divorced mothers".

Overpayment, Waiver, and Underpayments

The bill adds a provision to (1) authorize the recovery of an overpayment of benefits to one person by withholding benefits of others getting benefits on the same earnings record in cases where the overpaid person is alive; (2) authorize the waiver of recovery of an overpaid amount if the person liable for repayment was without fault, even if the overpaid person was at fault; and (3) authorize the DHEW to settle claims for all underpayments.

Attorneys' Fees

The bill adds a provision to authorize a Federal court that renders a favorable decision to a claimant in an action arising under the social security program to set a reasonable fee (not in excess of 25 percent of past due benefits which become payable as a result of the decision) for the attorney who represented the claimant, and authorizes the Secretary to certify payment of the fee to the attorney from past-due payments.

Combined Check

The bill adds a provision under which the Secretary may authorize temporary overpayment to permit a surviving spouse to cash a benefit check issued jointly to a husband and wife if one of them dies before the check is negotiated, on the condition that any resulting overpayment would be recovered.

Ministers

The Committee added a provision to the House bill to permit social security credit to be obtained for the earnings of certain ministers who died or filed waiver certificates before April 16, 1965, where such earnings were reported for social security purposes but cannot be credited under present law.

Controlled Corporations

The bill would provide that when a person works for more than one corporation in a controlled group of corporations the controlled group would be considered as a single employer for purposes of determining the maximum amount of wages subject to employer taxes.

State and Local

The House bill would add Alaska and Kentucky to the present list of 18 States which may extend social security coverage to only those current members of a retirement system who desire such coverage, with compulsory coverage for all persons who later become members of the retirement system. The Committee deleted the provision adding Kentucky to this list of States.

Nonprofit Organizations

The House bill would permit nonprofit organizations that have already filed waiver certificates to amend such certificates to secure additional retroactive coverage. The Committee amended this provision to give those employees to whom the additional retroactive coverage is applicable an individual choice of such additional coverage. The Committee also adopted a provision which would permit social security credit to be given for erroneously reported wages of certain employees of a nonprofit organization in cases where the organization elected social security coverage but did not fulfill all of the requirements which must be met in order for coverage to be effective for the employees in question.

Administration

The bill contains a provision for an additional Under Secretary and two Assistant Secretaries of Health, Education, and Welfare.

Financing

The Committee has approved a new schedule of contribution rates. These rates, and the rates in the bill as passed by the House, are shown in the following tables:

Present and Proposed Contribution Rates
for Employees and Employers Each

| Year | Present Law | H.R. 6675 As Passed by the House of Representatives | | | H.R. 6675 As Amended by the Committee on Finance | | |
|-------------------|----------------|---|-----------|--------------|--|-----------|--------------|
| | | <u>OASDI</u> | <u>HI</u> | <u>Total</u> | <u>OASDI</u> | <u>HI</u> | <u>Total</u> |
| | | 1966 | 4.125 | 4.0 | 0.35 | 4.35 | 3.85 |
| 1967 | 4.125 | 4.0 | 0.50 | 4.50 | 3.85 | 0.50 | 4.35 |
| 1968 | 4.625 | 4.0 | 0.50 | 4.50 | 3.85 | 0.50 | 4.35 |
| 1969-70 | 4.625 | 4.4 | 0.50 | 4.90 | 4.45 | 0.50 | 4.95 |
| 1971-72 | 4.625 | 4.4 | 0.50 | 4.90 | 4.45 | 0.55 | 5.00 |
| 1973-75 | 4.625 | 4.8 | 0.55 | 5.35 | 4.90 | 0.60 | 5.50 |
| 1976-79 | 4.625 | 4.8 | 0.60 | 5.40 | 4.90 | 0.65 | 5.55 |
| 1980-86 | 4.625 | 4.8 | 0.70 | 5.50 | 4.90 | 0.75 | 5.65 |
| 1987 and after | 4.625 | 4.8 | 0.80 | 5.60 | 4.90 | 0.85 | 5.75 |

Present and Proposed Contribution Rates
for the Self-Employed

| Year | Present Law | H.R. 6675 As Passed by the House of Representatives | | | H.R. 6675 As Amended by the Committee on Finance | | |
|-------------------|----------------|---|-----------|--------------|--|-----------|--------------|
| | | <u>OASDI</u> | <u>HI</u> | <u>Total</u> | <u>OASDI</u> | <u>HI</u> | <u>Total</u> |
| | | 1966 | 6.2 | 6.0 | 0.35 | 6.35 | 5.8 |
| 1967 | 6.2 | 6.0 | 0.50 | 6.50 | 5.8 | 0.50 | 6.30 |
| 1968 | 6.9 | 6.0 | 0.50 | 6.50 | 5.8 | 0.50 | 6.30 |
| 1969-70 | 6.9 | 6.6 | 0.50 | 7.10 | 6.7 | 0.50 | 7.20 |
| 1971-72 | 6.9 | 6.6 | 0.50 | 7.10 | 6.7 | 0.55 | 7.25 |
| 1973-75 | 6.9 | 7.0 | 0.55 | 7.55 | 7.0 | 0.60 | 7.60 |
| 1976-79 | 6.9 | 7.0 | 0.60 | 7.60 | 7.0 | 0.65 | 7.65 |
| 1980-86 | 6.9 | 7.0 | 0.70 | 7.70 | 7.0 | 0.75 | 7.75 |
| 1987 and after | 6.9 | 7.0 | 0.80 | 7.80 | 7.0 | 0.85 | 7.85 |

PUBLIC WELFARE PROVISIONS

1. Provision for States to purchase supplemental medical assistance for money payment recipients. The final dates in this section have been changed from July 1, 1967 to July 1, 1968.
2. Medical assistance. The bill permits a State to designate any single State agency for administration but requires determination of eligibility be made by the State or local agency administering the plan under title I or XVI (special provision is made for States with separate blind agencies).
3. Standards for institutions will, after June 30, 1967, have to include standards established by the Secretary relating to protection against a fire and other hazards to health and safety.
4. States desiring to include aged patients in mental and tuberculosis institutions will not have to include similar care and services for persons under age 65. This is an exception to the requirement that the amounts, scope and duration of benefits under title XIX be the same for all groups.
5. Provision is included for a description in State plans of items relating to quality of medical assistance--kinds and numbers for medical personnel and their responsibilities, standards for public and private institutions, cooperative arrangements with health and vocational rehabilitation agencies, and other standards and methods designed to assure quality.
6. 75 percent reimbursement is provided for training as well as compensation of skilled, professional medical personnel and supporting staff.
7. The special requirements contained in the House bill relating to payments in mental or tuberculosis institutions have been limited to mental institutions. Aged persons may be cared for in tuberculosis hospitals without any special plan provisions.
8. The medical assistance title has been made optional with States. Accordingly, vendor payments can be made indefinitely under existing vendor payment provisions.
9. The requirement for comprehensive medical care for all medically needy has been made effective 10 years after a State's plan becomes effective instead of on July 1, 1975.

10. Skilled nursing home services as a required service have been limited to individuals 21 years of age or over. Dental services are required for individuals under the age of 21.
11. The provision that if income is exempted for an individual it also be exempted for any other individual has been extended to cover all titles.
12. A provision is made for special projects for emotionally disturbed children as a part of the project grants for health of school and preschool children. Authorizations for the project grants have been increased by \$5 million for fiscal years 1968, 1969 and 1970 to cover the cost of the special projects for emotionally disturbed children. A study of resources relating to children's emotional illness (under NIMH) is also authorized.
13. Protective payments are authorized under title X and XIV for the blind and disabled.
14. Up to \$50 of earnings for each of not more than three children in the same family may be exempted in determining need. The amendment is wholly permissive with the States.
15. Recipients of APTD may have the same exemption of earnings as is provided under old-age assistance and the same exemption of income and resources if they are under an approved rehabilitation plan that is now provided for the blind. This amendment is also wholly permissive with the States.
16. A limitation of 30 days is placed under the judicial review section on the time between the Secretary's receipt of a petition from the State and the time that a hearing is set. This was the only interval on which no time limitation was placed in the House bill.
17. The earmarked provision for day-care services was eliminated from child welfare services and the authorization for child welfare services increased to the same level as the maternal and child health and crippled children's programs under the bill. This is an increase of \$5 million for fiscal year 1966 and \$10 million for most subsequent years.
18. The definition of a school in which an AFDC child may receive aid at the State's option between the ages of 18 and 21 was broadened to include colleges.
19. An amendment requiring that an individual be free to select either a physician skilled in the diseases of the eye or an optometrist for services which an optometrist is licensed to perform was made applicable to all parts of the bill and the Social Security Act.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

Number 28

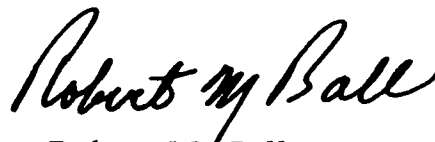
July 10, 1965

SENATE PASSES SOCIAL SECURITY AMENDMENTS OF 1965

To Administrative, Supervisory,
and Technical Employees

On July 9 the Senate passed H. R. 6675 by a vote of 68 to 21. The bill now goes to a conference committee to settle differences between the bill as passed by the Senate and the bill as passed by the House of Representatives.

Enclosed is a description of the amendments (other than welfare) added on the floor of the Senate to the bill that was reported out by the Committee on Finance. (The latter was described in Commissioner's Bulletin No. 27.)



Robert M. Ball
Commissioner

Enclosure

SOCIAL SECURITY AMENDMENTS OF 1965
CHANGES MADE ON THE SENATE FLOOR IN H.R. 6675*

HEALTH INSURANCE

1. Removes the 60 day limit in the House bill on payments for inpatient hospital services during a spell of illness. Provides for coinsurance (\$10 a day initially) payable by the beneficiary for inpatient hospital services furnished after the 60th day.
2. Deletes the requirement under the basic hospital insurance plan that a person must have been in a hospital or extended care facility in order to be eligible for home health services.
3. Provides that an individual who is dissatisfied with a determination that he is not entitled to benefits under the basic hospital insurance plan or the supplementary medical insurance plan, or with a determination relating to the amount of benefits payable under the basic plan would have a right to appeal (and to judicial review) where the amount in controversy is \$100 or more. The House bill provided such appeal rights only where the amount in controversy was \$1,000 or more.
4. Provides that the Secretary shall appoint an Advisory Council on Social Security to make a comprehensive study of nursing homes and other extended care facilities and, before the end of the 1-year period following enactment, report its findings and recommendations to the Secretary for transmittal to the Congress.
5. Provides that the Secretary shall study the feasibility of covering prescription drugs under the supplementary medical insurance plan and submit a report, including recommendations, to the Congress on or before June 30, 1966.
6. Reduces from 10 years to 6 months the period during which aliens who have been admitted to the United States for permanent residence are required to have lived in the United States in order to be eligible for hospital insurance benefits under the transitional insured status provision.
7. The House bill provided that the health and safety standards to be prescribed by the Secretary at the request of a State for application within that State could not be higher than those established by the Joint Commission on Accreditation of Hospitals for accreditation purposes. The Senate floor amendment deletes this limitation and provides that the Secretary's standards may not be lower than those imposed by a State or locality on institutions as a condition to their purchase of institutional services under public medical assistance programs.

* This listing was prepared before the printing of the Senate bill so that full assurance of technical accuracy is not possible.

8. Requires that the Secretary accept the certification by a State agency that an institution or agency is a hospital, extended care facility, or a home health agency (as these terms are defined in the bill) unless he determines that the institution or agency is so inadequate as to endanger the life or health of patients.

OASDI

Reduced Benefits at Age 60

Old-age, wife's, husband's, widower's, and parent's benefits could be paid at age 60. (A provision for paying benefits to widows at 60 is included in the House bill.) No change is made in the present law provisions relating to the period over which benefits are computed--up to age 65 for men workers, and up to age 62 for women workers. The benefits would be reduced to take account of the longer period over which they would be paid. The reduction factors now applied to an old-age, wife's, and husband's benefit taken between age 62 and 65 would be applied to these benefits if taken before age 62; the reduction factor for parent's and widower's benefits would be the same as the old-age benefit reduction factor--five-ninths of one percent a month (6 2/3 percent for each full year)--and would be applied for those months before age 62 for which the benefit is paid (the same as the reduction provisions for widow's benefits). The maximum reduction--for 60 months--in the old-age benefit would be 33 1/3 percent of the primary insurance amount; the maximum reduction in the wife's benefit would be 41 2/3 percent of the wife's benefit (which, of course, is 50 percent of the primary insurance amount). Thus where the worker's primary insurance amount was \$106, his benefit at age 60 would be \$70.70; his wife's benefit at age 60 would be \$31; and the benefit payable on his account for a sole parent or a widower at age 60 would be \$75.90.

Disclosure of Information from Social Security Records

The bill adds a provision under which the Social Security Administration, at the request of a State public welfare agency or a court of competent jurisdiction would be required to disclose the most recent address contained in the social security records for any person who is certified by the agency or court as failing, without lawful excuse, to provide support for his or her destitute children under age 16 or for his destitute wife. The address would be disclosed only if the request was made by the agency or court on behalf of the wife or children, and it could be used only on behalf of the wife and children.

Adoption of a Brother or Sister

The bill would also provide that a child's benefits would not be terminated as a result of his adoption by his brother or sister.

Effect of Increased Social Security Benefits on Veterans' Pensions

The increase in social security benefits made by H.R. 6675 would not be counted as annual income in determining the amount of a veteran's pension for Veterans Administration purposes. Since eligibility for and the amount of a veteran's pension depend on the amount of total countable income the veteran has, in the absence of such an amendment the social security benefit increase could have resulted in a veteran's getting a smaller pension or none at all.

Ministers' Filing Deadline

The period during which ministers who have been in the ministry for at least two years since 1954 may file waiver certificates electing social security coverage would be reopened, through April 15, 1966. Coverage for ministers whose eligibility to file waiver certificates would be reopened would ordinarily begin with 1963. Conforming changes were made in the provision, added to the bill by the Senate Finance Committee, which would permit the validation of certain erroneously reported ministerial earnings.

Nonprofit Validating Provision

A technical correction was made in a provision which had been added to the bill by the Senate Finance Committee, in order to permit the objective of the provision to be properly carried out. The provision would permit certain employees whose wages were erroneously reported by a nonprofit organization during the period the organization's waiver certificate was in effect to validate such erroneously reported wages.

School District Employees in Alaska

Provision was made for validating the past coverage under social security of employees of certain school districts in Alaska which have been included in error as separate political subdivisions under the Alaska social security coverage agreement. The employees of the school districts involved should properly have been covered as employees of the political subdivisions of which the school districts are integral parts. The amendment would be effective only for periods prior to 1966; coverage for 1966 and later years would be under the general provisions of law.

Disability Benefits for the Blind

The bill would (a) provide a less strict definition of "blindness" than the one used in present law for purposes of the disability freeze (20/100 visual acuity is proposed as against 5/200 under present law); (b) permit an individual who meets the proposed definition of blindness to qualify for disability benefits regardless of his capacity to work; (c) modify the disability work requirements so that persons meeting the proposed definition of blindness could qualify for disability benefits with 6 quarters of coverage earned at any time, and (d) provide for the payment of disability benefits beyond age 65 for blind persons even though they are not fully insured, and without regard to the retirement test.

Financing

The Senate has approved a new schedule of contribution rates. These rates, and the rates in the bill as passed by the House, are shown in the following tables:

Present and Proposed Contribution Rates
for Employees and Employers Each

| Year | Present Law | H.R. 6675 | | | H.R. 6675 | | |
|-------------------|----------------|--------------------------|-----------|--------------|------------------|-----------|--------------|
| | | As Passed by the | | | As Passed by the | | |
| | | House of Representatives | | | Senate | | |
| | | <u>OASDI</u> | <u>HI</u> | <u>Total</u> | <u>OASDI</u> | <u>HI</u> | <u>Total</u> |
| 1966 | 4.125 | 4.0 | 0.35 | 4.35 | 3.85 | 0.325 | 4.175 |
| 1967 | 4.125 | 4.0 | 0.50 | 4.50 | 3.85 | 0.50 | 4.35 |
| 1968 | 4.625 | 4.0 | 0.50 | 4.50 | 3.85 | 0.50 | 4.35 |
| 1969-70 | 4.625 | 4.4 | 0.50 | 4.90 | 4.50 | 0.50 | 5.00 |
| 1971-72 | 4.625 | 4.4 | 0.50 | 4.90 | 4.50 | 0.55 | 5.05 |
| 1973-75 | 4.625 | 4.8 | 0.55 | 5.35 | 4.95 | 0.65 | 5.60 |
| 1976-79 | 4.625 | 4.8 | 0.60 | 5.40 | 4.95 | 0.70 | 5.65 |
| 1980-86 | 4.625 | 4.8 | 0.70 | 5.50 | 4.95 | 0.80 | 5.75 |
| 1987 and after | 4.625 | 4.8 | 0.80 | 5.60 | 4.95 | 0.85 | 5.80 |

Present and Proposed Contribution Rates
for the Self-Employed

| Year | Present Law | H.R. 6675 | | | H.R. 6675 | | |
|-------------------|----------------|--------------------------|-----------|--------------|------------------|-----------|--------------|
| | | As Passed by the | | | As Passed by the | | |
| | | House of Representatives | | | Senate | | |
| | | <u>OASDI</u> | <u>HI</u> | <u>Total</u> | <u>OASDI</u> | <u>HI</u> | <u>Total</u> |
| 1966 | 6.2 | 6.0 | 0.35 | 6.35 | 5.8 | 0.325 | 6.125 |
| 1967 | 6.2 | 6.0 | 0.50 | 6.50 | 5.8 | 0.50 | 6.30 |
| 1968 | 6.9 | 6.0 | 0.50 | 6.50 | 5.8 | 0.50 | 6.30 |
| 1969-70 | 6.9 | 6.6 | 0.50 | 7.10 | 6.8 | 0.50 | 7.30 |
| 1971-72 | 6.9 | 6.6 | 0.50 | 7.10 | 6.8 | 0.55 | 7.35 |
| 1973-75 | 6.9 | 7.0 | 0.55 | 7.55 | 7.0 | 0.65 | 7.65 |
| 1976-79 | 6.9 | 7.0 | 0.60 | 7.60 | 7.0 | 0.70 | 7.70 |
| 1980-86 | 6.9 | 7.0 | 0.70 | 7.70 | 7.0 | 0.80 | 7.80 |
| 1987 and after | 6.9 | 7.0 | 0.80 | 7.80 | 7.0 | 0.85 | 7.85 |

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

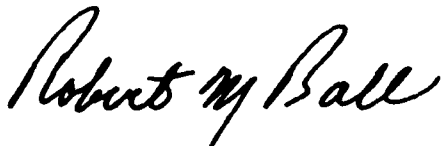
Number 29

July 21, 1965

House-Senate Conference Agrees on Provisions of H. R. 6675

To Administrative, Supervisory,
and Technical Employees

The House-Senate conference committee has reconciled the differences between H. R. 6675 as passed by the House and the Senate. The bill now returns to both Houses, where early passage is expected. Enclosed is a summary of the provisions of the bill.



Robert M. Ball
Commissioner

Enclosure

SUMMARY OF PROVISIONS OF H.R. 6675
THE "SOCIAL SECURITY AMENDMENTS OF 1965"

I. HEALTH INSURANCE FOR THE AGED

The bill adds a new title XVIII to the Social Security Act establishing two related health insurance programs for persons 65 and over: (1) a basic plan providing protection against the costs of hospital and related care; and (2) a voluntary supplementary plan covering payments for physicians' services and other medical and health services to cover certain areas not covered by the basic plan.

The basic plan will be financed through a separate earnings tax and separate trust fund. Benefits for persons currently over 65 who are not insured under the social security and railroad retirement system will be financed out of Federal general revenues.

Enrollment in the supplementary plan is to be voluntary and will be financed by a small monthly premium (\$6 per month initially--\$3 to be paid by enrollees and an equal amount to be supplied by the Federal Government out of general revenues). The premiums for social security, railroad retirement beneficiaries and Civil Service Retirement annuitants who enroll will be deducted from their monthly benefits. Uninsured persons desiring the supplemental plan will make the periodic premium payments to the Government. State welfare programs could arrange for uninsured assistance recipients to be covered.

A. Basic Plan - Hospital Insurance

1. General description

Basic protection, financed through an earnings tax, will be provided against the costs of inpatient hospital services, post-hospital extended care, post-hospital home health services, and outpatient hospital diagnostic services for social security and railroad retirement beneficiaries when they attain age 65. The same protection, financed from general revenues, will be provided under a special transitional provision for essentially all people who are now aged 65, or who will reach age 65 before 1968, but who are not eligible for social security or railroad retirement benefits. Together, these two groups comprise virtually the entire aged population. The persons not protected would be Federal employees who are covered, or who were covered on February 15, 1965, or who, if they retired after February 15, 1965, could have been covered, under the provisions of the Federal Employees Health Benefits Act of 1959. Others excluded would be aliens who have not been residents of the United States for 5 years, aliens who have not been admitted for permanent residence, and certain subversives.

Benefits will be first effective on July 1, 1966, except for services in extended care facilities which will be effective on January 1, 1967.

2. Benefits

The services for which payment will be made under the basic plan include--

a. inpatient hospital services for up to 90 days in each spell of illness. The patient will pay a deductible amount of \$40 for the first 60 days plus a coinsurance payment of \$10 a day for each day in excess of 60 during each spell of illness; hospital services include all those ordinarily furnished by a hospital to its inpatients; however, payment will not be made for private duty nursing or for the hospital services of physicians except services provided by interns or residents in training under approved teaching programs. Inpatient psychiatric hospital service will be included, but a lifetime limitation of 190 days will be imposed. Inpatient services in Christian Science sanatoriums will also be covered.

b. post-hospital extended care (in a facility having an arrangement with a hospital for the timely transfer of patients and for furnishing medical information about patients) after the patient is transferred from a hospital (after at least a 3-day stay) for up to 100 days in each spell of illness, but after the first 20 days of care patients will pay \$5 a day for the remaining 80 days of extended care in a spell of illness. Under a special provision, extended care in Christian Science sanatoriums will be covered for up to 30 days, with the patient paying \$5 a day.

c. outpatient hospital diagnostic services with the patient paying a \$20 deductible amount and a 20 percent coinsurance for each diagnostic study (that is, for diagnostic services furnished to him by the same hospital during a 20-day period); and

d. post-hospital home health services for up to 100 visits, after discharge from a hospital (after at least a 3-day stay) or extended care facility and before the beginning of a new spell of illness. Such a person must be in the care of a physician and under a plan established by a physician within 14 days of discharge calling for such services. These services will include intermittent nursing care, therapy, and the part-time services of a home health aide. The patient must be homebound, except that payment could be made for services furnished at a hospital or extended care facility or rehabilitation center which require the use of equipment that cannot ordinarily be taken to the patient's home.

No service will be covered as post-hospital extended care or as outpatient diagnostic or post-hospital home health services if it is of a kind that could not be covered if it were furnished to a patient in a hospital.

A spell of illness will be considered to begin when the individual enters a hospital and to end when he has not been an inpatient of a hospital or extended care facility for 60 consecutive days.

The deductible amounts for inpatient hospital and outpatient hospital diagnostic services will be increased if necessary to keep pace with increases in hospital costs, but no such increase will be made before

1969. For reasons of administrative simplicity, increases in the hospital deductible will be made only when a \$4 change is called for and the outpatient deductible will change in \$2 steps.

3. Basis of reimbursement

Payment of bills under the basic plan will be made to the providers of service on the basis of the "reasonable cost" incurred in providing care for beneficiaries.

4. Administration

Basic responsibility for administration will rest with the Secretary of Health, Education, and Welfare. The Secretary will use appropriate State agencies and private organizations (nominated by providers of services) to assist in the administration of the program. Provision is made for the establishment of an Advisory Council which will advise the Secretary on policy matters in connection with administration.

5. Financing

Taxes to finance the basic plan, paid by employers, employees, and self-employed persons, will be placed in a separate hospital insurance trust fund established in the Treasury. The earnings base--the amount of annual earnings subject to the new taxes--will be the same as for purposes of financing social security cash benefits. The same contribution rate will apply equally to employers, employees, and self-employed persons and will be as follows:

| | Percent |
|-------------------------------|---------|
| 1966. | 0.35 |
| 1967-72 | .50 |
| 1973-75 | .55 |
| 1976-79 | .60 |
| 1980-96 | .70 |
| 1987 and thereafter | .80 |

The taxable earnings base will be \$6,600 a year.

The schedule of contribution rates is based on estimates of cost which assume that the earnings base will not be increased above \$6,600. If Congress, in later years, should increase the base above \$6,600, the tax rates established can be reduced under the cost assumptions underlying the bill.

The cost of providing basic hospital and related benefits to people who are not social security or railroad retirement beneficiaries will be paid from general funds of the Treasury.

B. Voluntary Supplementary Insurance Plan

1. General description

A package of benefits supplementing those provided under the basic plan will be offered to all persons 65 and over. Individuals who enroll initially will pay \$3 a month (deducted, where possible, from social security, railroad retirement, or civil service retirement benefits). The Government would match this amount with \$3 paid from general funds. Since the minimum increase in cash social security benefits for workers who are 65 or over when the benefit increase is effective for them will be \$4 a month (\$6 a month for man and wife receiving benefits based on the same earnings record), the benefit increases will fully cover the amount of monthly premiums.

2. Enrollment

Persons aged 65 before January 1, 1966, will have an opportunity to enroll in an enrollment period which begins on the first day of the second month after the month of enactment and ends March 31, 1966.

Persons attaining age 65 subsequent to December 31, 1965, will have enrollment periods of 7 months beginning 3 months before attaining 65.

In the future general enrollment periods will be from October to December 31, in each odd year. The first such period will be October 1 to December 31, 1967.

No person may enroll more than 3 years after the close of the first enrollment period in which he could have enrolled.

There will be only one chance to reenroll for persons who are in the plan but drop out, and reenrollment must occur within 3 years of termination of previous enrollment.

Coverage may be terminated (1) by the individual filing notice during a general enrollment period, or (2) by the Government, for nonpayment of premiums.

A State will be able to provide the supplementary insurance benefits to its public assistance recipients who are receiving cash assistance if it chooses to do so.

Benefits will be effective beginning July 1, 1966.

3. Benefits

The voluntary supplementary insurance plan will cover physicians' services, home health services, and numerous other medical and health

services in and out of medical institutions.

There will be an annual deductible of \$50. Then the plan will cover 80 percent of the patient's bill (above the deductible) of the following services:

- a. Physicians' and surgeons' services, whether furnished in a hospital, clinic, office, in the home, or elsewhere.
- b. Home health services (with no requirement of prior hospitalization) for up to 100 visits during each calendar year.
- c. Diagnostic X-ray and laboratory tests, and other diagnostic tests.
- d. X-ray, radium, and radioactive isotope therapy.
- e. Ambulance services.
- f. Surgical dressings and splints, casts, and other devices for reduction of fractures and dislocations; rental of durable medical equipment such as iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home; prosthetic devices (other than dental) which replace all or part of an internal body organ; braces and artificial legs, arms, eyes, etc.

There will be a special limitation on outside-the-hospital treatment of mental, psychoneurotic, and personality disorders. Payment for such treatment during any calendar year will be limited, in effect, to \$250 or 50 percent of the expenses, whichever is smaller.

4. Administration by carriers: Basis for reimbursement

The Secretary of Health, Education, and Welfare will be required, to the extent possible, to contract with carriers to carry out the major administrative functions of the voluntary, supplementary plan such as determining rates of payments under the program, holding and disbursing funds for benefit payments, and determining compliance and assisting in utilization review. No contract is to be entered into by the Secretary unless he finds that the carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent. The contract must provide that the carrier take necessary action to see that where payments are on a cost basis (to institutional providers of services), the cost is reasonable cost. Correspondingly, where payments are on a charge basis (to physicians or others furnishing noninstitutional services), the carrier must see that such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the other policyholders and subscribers of the carrier. Payment by the carrier for physicians' services will be made on the basis of a receipted bill, or on the basis of an assignment under the terms of which the reasonable charge will be the full charge for the service. In determining reasonable charges, the carriers will consider the customary charges for similar services generally made by the physician or other person or organization furnishing the covered services, and also the prevailing charges in the locality for similar services.

5. Financing

Aged persons who enroll in the supplementary plan will pay monthly premiums of \$3. Where the individual is currently receiving monthly social security, railroad retirement or civil service retirement benefits, the premiums will be deducted from his benefits.

The Government will help finance the supplementary plan through a payment from general revenues of \$3 a month per enrollee. To provide an operating fund at the beginning of the supplementary plan, and to establish a contingency reserve, a Government appropriation will be available (on a repayable basis) equal to \$18 per aged person estimated to be eligible in July 1966, when the supplementary plan goes into effect.

The individual and Government contributions will be placed in a separate trust fund for the supplementary plan. All benefit and administrative expenses under the supplementary plan will be paid from this fund.

The provision in the income tax law which limits medical expense deductions to amounts in excess of 3 percent of adjusted gross income for persons under 65 will be reinstated for persons 65 and over. Thus, provision is made for partial or full recovery of the Government contribution from enrolled persons with incomes high enough to require them to pay income taxes. A special deduction (for taxpayers who itemize deductions) of one-half of premiums for medical care insurance will be added, however. This special deduction, which will be applicable to taxpayers of all ages, cannot exceed \$150 per year.

Premium rates for enrolled persons (and the matching Government contribution) will be increased from time to time in the event that costs rise, but not more often than once every 2 years. The premium rate for a person who enrolls after the first period when enrollment was open to him will be increased by 10 percent for each full year he stayed out of the program.

C. **Cost of the Basic and Supplementary Plan**

Benefits under both plans will become payable for services furnished in July 1966, except for services in extended care facilities, for which benefits will become payable in January 1967. Benefits and administrative expenses under the basic plan will be about \$2.2 billion for the first year of operations. The costs for the uninsured under the basic plan (paid from general revenues) will be about \$290 million per year for early years with a substantial offset for public assistance savings. Costs of the supplementary plan will be about \$1.2 billion in the first year of operations.

D. Railroad Retirement Health Insurance Provisions

The basic administration of the health insurance benefits program for railroad retirement beneficiaries would be handled by the Social Security Administration in much the same way as for social security beneficiaries. That is, the Social Security Administration would be responsible for making payments to providers of services and carrying out related administrative functions.

The bill contains provisions designed to assure that the hospital insurance taxes paid on employment covered under the railroad retirement program will be the same as the taxes on employment covered under social security. For years in which the annual earnings and tax bases of the two programs are equal, hospital insurance taxes on railroad employment will be levied under the railroad retirement taxing provisions of law, and transferred to the Federal Hospital Insurance Trust Fund, with payments made from such fund. In these years the Railroad Retirement Board would make determinations as to the rights of railroad retirement beneficiaries to hospital insurance benefits, and would provide hospital insurance benefits, financed from the Railroad Retirement Account, for railroad retirement beneficiaries in Canadian hospitals.

These provisions presumably anticipate the enactment of legislation making and keeping the railroad retirement wage and tax base equal to that of social security. However, should there be years in which the tax and wage bases of the two programs are not equal, hospital insurance taxes for such years would be levied under the social security taxing provisions of law, and hospital insurance benefits for railroad beneficiaries would be provided under social security on the same basis as for social security beneficiaries.

II. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AMENDMENTS

A. Benefits

1. Increase in monthly cash benefits

The bill provides a 7-percent across-the-board benefit increase, effective retroactively beginning with January 1965, with a minimum increase of \$4 for retired workers age 65 and older. Benefits will be increased for the 20 million social security beneficiaries on the rolls at the time of enactment and for all future beneficiaries.

The minimum monthly benefit for workers retiring at or after age 65 is \$44; the maximum (based on average monthly earnings of \$400, the highest possible under the \$4800 contribution and benefit base) is \$135.90. In the future, higher creditable earnings under the increase in the contribution and benefit base to \$6600 a year will make possible a maximum benefit of \$168.

The maximum amount of benefits payable to a family on the basis of a single earnings record will be related to the worker's average monthly earnings at all earnings levels, with an ultimate family maximum of \$368.

The bill also provides for the benefits of people on the rolls to be recomputed automatically each year to take account of any covered earnings that the worker might have had in the previous year and that can increase his benefit amount. The amendment is effective with respect to calendar years after 1964.

2. Change in the retirement test

The bill provides that a beneficiary may have annual earnings of \$1500 and still get all of his benefits for the year; if his earnings exceed \$1500, \$1 in benefits will be withheld for each \$2 of annual earnings up to \$2700 and for each \$1 of earnings thereafter. The bill also provides that a beneficiary will get benefits, regardless of the amount of his annual earnings, for any month in which he earns \$125 or less in wages and does not render substantial services in self-employment. These provisions are effective for taxable years ending after 1965.

The bill also exempts certain royalties that are received in or after the year in which a person reaches age 65 from copyrights and patents that were obtained before age 65 from being counted as earnings for purposes of the test. This provision is effective for taxable years beginning after 1964.

3. Payment of child's insurance benefits to children attending school or college after attainment of age 18 and up to age 22

The bill provides for the payment of child's insurance benefits until the child reaches age 22, provided the child is attending a public or accredited school as a full-time student after he reaches age 18.

Children of deceased, retired, and disabled workers are included. No person will be paid mother's or wife's benefits solely on the basis of having in her care a child who has attained age 18 and is in school. The change is effective for months after December 1964.

4. Changes in the disability program

a. Definition of disability.--The bill eliminates the requirement that a worker's disability must be expected to be of long-continued and indefinite duration and provides that an insured worker is eligible for disability benefits if he has been under a disability which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 calendar months. Benefits payable by reason of this change in the definition of disability will be paid beginning with benefits for the second month following the month of enactment.

b. Workmen's compensation offset.--The bill provides that the social security disability benefit for any month for which a worker is receiving a periodic workmen's compensation benefit will be reduced to the extent that the total benefits payable to him and his dependents under both programs exceed 80 percent of his average monthly earnings prior to the onset of disability, but with the reduction periodically adjusted to take account of changes in national average earnings levels. Under this provision, the worker's average monthly earnings are defined as the higher of (a) his average monthly wage used for purposes of computing his social security disability benefit or (b) his average monthly earnings, in employment covered by social security, during his highest 5 consecutive years after 1950. This offset provision will be applicable with respect to benefits payable after December 1965 on the basis of disabilities commencing after June 1, 1965.

c. Rehabilitation services.--The bill provides for reimbursement from social security trust funds to State vocational rehabilitation agencies for the cost of rehabilitation services furnished to selected individuals who are entitled to disability insurance benefits or to disabled child's benefits. The total amount of the funds that may be made available from the trust funds for purposes of reimbursing State agencies cannot, in any year, exceed 1 percent of the social security disability benefits paid in the previous year. This provision is effective upon enactment of the bill.

d. Disability benefits for the blind.--The bill modifies the disability provisions with respect to the blind in two respects. First, it modifies the definition of disability so as to provide that an individual will be considered to be under a disability for purposes of entitlement to disability benefits if he is between the ages of 55 and 65, meets the definition of "blindness" (as now provided for purposes of the disability "freeze") and is unable, by reason of such blindness, to engage in substantial gainful activity requiring skills or abilities comparable to those required in his past occupation or occupations. No payment would be made to such blind individual, however, for any month in which he engages in substantial gainful activity.

Second, the bill provides an alternative insured status requirement for persons who are disabled before age 31 by reason of "blindness" as defined. Under this provision, such a blind individual would be insured if he has quarters of coverage in one-half the quarters elapsing after attainment of age 21 and up to the point of disability, or, in the case of those becoming disabled before age 24, for at least one-half of the 3 years preceding the quarter in which he becomes disabled.

e. Entitlement to disability benefits after entitlement to benefits payable on account of age.--Under the bill, a person who becomes entitled before age 65 to a benefit payable on account of old age could later become entitled to disability insurance benefits. The amendment is effective beginning with monthly benefits for the second month after the month of enactment, on the basis of applications filed in or after the month of enactment.

5. Benefits for widows at age 60

Widows can elect to receive benefits at age 60; the benefits payable to those who claim them before age 62 will be actuarially reduced to take account of the longer period over which they will be paid. This provision is effective beginning with the second month after the month of enactment.

6. Transitional insured status

The bill sets up a "transitional insured status" under which people who reached retirement age in 1955 or 1956 can qualify for benefits if they have one quarter of coverage for each year that elapsed after 1950 and up to retirement age (that is, 4 or 5) and people who reached retirement age in or before 1954 can qualify if they have 3 quarters of coverage instead of 6.

The following table shows the operation of the "transitional insured status" provision for workers:

| <u>Men</u> | | <u>Women</u> | |
|--------------------------------|--|--------------------------------|--|
| <u>Age</u> <u>(In 1965)</u> | <u>Quarters of Coverage</u> <u>Required</u> | <u>Age</u> <u>(In 1965)</u> | <u>Quarters of Coverage</u> <u>Required</u> |
| 76 or over | 3 | 73 or over | 3 |
| 75 | 4 | 72 | 4 |
| 74 | 5 | 71 | 5 |

Benefits are not payable under this provision until age 72.

Wife's benefits are payable at age 72 to a woman whose husband qualifies for benefits under the transitional provision if she attains age 72 before 1969.

Widow's benefits will be payable at age 72 to a woman who reaches age 72 before 1969 if her husband is living when the transitional provision becomes effective and if he meets the work requirements of the provision. A widow who reaches age 72 before 1969 but whose husband died before the transitional provision became effective can qualify if her husband attained age 65 or died before 1957 and if he had a specified number of quarters of coverage, as shown in the following table:

| Year of husband's death (or attainment of age 65, if earlier) | Quarters of coverage required if the widow attains age 72-- | | |
|---|---|---------|---------|
| | In 1966 or before | In 1967 | In 1968 |
| 1954 or before | 3 | 4 | 5 |
| 1955 | 4 | 4 | 5 |
| 1956 | 5 | 5 | 5 |

Under the provision, benefits of \$35 will be payable to retired workers and widows; wives of retired workers would receive \$17.50.

These provisions are effective for the second month after the month of enactment.

7. Dependents' benefits

a. Qualification of children not qualified under State law.--Under the bill a child can be paid benefits based on his father's earnings without regard to whether he has the status of a child under State inheritance laws if the father was supporting the child or had a legal obligation to do so. Benefits will be paid to a child on the earnings record of his father, even though the child cannot inherit the father's intestate personal property, if the father had acknowledged the child in writing; had been ordered by a court to contribute to the child's support; had been judicially decreed to be the child's father; or is shown by other satisfactory evidence to be the child's father and was living with or contributing to the support of the child. The amendment will be effective with respect to monthly benefits beginning with the second month after the month of enactment.

b. Payment of widow's and widower's insurance benefits after remarriage.--The bill provides that benefits will be payable to widows (and widowers) even though they have remarried if the remarriage was after age 60 (age 62 for widowers). The amount of the remarried widow's or widower's benefit will be equal to 50 percent of the primary insurance amount of the deceased spouse rather than $82\frac{1}{2}$ percent of that amount, which is payable to widows and widowers who are not married. This provision will be effective with respect to monthly benefits beginning with those payable for the second month after the month of enactment.

c. Wife's and widow's benefits for divorced women.--The bill authorizes payment of wife's or widow's benefits to the divorced wife of a retired, deceased, or disabled worker if she had been married to the worker for at least 20 years before the date of the divorce and if her divorced husband was making (or was obligated by a court to make) a substantial contribution to her support when he became entitled to benefits, became disabled, or died. The bill also provides that a wife's benefits will not terminate when the woman and her husband are divorced if the marriage has been in effect for 20 years. Provision is also made for the re-establishment of

benefit rights for a divorced wife, a widow, a surviving divorced mother, or a surviving divorced wife who has remarried if the subsequent marriage has ended. These changes are effective for the second month following the month of enactment.

d. Adoption of child by retired worker.--The bill changes the provisions relating to the payment of benefits to children who are adopted by old-age insurance beneficiaries to require that, where the adoption occurs after the worker becomes entitled to an old-age benefit, (1) the child be living with the worker (or adoption proceedings have begun) in or before the month when application for old-age benefits is filed; (2) the child be receiving one-half of his support for a year before the worker's entitlement; and (3) the adoption be completed within 2 years after the worker's entitlement. The amendment is effective with respect to applications filed on or after the date of enactment, except that the 2-year time limit will not apply to adoptions completed within 1 year after the month of enactment.

e. Changes in definition of wife, widow, husband, and widower.--Under the bill, a wife, husband, widow, or widower will get benefits without regard to the generally applicable 1-year duration-of-marriage requirement if in the month preceding the marriage he or she was actually or potentially entitled to a widow's, widower's, parent's, or (if over age 18) child's annuity under the Railroad Retirement Act. Also, a woman worker's husband or widower who was entitled to one of the specified railroad retirement annuities prior to marriage to a person insured under social security will get benefits without regard to the generally applicable requirement for husband's or widower's benefits that the wife be currently insured and have provided at least one-half of her husband's support. The amendment will be effective beginning with monthly benefits payable for the second month after the month of enactment.

f. Time of filing.--The bill extends indefinitely the period for filing proof of support for dependent husband's, widower's, and parent's benefits, and applications for lump-sum death payments, where good cause exists for failure to file within the initial 2-year period. The amendment is effective with respect to lump-sum death payments and monthly benefits based on applications filed in or after the month of enactment.

g. Adoption by a brother or sister.--The bill adds brothers and sisters to the list of relatives who may adopt a child after the death of the worker on whose earnings record he is getting benefits without causing termination of the child's benefits. The amendment is effective with respect to monthly benefits beginning with the month after enactment.

B. Coverage

1. Physicians and interns

Social security coverage is extended to self-employment as a doctor of medicine effective for taxable years ending on or after December 31, 1965. The employment of interns is covered, beginning on January 1, 1966, on the same basis as that of other employees working for the same employer.

2. Tips covered as wages

Cash tips received after 1965 by an employee in the course of his employment will be covered as wages for social security and income-tax withholding purposes, except that employers will not be required to pay the social security employer tax on the tips.

The employee will be required to give his employer a written report of his tips within 10 days after the end of the month in which the tips are received; to the extent that unpaid wages due an employee and in the possession of the employer are insufficient to pay the employee social security tax due on the tips, the employee will be permitted to make available to the employer sufficient funds to pay the employee social security tax. If an employee fails to report some or all of his covered tips to his employer, as required by law, he will be liable not only for the employee social security tax but also for an additional amount equal to 50 percent of the employee tax.

The employer will be required to withhold the employee social security tax only on tips reported to him within the specified time and for which he has sufficient funds of the employee out of which to pay the tax. He will be liable for withholding income tax on only those tips that are reported to him within 10 days after the end of the month in which the tips were received, and then only to the extent that he can collect the tax (at or after the time the tips are reported to him and before the close of the calendar year in which the tips were received) from unpaid wages (not including tips), or from funds turned over to him for that purpose remaining after an amount equal to the amount due for the social security tax has been subtracted.

3. Exemption of Amish and other religious sects

Under specified conditions, members of religious sects may obtain exemption from social security self-employment taxes upon application accompanied by a waiver of benefit rights. To be eligible for exemption an individual must be found to be a member of a recognized religious sect (or a division of a sect) and to be an adherent of the established tenets or teachings of such sect by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance making payments in the event of death, disability, old-age, or retirement, or making payments toward the cost of, or providing services for, medical care (including the benefits of any insurance system established by the Social Security Act). It must be found that such sect has such teachings, and has been in existence at all times since December 31, 1950, and that it is the practice for members of such sect to make provision for their dependent members which is reasonable in view of their general level of living. The application for exemption for taxable years ending on or before December 31, 1965, must be filed by April 15, 1966. The exemption may become effective as early as the first taxable year beginning after December 31, 1950.

4. Farmers

Farm operators whose annual gross earnings are \$2400 or less (instead of \$1800 or less) will be permitted to report either their actual net earnings or 66 2/3 percent of their gross earnings. Farmers whose annual gross earnings are over \$2400 will be required to report their actual net earnings if \$1600 or more, but if actual net earnings are less than \$1600, they will be permitted to report either their actual net earnings or \$1600. (Present law requires that farmers whose annual gross earnings are over \$1800 report their actual net earnings if \$1200 or more, but if actual net earnings are less than \$1200, they may report either their actual net earnings or \$1200.) The provision is effective for taxable years beginning after December 31, 1965.

5. Ministers

The period during which ministers who have been in the ministry for at least 2 years since 1954 may file waiver certificates electing social security coverage is reopened, through April 15, 1966. Coverage for ministers whose eligibility to file waiver certificates is reopened will ordinarily begin with 1963. In addition, social security credit may be obtained for the past earnings of certain ministers who die or file waiver certificates before April 16, 1966, where such earnings were reported for social security purposes but could not be credited.

6. Employees of nonprofit organizations

Nonprofit organizations may file a waiver certificate and make it retroactive up to 5 years (rather than the 1 year under present law) before the quarter in which the certificate is filed. If an organization files a waiver certificate before 1966, the certificate may be amended during 1965 or 1966 to begin coverage as early as 5 years before the quarter in which the certificate is amended. Those employees to whom additional retroactive coverage is applicable (as a result of the organization amending its certificate) are given an individual choice of such additional coverage. Employees who were reported erroneously and who are no longer employed when an organization files its waiver certificate, or amends its certificate, may validate such erroneous reportings for periods during which the certificate or amended certificate is in effect. In addition, certain employees whose wages were erroneously reported by a nonprofit organization during the period the organization's waiver certificate was in effect may validate such erroneously reported wages. These provisions are effective upon enactment.

7. District of Columbia employees

Coverage is provided for employees of the District of Columbia who are not covered by a retirement system. About 600 substitute teachers are not covered under any retirement system. Also, the District of Columbia Commissioners may arrange for the coverage of temporary and

intermittent employees to be shifted from the Federal civil service retirement system to social security. Coverage begins after the calendar quarter in which the Secretary of the Treasury receives a certificate from the District of Columbia Commissioners expressing their desire to have coverage extended to the affected employees.

8. State and local coverage changes

Another opportunity is provided, through 1966, for the election of coverage by State and local government retirement system members who originally did not choose coverage under the divided retirement system provision, under which current employees have a choice of coverage. Alaska is added to the list of States which may use the divided retirement system provision. These provisions are effective upon enactment.

Iowa and North Dakota are permitted to modify their coverage agreements with the Secretary of Health, Education, and Welfare to exclude from social security coverage services performed by students, including services already covered, in the employ of a school, college, or university in any calendar quarter if the remuneration for such services is less than \$50. The modification may specify the effective date of the exclusion, but it may not be earlier than the date of enactment.

The past coverage under social security of employees of certain school districts in Alaska which have been included in error as separate political subdivisions under the Alaska social security coverage agreements is validated. (The employees of the school districts involved should properly have been covered as employees of the political subdivisions of which the school districts are integral parts.) The provision is effective for the year of enactment and prior years; coverage for years after the year of enactment must be under the general provisions of the law.

The State of California is permitted to modify its coverage agreement to extend coverage to certain hospital employees whose positions were removed from a State or local government retirement system. The State will have until the end of the sixth month after the month of enactment to take action under this provision.

The State of Maine is given until July 1, 1967 (rather than until July 1, 1965) to treat teaching and nonteaching employees who are in the same retirement system as though they were under separate retirement systems for social security coverage purposes.

C. Administrative and Technical Changes

1. Life of applications

The bill eliminates the provisions under which the life of an application for benefits is 3 months (9 months for disability benefits).

Under those provisions, an applicant had to meet all of the eligibility requirements for benefits as of a date not later than 3 months (9 months for disability benefits) from the date of application; if he did not, his application expired. The bill extends the life of applications for social security benefits to the date of the final decision thereon by the Secretary.

2. Underpayments

The bill authorizes the Secretary to dispose of amounts due a deceased beneficiary, where such amounts do not exceed an amount equal to a single monthly benefit, by making the payment to the widow or widower of the deceased beneficiary who was living in the same household with the deceased, or if there is no such widow or widower, to the legal representative of the deceased person's estate. In all other cases, the amounts due a deceased person are to be paid to the legal representative of the estate.

3. Payments to two or more members of the same family

The bill provides, that under regulations to be issued by the Secretary of the Treasury, the surviving payee or payees of a joint benefit check may cash any such check which was not negotiated before one of the payees died, provided that so much of the amount of the check as exceeds the amount due the surviving payee or payees shall be recovered. The amendment is effective on enactment of the bill (although as a practical matter it would become effective only after the necessary regulations have been issued).

4. Attorneys' fees in court cases

A court which renders a decision favorable to a claimant for social security benefits is authorized to set a reasonable fee (up to 25 percent of the past-due benefits resulting from the court's decision) for an attorney who represented the claimant before the court. The Secretary is given authority to certify for payment to the attorney, out of the total of the past-due benefits, the amount of the fee set by the court. Any attorney charging or receiving more than the fee set by the court will be subject to a fine of up to \$500, imprisonment up to one year, or both. The amendment is effective on enactment.

5. Disclosure, under certain circumstances, of whereabouts of individuals

The bill requires the Secretary of Health, Education, and Welfare to furnish, at the request of a State welfare agency administering a Federal-State program of aid to families with dependent children, the most recent address in the social security records for a parent who has failed without lawful excuse to provide support for his or her destitute child or children under age 16 who are eligible for assistance under the aid to families with dependent children program, where there is a court order for the support of the children.

6. Reimbursement of trust funds for cost of noncontributory military service credits

The bill revises the provisions authorizing reimbursement of the social security trust funds out of general revenue for gratuitous social security wage credits for servicemen so that reimbursement will be spread over the next 50 years, rather than 10 years. The amendment is effective on enactment.

D. Number of People Immediately Affected
And Amount of Additional Cash Benefit Payments in First Full Year, 1966

| <u>Provision</u> | <u>Amount of Payments in First Full Year, 1966</u> | <u>Number of People Immediately Affected</u> |
|--|--|--|
| 7-percent benefit increase (\$4 minimum in primary benefits). | \$ 1,470,000,000 | 20,000,000 |
| Reduced benefits for widows at age 60..... | 165,000,000 <u>1/</u> | 185,000 |
| Benefits for people aged 72 and over with limited periods in covered work..... | 140,000,000 | 355,000 |
| Improvements in benefits for children: | | |
| Benefits for children to age 22 if in school..... | 195,000,000 | 295,000 |
| Broadened definition of "child"..... | 10,000,000 | 20,000 |
| Modifications in disability provisions: | | |
| Change in definition..... | 40,000,000 | 60,000 |
| Liberalized requirements for benefits for the blind..... | 5,000,000 | 7,000 |
| Modification of earnings test.. | 295,000,000 | 750,000 <u>2/</u> |
| Total additional benefit payments..... | <u>\$ 2,320,000,000</u> | |

1/ No long-range cost to the system because the benefits are actuarially reduced.

2/ Number affected in 1966; modification does not become effective until then.

E. Financing of Old-Age, Survivors, and Disability Insurance Amendments

The old-age, survivors, and disability insurance provisions of the bill are financed by (1) an increase in the earnings base from \$4,800 to \$6,600, effective January 1, 1966, and (2) a revised tax rate schedule.

The revised tax rate schedule provided by the bill for the old-age, survivors, and disability insurance program follows:

| Year | Employer-employee rate (each) | Self-employed rate |
|----------------|----------------------------------|--------------------|
| 1966 | 3.85% | 5.8% |
| 1967-68 | 3.9 | 5.9 |
| 1969-72 | 4.4 | 6.6 |
| 1973 and after | 4.85 | 7.0 |

An additional 0.20 percent of taxable wages and 0.15 percent of taxable self-employment income will be allocated to the disability insurance trust fund, bringing the total allocation to 0.70 percent of wages and 0.525 percent of self-employment income beginning in 1966.

7/21/65

III. WELFARE AMENDMENTS

A. Improvement and Extension of Kerr-Mills Program

1. Purpose and scope

In order to provide a more effective Kerr-Mills program and to extend its provisions to other needy persons, the bill establishes a single and separate medical care program to replace the differing provisions for the needy which currently are found in five titles of the Social Security Act.

The new title (XIX) extends the advantages of an expanded medical assistance program not only to the aged who are indigent but also to needy individuals on the dependent children, blind, and permanently and totally disabled programs and to persons who would qualify under those programs if in sufficient financial need. Other medically needy children may also be included.

Inclusion of the medically indigent aged is optional with the States but if they are included, comparable groups of blind, disabled, and parents and children must also be included if they need help in meeting necessary medical costs. Moreover, the amount and scope of benefits for the medically indigent can not be greater than that of recipients on the cash assistance programs.

The old provisions of law in the various public assistance titles of the act providing vendor medical assistance terminate upon the adoption of the new program by a State but no later than December 31, 1969.

2. Scope of medical assistance

Under the old provisions, the State had to provide "some institutional and noninstitutional care" under the medical assistance for the aged program. There are no minimum benefit requirements at all under the other public assistance vendor medical programs. The bill requires that by July 1, 1967, for the new program a State must provide inpatient hospital services, outpatient hospital services, other laboratory and X-ray services, skilled nursing home services for individuals 21 and over, and physicians services (whether furnished in the office, the patient's home, a hospital, or a skilled nursing home) in order to receive Federal participation in vendor medical payments. Other items of medical service are optional with the States.

3. Eligibility

The bill makes improvements in the program for the needy

elderly by requiring that the States provide a flexible income test which takes into account medical expenses and does not provide rigid income standards which arbitrarily deny assistance to people with large medical bills. In the same spirit the bill provides that no deductible, cost sharing, or similar charge may be imposed by the State as to hospitalization under its program and that any such charge on other medical services must be reasonably related to the recipient's income or resources. Also important is the requirement that elderly needy people on the State programs be provided assistance to meet the deductibles that are imposed by the new basic program of hospital insurance. Also where a portion of any deductible or cost sharing under either program is met by a State program it must be done in a manner reasonably related to the individual's income and resources. No income can be imputed to an individual unless actually available; and the financial responsibility of an individual for an applicant may be taken into account only if the applicant is the individual's spouse or child who is under age 21 or blind or disabled.

4. Increased Federal matching

The Federal share of medical assistance expenditures under the new program is determined upon a uniform formula with no maximum on the amount of expenditures which are subject to participation. This currently is done for the medical assistance for the aged program. The Federal share, which varies in relation to a State's per capita income, is increased over current medical assistance for the aged matching so that States at the national average receive 55 percent rather than 50 percent, and States at the lowest level receive as much as 83 percent as contrasted with 80 percent under existing law.

In order to receive any additional Federal funds as a result of expenditures under the new program, the States need to continue their own expenditures at their present rate. For a specified period, no State would receive less in Federal funds than under current provisions of law because of the new formula and any State that did not reduce its own expenditures would be assured of at least a 5-percent increase in Federal participation in medical care expenditures. As to compensation and training of professional medical personnel, the bill provides a 75-percent Federal share as compared with the 50--50 Federal-State sharing for other administrative expenses.

5. Administration

The program can be administered by any State agency established or designated for the purpose but the law requires that eligibility be determined by the welfare agency. The bill specifically provides as a State plan requirement that cooperative agreements be entered into with State agencies providing health services and vocational

rehabilitation services looking toward maximum utilization of these services in the provision of medical assistance under the plan.

6. Effective date

January 1, 1966.

7. Cost

It is estimated that the new program will increase the Federal Government's contribution about \$200 million in a full year of operation over that in the programs operated under existing law.

B. Child Health Program Amendments

1. Maternal and child health, crippled children, and child welfare services

The bill increases the amount authorized for maternal and child health services over current authorizations by \$5 million for fiscal year 1966 and by \$10 million in each succeeding fiscal year, as follows:

| <u>Fiscal year</u> | <u>Existing law</u> | <u>Under bill</u> |
|-------------------------|---------------------|-------------------|
| 1966. | \$40,000,000 | \$45,000,000 |
| 1967. | 40,000,000 | 50,000,000 |
| 1968. | 45,000,000 | 55,000,000 |
| 1969. | 45,000,000 | 55,000,000 |
| 1970 and after. | 50,000,000 | 60,000,000 |

The authorizations for crippled children's services and child welfare services are increased to the same amounts. Such increases will assist the States, in all these programs, in moving toward the goal of extending services with a view of making them available to children in all parts of the State by July 1, 1975.

2. Crippled children-training personnel

The bill also authorizes \$5 million for the fiscal year 1967, \$10 million for fiscal 1968, and \$17.5 million for each succeeding fiscal year to be for grants to institutions of higher learning for training professional personnel for health and related care of crippled children, particularly mentally retarded children with multiple handicaps.

3. Health care for needy children

A new provision is added authorizing the Secretary of Health,

Education, and Welfare to carry out a 5-year program of special project grants to provide comprehensive health care and services for children of school age, or for preschool children, particularly in areas with concentrations of low-income families. The grants are to State health agencies, to the State agencies administering the crippled children's program, to any school of medicine (with appropriate participation by a school of dentistry), and any teaching hospital affiliated with such school, to pay not to exceed 75 percent of the cost of the project. Projects will provide screening, diagnosis, preventive services, treatment, correction of defects, and aftercare, including dental services, for children in low-income families.

An appropriation of \$15 million is authorized for the fiscal year ending June 30, 1966; \$35 million for the fiscal year ending June 30, 1967; \$40 million for the fiscal year ending June 30, 1968; \$45 million for the fiscal year ending June 30, 1969; and \$50 million for the fiscal year ending June 30, 1970.

4. Mental retardation planning

This title authorizes grants totaling \$2,750,000 for each of 2 fiscal years--the fiscal year ending June 30, 1966, and fiscal year ending June 30, 1967. The grants will be available during the year for which the appropriation is authorized and during the succeeding fiscal year. They are for the purpose of assisting States to implement and followup on plans and other steps to combat mental retardation authorized under section 1701 of the Social Security Act.

5. Health study

A health study of children's emotional illness is authorized.

C. Public Assistance Amendments

1. Increased assistance payments

The Federal share of payments under all State public assistance programs is increased a little more than an average of \$2.50 a month for the needy aged, blind, and disabled and an average of about \$1.25 for needy children, effective January 1, 1966. This is brought about by revising the matching formula for the needy aged, blind, and disabled (and for the adult categories in title XVI) to provide a Federal share of \$31 out of the first \$37 (now twenty-nine thirty-fifths of the first \$35) up to a maximum of \$75 (now \$70) per month per individual on an average basis. Revises matching formula for aid to families with dependent children so as to provide a Federal share of five-sixths of the first \$18 (now fourteen-seventeenths of the first \$17) up to a maximum of \$32 (now \$30). A provision is included so that States will

not receive additional Federal funds except to the extent they pass them on to individual recipients. Effective January 1, 1966.
Cost: About \$150 million a year.

2. Tuberculous and mental patients

The bill removes the exclusion from Federal matching in old-age assistance and medical assistance for the aged programs (and for combined program, title XVI) as to aged individuals who are patients in institutions for tuberculosis or mental diseases or who have been diagnosed as having tuberculosis or psychosis and, as a result, are patients in a medical institution. It requires as a condition of Federal participation in such payments to, or for, mental patients certain agreements and arrangements to assure that better care results from the additional Federal money. It provides that States will receive no more in Federal funds under this provision than they increase their expenditures for mental health purposes under public health and public welfare programs. Also it removes restrictions as to Federal matching for needy blind and disabled who are tubercular or psychotic and are in general medical institutions. Effective January 1, 1966. Cost: About \$75 million a year.

3. Protective payments to third persons

The bill adds a provision for protective payments to third persons on behalf of recipients of old-age assistance, aid to the blind, aid to the permanently and totally disabled (and recipients on combined title XVI program) unable to manage their money because of physical or mental incapacity. Effective January 1, 1966.

4. Earnings exemption under old-age assistance

The bill increases the earnings exemption under old-age assistance (and the aged in combined program) so that a State may, at its option, exempt the first \$20 (now \$10) and one-half of the next \$60 (now \$40) of a recipient's monthly earnings. Effective October 1, 1965. Cost: About \$1 million first year.

5. Exemption of children's earnings

Up to \$50 of earnings per child per month but not more than \$150 in the same family may be exempted in determining need. The amendment is wholly permissive with the States. Effective July 1, 1965.

6. Exemption of earnings and resources of disabled persons

Recipients of APTD may have the same exemption of earnings as is provided under old-age assistance and the same exemption of income and resources if they are under an approved rehabilitation plan that is now provided for the blind. This amendment is also wholly permissive with the States. Effective October 1, 1965.

7. Definition of medical assistance for aged

The bill modifies the definition of medical assistance for the aged so as to allow Federal sharing as to old-age assistance recipients for the month they are admitted to or discharged from a medical institution. Effective July 1, 1965. Cost: About \$2 million.

8. Retroactive benefit increase

The bill adds a provision which allows the States to disregard so much of the QASDI benefit increase as is attributable to its retroactive effective date.

9. Economic Opportunity Act earnings exemption

The bill also provides a grace period for action by States that have not had regular legislative sessions, whose public assistance statutes now prevent them from disregarding earnings of recipients received under the Economic Opportunity Act.

10. School attendance for AFDC children

The definition of a school in which an AFDC child may receive aid at the State's option between the ages of 18 and 21 is broadened to include colleges.

11. Exemption of income

Up to \$5 per recipient per month of any income may be exempted under any of the Federally-aided public assistance programs in addition to exemption of earnings.

12. Judicial review

Judicial review of the Secretary's decision with respect to State public assistance plans is provided.

13. Alternative formula for Federal participation

Any State, at its option, after adopting Title XIX (Medical Assistance) may claim Federal participation in its money payments under the same formula provided under Title XIX instead of under the different formulas in the other public assistance titles.

7/21/65

LISTING OF REFERENCE MATERIALS

89th Congress, first session, 1965

The Status of the Social Security Program and Recommendations for Its Improvement, A Report of the Advisory Council on Social Security--January 1, 1965

Vital and Health Statistics Data from the National Health Survey, National Center for Health Statistics, Series 10, Number 16, Health Insurance--type of insuring organization and multiple coverage--United States--July 62--June 63, USDHEW, PHS--April 1965

U.S. Congress. House. Committee on Ways and Means. *Medical Care for the Aged. Executive Hearings, 89th Congress, 1st session on H.R. 1 and Other Proposals for Medical Care for the Aged.*

U.S. Congress. Senate. Committee on Finance. *Social Security. Hearings, 89th Congress, 1st session on H.R. 6675.*

SPOUSES' ANNUITIES UNDER RAILROAD RETIREMENT
ACT OF 1937

MAY 26, 1965.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign
Commerce, submitted the following

REPORT

[To accompany H.R. 3157]

The Committee on Interstate and Foreign Commerce, to whom
was referred the bill (H.R. 3157) to amend the Railroad Retirement
Act of 1937 to eliminate the provisions which reduce the annuities of
the spouses of retired employees by the amount of certain monthly
benefits, having considered the same, report favorably thereon with
an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On the first page, line 4, strike out "228(e)" and insert "228b(e)".

EXPLANATION OF THE BILL

This bill amends section 2(e) of the Railroad Retirement Act of
1937 to permit the spouse of a railroad employee to receive a spouse's
annuity under that section concurrently with the receipt of social
security or railroad retirement benefits earned in her own right with-
out reduction in the spouse's annuity. Under existing law, social
security and railroad retirement benefits received by the spouse in
her own right are deducted from her railroad retirement spouse's
benefits. The bill will benefit approximately 41,000 spouses; 40,000
of whom are social security beneficiaries, and 1,000 of whom are
railroad retirement beneficiaries.

A similar bill, H.R. 12362, was reported favorably by this com-
mittee on August 14, 1964 (H. Rept. No. 1807, 88th Cong.), and
passed unanimously by the House on September 3, 1964, but the
Senate adjourned before taking final action on the measure. Many
bills to the same general effect have been introduced in Congress in
recent years. Other bills having a similar purpose have been intro-

2 SPOUSES' ANNUITIES UNDER RAILROAD RETIREMENT ACT

duced in this session. Mr. Poff, Mr. Beckworth, Mr. Ashley, Mr. Broyhill of North Carolina, and Mr. Mathias have respectively, introduced the bills, H.R. 651, H.R. 1501, H.R. 1645, H.R. 6296, and H.R. 7413.

EXPLANATION OF THE BILL

The bill amends section 2(e) of the Railroad Retirement Act by removing provisions which require that the annuity of a spouse be reduced by the amount of certain benefits under the Social Security Act for which she is eligible and certain annuities under the Railroad Retirement Act. The reduction is by the amount of any benefit for which the spouse is eligible under the Social Security Act except a wife's or husband's benefit. Further in the case of social security benefits the reduction is confined to the amount, if any, by which the other benefit exceeds in amount, the wife's or husband's benefit to which the spouse would be entitled but for section 202(k) of the Social Security Act (sec. 202(k) in effect provides that an individual can be paid only the highest benefit to which he or she is entitled under the Social Security Act). Railroad retirement annuities which require a reduction are any annuity to which the spouse is eligible based on her own railroad employment and an annuity as a parent of a deceased employee.

The bill also applies to spouses' annuities, which have been paid in a single sum equal to the commuted value of the annuity. However, the amount of the annuity which was paid on a commuted value basis is not to be included in payments to be made because of the bill.

The cost of the bill is estimated at \$14 million a year on a level basis, which will be paid out of the railroad retirement account.

EXISTING LAW

Under existing law, any person who is entitled to railroad retirement benefits whether as an annuitant or as a survivor of a railroad employee, who is also entitled to social security benefits based upon his own wage record, may, with one exception, draw full benefits under the Railroad Retirement Act of 1937, and full benefits under the Social Security Act, without reduction. The one exception in the foregoing statement involves women who are entitled to an annuity as the spouse of a retired railroad employee. Under the third proviso of section 2(e) of the Railroad Retirement Act of 1937 deductions are made from the annuity paid to the spouse of any railroad employee until the deductions equal the total of social security benefits to which she is entitled in her own right. If, however, a women entitled to a spouse's annuity under the Railroad Retirement Act of 1937 is also entitled to social security benefits as a wife, because of social security wage credits earned by her husband in employment not covered by the Railroad Retirement Act, she may receive full benefits under both acts.

A retired railroad employee who is eligible for social security benefits, either based on his own social security wage record, or as a survivor, based upon another individual's wage record, may draw full railroad retirement benefits and full social security benefits without reduction.

A further illustration of the inequity involved in the present provisions of section 2(e) arises out of the different treatment provided the

spouse of a railroad employee and the widow of a railroad employee. A widow may receive survivor benefits under the Railroad Retirement Act concurrently with any social security benefits to which she is entitled based on her own wage record, without reduction in railroad retirement benefits; however, the spouse of a living railroad worker has her benefits reduced by social security benefits which she has earned based on her own employment. In other words, while her husband is alive, the spouse of a retired railroad employee receives a spouse's benefit under the Railroad Retirement Act of 1937, reduced by social security benefits which she has earned based on her own wage record; yet, upon the death of her husband she becomes entitled to draw railroad retirement benefits as a widow, and full social security benefits based on her own wage record, without any reduction.

The committee feels that this discriminatory treatment, applicable only to the spouses of retired railroad employees, is not warranted, and recommends that this legislation be adopted.

JUSTIFICATION FOR THE BILL

At one time an employee's annuity under the Railroad Retirement Act was reduced because of his eligibility for a primary benefit under the Social Security Act. The reduction was by the amount of his annuity which was derived from his railroad service rendered before 1937 or the amount of the social security benefit, whichever produced a lesser reduction. Also, a widow's annuity was subject to a reduction because of her rights to a primary benefit under the Social Security Act or an annuity under the Railroad Retirement Act based on her own railroad service. All of these reduction requirements have long since been removed, the last having been removed in 1955. Thus the spouse's annuity is the only annuity under the Railroad Retirement Act which cannot be paid in full where the spouse has rights to other benefits. The elimination by the bill of the requirement for reduction of a spouse's annuity is but a logical sequence to the other eliminations.

It is of some significance to point out that the annuity of a spouse is not adversely affected by retirement income from other sources that she may have even though it is substantial, such as from the civil service retirement system or from any of various other retirement plans.

The committee is, of course, cognizant of the fact that the railroad retirement system must be maintained in a sound financial condition. It has considered carefully the circumstance that the bill would entail added costs to the system of an estimated \$14 million a year or 0.32 percent of taxable payroll and increase the existing deficiency in financing of \$19.5 million a year or 0.44 percent of taxable payroll to almost \$33 million a year or to about 0.76 percent of taxable payroll. The committee has been informed that a deficit of 0.50 percent or less is well within the range of actuarial tolerance for a system of the size and character of the railroad retirement system. The slight excess above this that the bill would bring about is, in the committee's opinion, not dangerous.

The committee strongly believes that the considerations in favor of the removal of this discriminatory provision are so compelling as to warrant enactment of the bill despite the relatively small costs it would entail. As compared with the total costs of the railroad retirement

4 SPOUSES' ANNUITIES UNDER RAILROAD RETIREMENT ACT

system the costs of the bill would not be of major significance, particularly in light of the purpose to be served.

AGENCY REPORTS

RAILROAD RETIREMENT BOARD,
Chicago, Ill., April 26, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
Rayburn House Office Building, Washington, D.C.*

DEAR MR. HARRIS: This is the report of the Railroad Retirement Board on the bill H.R. 3157, which you introduced on January 19, 1965, and the bill H.R. 6296, introduced by Mr. Broyhill on March 15, 1965. The bills are identical.

The bills would amend the Railroad Retirement Act of 1937 by repealing the present provision in section 2(e) of the act which requires the reduction of a spouse's annuity by the amount of the spouse's own insurance benefit under the Social Security Act (except for a wife's or husband's insurance benefit) and by the amount of an annuity under section 2(a) or 5(d) of the Railroad Retirement Act for which the spouse is eligible. The change would be effective with respect to spouses' annuities accruing in months after the month of enactment of the bill. The amendment would apply to annuities paid in lump sums equal to their commuted value because of a reduction under section 2(e) of the act as now in effect.

It is estimated that the additional costs of the amendment proposed by the bills would come to approximately 0.32 percent of taxable payroll, or \$14 million a year, on a level basis. Of this, 0.30 percent of taxable payroll or \$13 million a year would be attributable to the removal of the reduction because of social security benefits, and 0.01 percent of taxable payroll or \$400,000 a year to the removal of the reduction because of railroad retirement benefits.

There is now an actuarial deficit in the financing of the railroad retirement system of approximately 0.44 percent of taxable payroll, or \$19.5 million a year, on a level basis. Enactment of either of the bills would increase this actuarial deficiency to approximately 0.76 percent of taxable payroll, or \$33.5 million a year.¹

The Board is opposed to the bills for the following reasons:

(1) The bills make no provision for additional revenue to meet the increase in the costs of benefits which the bills would provide. Even if it were considered feasible to provide for additional revenue in an amount sufficient to cover the added costs of the bills, the Board's position would not change for new income could better be used for improvements in other areas where the need seems greater.

(2) The present provision in section 2(e) of the Railroad Retirement Act for reducing a spouse's annuity by the amount of the spouse's own benefit under the Social Security Act is the same, in principle, as the provision in the Social Security Act for reducing a wife's benefit under that act by the amount of such wife's primary benefit under that act. In view of the reduction in a wife's benefit, the reduction of the spouse's annuity under section 2(e) of the act is only in the

¹ The slight inconsistencies between figures are due to rounding procedures.

amount, if any, by which her benefit under the Social Security Act exceeds the wife's benefit under that act to which she would be entitled except for her other benefit.

(3) More than one of five women entitled to spouses' benefits under the Railroad Retirement Act are also entitled to primary old-age benefits under the Social Security Act (a total of about 40,000 spouses whose benefits were either reduced or eliminated), and the costs to the railroad retirement system for the nonreduction proposed by the bill now and for the future would be about \$14 million a year, as previously stated.

The Social Security Act does not require a reduction in a wife's benefit by the amount of her retirement annuity under the Railroad Retirement Act; however, there are only about 1,000 of the 2,800,000 women entitled to a wife's benefit under the Social Security Act who are also entitled to an employee annuity under the Railroad Retirement Act, and by reason of the financial interchange between the two systems, the loss to the social security system for this nonreduction is zero. The railroad retirement account thus absorbs the cost of the failure to reduce the wife's benefit under the Social Security Act by the amount of her railroad retirement annuity. The estimated cost to the railroad retirement account from this absorption is 0.01 percent of taxable payroll, or \$500,000 a year.

(4) Before the 1951 amendments to the Railroad Retirement Act, there was no provision in that act for a spouse's annuity. The reason for providing a spouse's annuity by such amendments is stated in the Senate committee report (S. Rept. No. 890, 82d Cong., 1st sess., p. 17) as follows:

"If the finances were adequate to permit doing all the other things that need to be done and also to increase all retirement annuities by, say, 65 percent, one might well consider that as an alternative to providing a spouse's annuity. But since such a course is obviously out of the question, the spouse's annuity affords a means of doing substantially that in cases of greatest need; i.e., where two adult and aged people rather than just one must live on the annuity."

The provision for a spouse's annuity was, therefore, in substitution for an increase in employee annuities in cases where two persons had to live largely on the income from the one annuity under the Railroad Retirement Act. For this very reason, the 1951 amendments provided that where a spouse has an income from a railroad retirement annuity or a social security benefit, the spouse's annuity would not be paid except to the extent by which it exceeds such annuity or benefit.

(5) There is a general misunderstanding about the purchase of a spouse's annuity through railroad retirement taxes. A railroad employee with a wife entitled to a spouse's annuity paid no more in taxes than he would have paid if he had no such wife. A spouse's annuity is no more purchased than is a wife's benefit under the Social Security Act; yet a wife's benefit under that act is reduced by the amount of her own primary benefit.

In view of the foregoing, the Board recommends that the bills H.R. 3157 and H.R. 6296 not be reported favorably by your committee.

The Bureau of the Budget has no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

HOWARD W. HABERMEYER, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 30, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: Your committee has under consideration H.R. 651, a bill to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits payable under title II of the Social Security Act, and H.R. 3157, a bill to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

This office generally concurs in the views expressed by the Railroad Retirement Board on these two bills. Primarily for these reasons but also because of the importance of retaining and extending the coordination between benefits payable under both the Railroad Retirement and the Social Security Acts, we would be opposed to the enactment of these bills.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, May 18, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of February 15, 1965, for a report on H.R. 3157, a bill to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

The bill would delete the provision of the Railroad Retirement Act which requires that a spouse's annuity under the railroad program be reduced by the amount of any benefit which the spouse is eligible to receive under the old-age, survivors, and disability insurance program, other than a wife's or husband's insurance benefit, and by the amount of any retirement annuity, or parent's insurance annuity, which the spouse is eligible to receive under the railroad retirement program. The amendment would be effective for months after the month of enactment.

The deletion of these reduction provisions of the railroad law would have no effect on the benefit payments made under the old-age, survivors, and disability insurance program, or on the operation of the present provisions of the Railroad Retirement Act which require cost adjustments between the railroad retirement and old-age, survivors, and disability insurance programs. The question as to whether to abandon these reduction provisions involves a matter of

railroad retirement policy, and we defer to the Railroad Retirement Board's position on the bill.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Acting Secretary.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

SECTION 2(e) OF THE RAILROAD RETIREMENT ACT OF 1937

(e) Spouse's Annuity.—The spouse of an individual, if—

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

(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5 of this Act, shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: *Provided, however,* That if the annuity of the individual is awarded under paragraph 3 of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: *Provided further,* That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further,* That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k)].

H. R. 3157

[Report No. 379]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1965

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

MAY 26, 1965

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

A BILL

To amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (e) of section 2 of the Railroad Retirement
4 Act of 1937 (45 U.S.C. ~~228(e)~~ *228b(e)*) is amended by
5 changing the colon before the last proviso to a period and by
6 striking out all that follows down through the period at the
7 end of such subsection.

8 SEC. 2. This Act shall take effect with respect to an-
9 nuities accruing in months after the month in which this
10 Act was enacted, and shall apply also to annuities paid in

1 lump sum equal to their commuted value because of a re-
2 duction in such annuities under section 2 (e) of the Railroad
3 Retirement Act of 1937, as in effect before the amendments
4 made by this Act, as if such annuities had not been paid
5 in such lump sums: *Provided, however,* That the amounts
6 of such annuities which were paid in lump sums equal to
7 their commuted value shall not be included in the amount
8 of annuities which become payable by reason of section 1
9 of this Act.

Union Calendar No. 182

89TH CONGRESS
1ST SESSION

H. R. 3157

[Report No. 379]

A BILL

To amend the Railroad Retirement Act of 1937
to eliminate the provisions which reduce the
annuities of the spouses of retired employees
by the amount of certain monthly benefits.

By Mr. HARRIS

JANUARY 19, 1965

Referred to the Committee on Interstate and Foreign
Commerce

MAY 26, 1965

Reported with an amendment, committed to the Com-
mittee of the Whole House on the State of the
Union, and ordered to be printed

SPOUSES' ANNUITIES UNDER RAILROAD RETIREMENT ACT OF 1937

The Clerk called the bill (H.R. 3157) to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice on the basis that it does not qualify, as it is on the Consent Calendar for today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SPOUSES' ANNUITIES UNDER RAILROAD RETIREMENT ACT OF 1937

Mr. O'BRIEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3157) to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits, as amended.

The Clerk read as follows:

H.R. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 2 of the Railroad Retirement Act of 1937 (45 U.S.C. 228b(e)) is amended by changing the colon before the last proviso to a period and by striking out all that follows down through the period at the end of such subsection.

Sec. 2. This Act shall take effect with respect to annuities accruing in months after the month in which this Act was enacted, and shall apply also to annuities paid in lump sum equal to their commuted value because of a reduction in such annuities under section 2(e) of the Railroad Retirement Act of 1937, as in effect before the amendments made by this Act, as if such annuities had not been paid in such lump sums: *Provided, however,* That the amounts of such annuities which were paid in lump sums equal to their commuted value shall not be included in this amount of annuities which become payable by reason of section 1 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. O'BRIEN] will be recognized for 20 minutes and the gentleman from California [Mr. YOUNGER] will be recognized for 20 minutes.

Mr. O'BRIEN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the purpose of this bill is to permit the spouse of a railroad employee to receive a spouse's annuity under the Railroad Retirement Act concurrently with the receipt of social security benefits or railroad retirement benefits earned in her own right without reduction in the spouse's annuity. Under existing law, social security benefits received by the spouse in her own right are deducted from her railroad retirement spouse's benefits. The bill will benefit approximately 41,000 women; 40,000 of them are social security beneficiaries, and 1,000 of them are railroad retirement beneficiaries.

Under existing law, any person who is entitled to railroad retirement benefits whether as an annuitant or as a survivor of a railroad employee, who is

also entitled to social security benefits based upon his own wage record, may, with one exception, draw full benefits under the Railroad Retirement Act of 1937, and full benefits under the Social Security Act, without reduction. This one exception involves women who are entitled to an annuity as the spouse of a retired railroad employee. Under the Railroad Retirement Act of 1937, deductions are made from the annuity paid to the spouse of any railroad employee until the deductions equal the total of social security or railroad retirement benefits to which she is entitled in her own right.

This bill would repeal these provisions under which deductions are made from the annuity of the spouse of benefits which she has earned under social security or under the Railroad Retirement Act.

The provision which this bill would repeal involves the only case under the Railroad Retirement Act in which the entire amount of social security benefits which a person has earned based on her own wage record are deducted from her railroad retirement benefits. There are a number of instances under existing law in which an individual can draw full benefits under both the Railroad Retirement Act and the Social Security Act. For example, a retired railroad worker may draw both benefits simultaneously. A survivor of a railroad employee can draw both survivor benefits under the Railroad Retirement Act and social security benefits which he has earned in his own right; however, survivor benefits are paid under only one of these acts—usually under the provisions of the Railroad Retirement Act which in general guarantee that at least 110 percent of the total amount of social security benefits otherwise payable will be paid to the survivors of the railroad employee.

This bill would eliminate one of the most glaring inequities in the Railroad Retirement Act of 1937. Except for the cases discussed previously involving the application of the guaranteed minimum provisions, the requirement that the spouse's annuity be reduced by the amount of social security benefits earned by the spouse in her own right is the only situation of this type arising under the Railroad Retirement Act. This bill would repeal the provision providing for this offset, eliminating this inequity.

Legislation dealing with this subject has been before the Committee on Interstate and Foreign Commerce for many years. The first bill introduced on this subject was H.R. 738, 84th Congress, introduced by the gentleman from Mississippi [Mr. WILLIAMS]. Since that time bills having a similar purpose and effect have been pending before the committee each Congress. During this Congress bills have been introduced by Mr. POFF, Mr. BECKWORTH, Mr. ASHLEY, Mr. BROYHILL of North Carolina, and Mr. MATHIAS. Over the years, these bills have consistently been opposed by the Railroad Retirement Board, primarily because of their cost, currently estimated at approximately \$14 million a year. It is our feeling that the equities involved in this legislation are sufficiently compelling to

justify these small added costs, and we recommend that the House approve the bill.

Mr. YOUNGER. Mr. Speaker, the gentleman from New York has adequately explained this legislation.

(Mr. YOUNGER asked and was given permission to extend his remarks at this point in the Record.)

Mr. YOUNGER. Mr. Speaker, the railroad retirement fund has been the subject of great concern for some time. It has been unable to maintain itself on an actuarial basis. The last Congress managed to get agreement from both management and labor to some basic changes which would eventually bail it out. Many suggestions have been made over the years for liberalization of payments to retirees and the conditions under which they could qualify. All of these have been bypassed because of their disastrous effect on the fund itself.

Today we have before us a proposal to liberalize the provisions under which the spouse's annuity may be paid to the wife of a retiree. It is a very small, almost insignificant change from the standpoint of the money involved—small enough so that it can safely be considered without further jeopardizing the fund itself. On the other hand, it corrects what has been recognized by the committee, and last year by the Congress itself, as a gross inequity.

As it now stands, the wife of a retiree must forgo her right to the spouse's annuity if she has acquired in her own right social security payments in an amount as great as the annuity. On the face of it, it seems unfair and it seems more so when we discover that this is the only incidence in the Federal law which results in this situation.

It is well understood that sweeping liberalization of the railroad retirement fund is not possible, even though there is much that might be said in favor of it. We should, however, correct this glaringly unfair provision and thereby make it possible for the spouse to retain those payments which she has earned by her own endeavors without penalizing her merely because her husband happens to have been covered under the Railroad Retirement Act, rather than some other pension or retirement system.

I recommend that the House again accept these provisions and pass H.R. 3157.

Mr. POFF. Mr. Speaker, will the gentleman yield?

Mr. YOUNGER. I will be very happy to yield to the gentleman from Virginia, who has been a longtime proponent of this legislation over a period of years and one of its strongest advocates.

Mr. POFF. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I support this legislation.

(Mr. POFF asked and was given permission to revise and extend his remarks.)

Mr. POFF. Mr. Speaker, in support of H.R. 3157, similar to H.R. 651 which I introduced on the first day of the 89th Congress, I will be brief. This is because the bill itself is brief, the subject matter is brief, and the justification is brief. In fact, the justification can be stated in one word—fairness.

At one time, the Railroad Retirement Act carried a dual benefits restriction against all classes of beneficiaries. None were permitted to draw the full amount of railroad retirement benefits if they were also entitled to social security benefits. Under the equitable doctrine that what one pays for one should receive, these restrictions, one by one, were stricken from the act. Today, all have been repealed but one, the one which applies to beneficiaries who are wives or husbands of retired railroad workers. This legislation would repeal this last restriction.

The restriction against railroad spouses is the rankest sort of discrimination, defying the most artful rationalization. Why should a man or woman who happens to be the husband or wife of a railroad worker be treated differently than a spouse of another worker? The same social security taxes have been paid in the two cases. If one is to receive less benefits than the other, then why should his taxes not be less? H.R. 3157 eliminates this discrimination by guaranteeing that when payments are made into two separate retirement systems, benefits will be forthcoming from both systems.

Mr. Speaker, H.R. 3157 is similar to H.R. 12362 which passed the House last year but which died in the Senate when the Congress adjourned. According to the actuaries, the deficit involved is only thirty-two hundredths of 1 percent of taxable payroll. While this legislation provides no tax increases to provide additional revenue to the fund, I agree with the statement in the unanimous bipartisan committee report last year that "the equities involved in this legislation are sufficiently compelling to justify the small added costs to the railroad retirement system."

Mr. Speaker, passage of this bill early this year will give the other body ample time to act upon it before the 89th Congress adjourns. I congratulate the chairman and members of the great Committee on Interstate and Foreign Commerce.

Mr. BROYHILL of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. YOUNGER. I will be glad to yield to the gentleman from North Carolina, who is also a champion of this legislation and has introduced bills on this under his own name.

Mr. BROYHILL of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this legislation. This bill will amend the Railroad Retirement Act of 1937 to remove a serious defect in the act. This amendment will permit the husband or wife of a railroad employee to receive a spouse's annuity under the Railroad Retirement Act at the same time he or she is receiving social security benefits earned in his or her own right. These benefits would be received without any reduction in the annuity as is the case under present law.

I have had several letters from wives of railroad employees telling me that they have worked hard and paid their social security tax with the belief they were investing in security for their old age. Then on retirement, they find, that

just because their husband is drawing a pension under railroad retirement, that they cannot receive full social security benefits. Many of them, who recall the sacrifices made to pay social security taxes while they worked, are inclined to highly question this legal technicality in the law.

This inequity in the law has been brought before the Interstate and Foreign Commerce Committee several times in the past 10 years. I am proud to serve as a member of this committee and wish to commend the committee for its prompt consideration of this legislation in this 89th Congress. My bill, H.R. 6296, is similar to H.R. 3157 introduced by the chairman of the full committee, Mr. HARRIS. When this legislation was considered by the committee, I made the motion that the chairman's bill, H.R. 3157, be reported to the House, and was gratified that this motion carried by a unanimous vote.

I urge the adoption of this bill, hope that it will pass by an overwhelming vote and have early consideration in the other body.

(Mr. BROYHILL of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, I yield to the gentleman from Texas [Mr. ROBERTS].

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

[Mr. ROBERTS addressed the House. His remarks will appear hereafter in the Appendix.]

Mr. O'BRIEN. Mr. Speaker, I yield to the gentleman from Texas [Mr. CABELL].

[Mr. CABELL addressed the House. His remarks will appear hereafter in the Appendix.]

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I yield to the gentleman from Arkansas.

Mr. HARRIS. Mr. Speaker, I thought perhaps it would be wise to elaborate briefly on the cost features of the bill as was explained by our distinguished colleague from New York [Mr. O'BRIEN]. Throughout the years of my service in the Congress and on the committee, I have been a strong advocate of keeping the railroad retirement fund on a sound basis. This is imperative. It is absolutely necessary. We had to take into consideration this fundamental policy in the consideration of correcting the inequity which is involved in this legislation. As Mr. O'BRIEN mentioned a moment ago, this legislation would cost the fund approximately \$14 million. Currently the fund is running a deficit of \$19½ million a year or .44 percent of taxable payroll. This would make the total deficiency about \$33 million a year or .76 percent of taxable payroll.

I realize that this is getting close to the point of being beyond the limits of actuarial tolerance for a sound railroad retirement program. During the years there has been some difference of opinion among the actuaries as to what tolerance

should be accepted to maintain a sound fund. The more recent estimate is that if the fund is considered to be deficient by one-half of 1 percent of the taxable payroll or less, then it would be all right. If it goes beyond that, then it gets into a questionable area. Those are those in the past—and I think actuaries of note and reputation—who contended that so long as we are within 1 percent of taxable payroll, that that percentage is a tolerance that could be permitted and there would not be any danger.

Frankly, I do not know; I am not an actuary. But I have gone on the basis during these years that a tolerance of between one-half and 1 percent could be accepted to maintain a sound fund in the railroad retirement system. I call this to the attention of the House so the House may know that there is an encroachment here on the fund and to the degree of tolerance, so that the House may know what the actual situation is. I think it means that we must be exceedingly careful in the future about encroaching further on the fund. There is one thing we must be certain of, and that is that when a person retires who is in the railroad industry and receives his check, the money must be there to pay it. We want to be sure that that is done.

At the same time we do feel that here is a glaring and gross inequity, as has been explained previously, that should be corrected. For that reason I have sought to do so as have other colleagues on the committee.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I am glad the gentleman has made the statement that he did make. I think the beneficiaries of this legislation should be put on notice and made aware of the fact that this cannot go on indefinitely, and that if their take is going to be increased they are going to deplete the funds.

Mr. HARRIS. I think all of us should be aware of the situation and be sure that we meet it without making the tax so exorbitant, the tax on employees and the railroad industry, as to make the whole program questionable.

Mr. GROSS. I think they especially ought to be made aware of this situation, if they are not already aware of it.

Mr. HARRIS. That is one reason I took this time to discuss the matter with the House so that the House would be fully aware of the present situation.

Mr. Speaker, I ask unanimous consent that all Members have permission to extend their remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. CUNNINGHAM. Mr. Speaker, as a member of the subcommittee that considered this legislation, I am very much in favor of it. This bill is long overdue as it corrects a long overdue reform of the Railroad Retirement Act. This same legislation was approved by our committee and by the House last year; but the Senate did not act upon it. I sincerely

believe this bill is much needed and trust the other body will act favorably upon it as soon as possible.

Mr. SCHMIDHAUSER. Mr. Speaker, I strongly support House passage of the sound legislation proposed by the distinguished chairman of the Interstate and Foreign Commerce Committee. H.R. 3157 is sound because it corrects an inequity which in past years tended to discriminate against the surviving spouses of retired railroad employees.

The SPEAKER pro tempore. The question is, Will the House suspend the rules and pass the bill H.R. 3157, as amended?

The question was taken; and the Chair announced that in his opinion two-thirds of the Members had voted in the affirmative.

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

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

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

The question was taken; and there were—yeas 322, nays 0, not voting 110, as follows:

[Roll No. 123]

YEAS—323

| | | |
|----------------|---------------|-----------------|
| Abernethy | Culver | Gilligan |
| Adair | Cunningham | Gonzalez |
| Adams | Curtin | Goodell |
| Addabbo | Curtis | Grabowski |
| Albert | Daddario | Green, Pa. |
| Anderson, Ill. | Dague | Grigg |
| Andrews, | Daniels | Grider |
| Glenn | Davis, Ga. | Griffiths |
| Andrews, | Davis, Wis. | Gross |
| N. Dak. | Dawson | Grover |
| Annunzio | de la Garza | Gubser |
| Ashbrook | Delaney | Gurney |
| Ashley | Dent | Hagan, Ga. |
| Ashmore | Denton | Hagen, Calif. |
| Baldwin | Devine | Haley |
| Bandstra | Dickinson | Hall |
| Barrett | Diggs | Hamilton |
| Bates | Dingell | Hanley |
| Battin | Dole | Hanna |
| Beckworth | Dorn | Hansen, Idaho |
| Belcher | Dow | Hansen, Iowa |
| Bennett | Dowdy | Hansen, Wash. |
| Berry | Downing | Hardy |
| Betts | Dulski | Harris |
| Blatnik | Duncan, Oreg. | Harsha |
| Boggs | Duncan, Tenn. | Hathaway |
| Boland | Dwyer | Hawkins |
| Bolling | Dyal | Hays |
| Bolton | Edmondson | Hechler |
| Brademas | Edwards, Ala. | Henderson |
| Bray | Ellsworth | Herlong |
| Brooks | Erlenborn | Hicks |
| Broomfield | Evans, Colo. | Horton |
| Broyhill, N.C. | Everett | Hosmer |
| Buchanan | Evinns, Tenn. | Howard |
| Burke | Fallon | Hull |
| Burleson | Farbstein | Hungate |
| Burton, Calif. | Farnum | Huot |
| Burton, Utah | Fascell | Hutchinson |
| Byrne, Pa. | Feighan | Ichord |
| Byrnes, Wis. | Fino | Irwin |
| Cabell | Fisher | Jarman |
| Cahill | Flood | Johnson, Calif. |
| Callan | Fogarty | Johnson, Okla. |
| Carter | Foley | Johnson, Pa. |
| Chamberlain | Ford, | Jonas |
| Chelf | William D. | Jones, Mo. |
| Clancy | Fountain | Karsten |
| Clark | Friedel | Karth |
| Cleveland | Fulton, Pa. | Kastenmeier |
| Clevenger | Fulton, Tenn. | Keith |
| Cohelan | Fuqua | Kelly |
| Collier | Gallagher | King, Calif. |
| Colmer | Garnatz | King, N.Y. |
| Conte | Gathings | King, Utah |
| Corbett | Gettys | Kirwan |
| Corman | Gibbons | Kluczynski |
| Craley | Gilbert | Kornegay |

| | | |
|----------------|----------------|-----------------|
| Krebs | Patman | Sisk |
| Kunkel | Patten | Skubitz |
| Laird | Pepper | Smith, Iowa |
| Langen | Perkins | Smith, N.Y. |
| Latta | Pickle | Stafford |
| Leggett | Pike | Staggers |
| Lennon | Poage | Stalbaum |
| Lipscomb | Poff | Stanton |
| Love | Pool | Steed |
| McCarthy | Price | Stephens |
| McClory | Pucinski | Stratton |
| McCulloch | Quie | Stubblefield |
| McDade | Race | Sullivan |
| McFall | Redin | Sweeney |
| McGrath | Reid, Ill. | Taylor |
| McMillan | Reid, N.Y. | Teague, Calif. |
| MacGregor | Reifel | Thomas |
| Machen | Reinecke | Thompson, La. |
| Madden | Rhodes, Ariz. | Thompson, Tex. |
| Mahon | Rivers, Alaska | Thomson, Wis. |
| Mailliard | Rivers, S.C. | Trimble |
| Marsh | Roberts | Tuck |
| Martin, Nebr. | Robison | Tunney |
| Mathias | Rogers, Colo. | Tupper |
| Matthews | Rogers, Fla. | Tuten |
| Meeds | Rogers, Tex. | Udall |
| Mills | Ronan | Ullman |
| Mink | Roncalio | Utt |
| Minshall | Rooney, N.Y. | Van Deerlin |
| Mize | Rooney, Pa. | Vanik |
| Moeller | Rosenthal | Vigorito |
| Moore | Rostenkowski | Vivian |
| Moorhead | Roudebush | Waggoner |
| Morris | Royal | Walker, Miss. |
| Mosher | Rumsfeld | Walker, N. Mex. |
| Moss | Ryan | Watkins |
| Multer | Satterfield | Watts |
| Murphy, Ill. | Saylor | Whalley |
| Murray | Scheuer | White, Idaho |
| Natcher | Schisler | White, Tex. |
| Nedzi | Schmidhauser | Whitener |
| Nelsen | Schneebell | Wildnall |
| O'Brien | Schweiker | Wilson, Bob |
| O'Hara, Ill. | Scott | Wilson, |
| O'Hara, Mich. | Secrest | Charles H. |
| O'Konski | Selden | Wolf |
| Olsen, Mont. | Senner | Wyatt |
| Olson, Minn. | Shriver | Wydler |
| O'Neal, Ga. | Sickles | Yates |
| O'Neill, Mass. | Sikes | Young |
| Ottinger | | Younger |

NAYS—0

NOT VOTING—110

| | | |
|-----------------|---------------|----------------|
| Abbitt | Frelinghuysen | Morrison |
| Anderson, | Gialmo | Morse |
| Tenn. | Gray | Morton |
| Andrews, | Green, Oreg. | Murphy, N.Y. |
| George W. | Griffin | Nix |
| Arends | Halleck | Passman |
| Aspinall | Halpern | Pelly |
| Ayres | Harvey, Ind. | Philbin |
| Baring | Harvey, Mich. | Pirnie |
| Bell | Hébert | Powell |
| Bingham | Helstoski | Purcell |
| Bonner | Hollifield | Quillen |
| Bow | Holland | Randall |
| Brock | Jacobs | Resnick |
| Brown, Calif. | Jennings | Rhodes, Pa. |
| Brown, Ohio | Joelson | Rodino |
| Broyhill, Va. | Jones, Ala. | Roosevelt |
| Callaway | Kee | Roush |
| Cameron | Keogh | St Germain |
| Carey | Landrum | St. Onge |
| Casey | Lindsay | Shipley |
| Cederberg | Long, La. | Slack |
| Celler | Long, Md. | Smith, Calif. |
| Clausen, | McDowell | Smith, Va. |
| Don H. | McEwen | Springer |
| Clawson, Del | McVicker | Talcott |
| Conable | Macdonald | Teague, Tex. |
| Conyers | Mackay | Tenzer |
| Cooley | Mackie | Thompson, N.J. |
| Cramer | Martin, Ala. | Todd |
| Derwinski | Martin, Mass. | Toil |
| Donohue | Matsunaga | Weltner |
| Edwards, Calif. | May | Whitten |
| Farnsley | Michel | Williams |
| Findley | Miller | Willis |
| Flynt | Minish | Wright |
| Ford, Gerald R. | Monagan | Zablocki |
| Fraser | Morgan | |

So the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

- Mr. Keogh with Mr. Lindsay.
- Mr. Morgan with Mr. Arends.
- Mr. Hollifield with Mr. Halleck.
- Mr. Miller with Mr. Gerald R. Ford.

Mr. Philbin with Mr. Cramer.
Mr. Donohue with Mr. Brown of Ohio.
Mr. Roosevelt with Mr. Cederberg.
Mr. Hébert with Mr. Ayres.
Mr. Jennings with Mrs. May.
Mr. Brown of California with Mr. Smith of California.
Mr. Macdonald with Mr. Martin of Massachusetts.
Mr. Celler with Mr. Morse.
Mr. Cameron with Mr. Don H. Clausen.
Mr. Minish with Mr. Brock.
Mr. St. Onge with Mr. Bow.
Mr. Teague of Texas with Mr. Del Clawson.
Mr. Tenzer with Mr. Griffin.
Mr. Thompson of New Jersey with Mr. Harvey of Michigan.
Mr. Toll with Mr. Michel.
Mr. Holland with Mr. Pirnie.
Mr. Williams with Mr. Springer.
Mr. Aspinall with Mr. Bell.
Mr. Whitten with Mr. Derwinski.
Mr. Gray with Mr. Pelly.
Mr. George W. Andrews with Mr. Talcott.
Mr. Rodino with Mr. Frelinghuysen.
Mr. Abbitt with Mr. Findley.
Mr. Giaimo with Mr. Halpern.
Mr. Morrison with Mr. Morton.
Mr. Flynt with Mr. Quillen.
Mr. Murphy of New York with Mr. McEwen.
Mr. Randall with Mr. Martin of Alabama.
Mr. Willis with Mr. Calloway.
Mr. Wright with Mr. Edwards of Alabama.
Mr. Shipley with Mr. Conable.
Mr. Zablocki with Mr. Conyers.
Mr. Bingham with Mrs. Green of Oregon.
Mr. Anderson of Tennessee with Mr. St Germain.
Mr. Bonner with Mr. Long of Maryland.
Mr. Long of Louisiana with Mr. Passman.
Mr. Resnick with Mr. Nix.
Mr. Monagan with Mr. Carey.
Mr. Casey with Mr. Baring.
Mr. Helstoski with Mr. Joelson.
Mr. Slack with Mr. Roush.
Mr. Weltner with Mr. Fraser.
Mr. Cooley with Mr. Smith of Virginia.
Mr. Kee with Mr. Powell.
Mr. Purcell with Mr. Farnsley.
Mr. Jones of Alabama with Mr. Jacobs.
Mr. Rhodes of Pennsylvania with Mr. Matsunaga.
Mr. Landrum with Mr. Mackay.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

Calendar No. 627

89TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 645

AMENDING THE RAILROAD RETIREMENT ACT OF 1937 AND THE RAILROAD RETIREMENT TAX ACT

August 25, 1965.—Ordered to be printed

Mr. PELL, from the Committee on Labor and Public Welfare,
submitted the following

REPORT

[To accompany H.R. 3157]

The Committee on Labor and Public Welfare, to which was referred the bill (H.R. 3157) to amend the Railroad Retirement Act of 1937, to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3157 (as here reported) is (1) to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits; and (2) to increase the maximum creditable and taxable monthly compensation base under the Railroad Retirement Act and Railroad Retirement Tax Act from the present \$450 to (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this act is enacted.

EXPLANATION OF THE BILL

The bill would amend section 2(e) of the Railroad Retirement Act of 1937 to permit the spouse of a railroad employee to receive a spouse's annuity under that section concurrently with the receipt of social security or railroad retirement benefits earned in the spouse's own right without reduction in the spouse's annuity.

Under existing law, any person who is entitled to railroad retirement benefits (whether as an employee annuitant or as a survivor of a

railroad employee) who is also entitled to social security benefits based upon his own wage record, may, with one exception, draw full benefits under the Railroad Retirement Act, and full benefits under the Social Security Act, without reduction. The one exception is a person entitled to an annuity as the spouse of a retired railroad employee. Under the third proviso of section 2(e) of the Railroad Retirement Act, deductions are made from the annuity paid to the spouse of any railroad employee until the deductions equal the total of social security or railroad retirement benefits to which the spouse is entitled in his or her own right, except that the reduction is only in the amount, if any, by which the spouse's primary benefit under the Social Security Act exceeds such spouse's wife's or husband's benefit to which he or she would be entitled but for the primary benefit. The annuity of a spouse must, under existing law, also be reduced by the amount of an annuity to which such spouse is entitled as a parent under the Railroad Retirement Act, and by the amount of any social security benefit derived from other than such spouse's own employment to which such spouse is entitled, except a wife's or husband's benefit; the bill would also eliminate the requirement for this reduction.

A retired railroad employee who is eligible for social security benefits, either based on his own social security wage record, or as a survivor, based upon another individual's wage record, may draw full railroad retirement benefits and full social security benefits without reduction.

A further illustration of the inequity involved in the present provisions of section 2(e) arises out of the different treatment provided the spouse of a railroad employee and the widow or widower of a railroad employee. A widow or widower may receive survivor benefits under the Railroad Retirement Act concurrently with any social security benefits to which she or he is entitled based on her or his own wage record, without reduction in railroad retirement benefits; however, the spouse of a living railroad worker has his or her benefits reduced by social security benefits which the spouse has earned based on his or her own employment. In other words, while the retired railroad employee is alive, the spouse of such employee receives a spouse's benefit under the Railroad Retirement Act reduced by social security benefits which the spouse has earned based on his or her own wage record; yet, upon the death of such employee, the spouse is able to draw railroad retirement benefits as a widow or widower and full social security benefits based on his or her own wage record, without any reduction.

The bill would benefit approximately 41,000 spouses; 40,000 of whom are social security beneficiaries, and 1,000 of whom are railroad beneficiaries. About 134,000 remaining spouses' annuities would not be affected.

NECESSITY FOR AMENDMENT

There is now an actuarial deficit in the financing of the railroad retirement system of about \$20 million a year, and Public Law 89-97 (approved July 30, 1965) will add about \$28 million to the deficit, bringing it to a total of about \$48 million a year on a level basis. The enactment of the bill H.R. 3157 would add to this deficit about \$14 million a year, bringing the total deficit to about \$62 million a year on a level basis. The increase in the deficit which would result from the enactment of Public Law 89-97, would come about chiefly from in-

creases in maximum annuities to spouses and in annuities computed under the social security minimum provision of the Railroad Retirement Act. An increase in the deficit to about \$62 million a year would obviously confront the railroad retirement system with serious financial problems.

The amendment would solve these problems by increasing the railroad retirement monthly maximum taxable compensation base to an amount equal to one-twelfth of the maximum annual social security taxable wage base; that is, from the present \$450 a month to \$550 which is one-twelfth of the maximum social security creditable and taxable base of \$6,600 a year. By reason of such increase in the taxable compensation base, the railroad retirement taxable payroll would be about \$4.8 billion a year, and the additional tax income to the system would be about \$87 million a year. About \$39 million of this amount would be applied to reducing the \$62 million deficit to about \$23 million. This deficit, however, would be increased to \$24 million because the tax base for the health insurance program under the railroad retirement system is on a monthly rather than an annual basis. This \$24 million deficit represents only about one-half of 1 percent of the new taxable payroll and is considered to be within actuarial tolerance so that the system would be considered financially sound. The remaining \$48 million of additional tax income would be used to increase the annuities of an estimated 487,000 employees who would earn more than \$450 a month and upon whom would fall the burden of paying the additional tax resulting from the increased base; those employees (of whom there are about 277,000) whose monthly earnings will be \$450 or less, will pay no additional taxes by reason of the increased base, and would receive no increase in their annuities by reason thereof.¹

It is important to emphasize that except for a relatively short period in the late 1950's the railroad retirement maximum monthly tax base has always equaled or exceeded the social security equivalent monthly taxable wages. In fact, the maximum railroad retirement tax base now is \$450 a month (equivalent of \$5,400 a year) while the maximum social security taxable wage base is now only \$4,800 a year. The amendment would increase the railroad retirement tax base to an amount equivalent to the social security tax base; that is, the maximum monthly railroad retirement creditable and taxable base would be equal to one-twelfth of the maximum annual social security creditable and taxable base. The effect of this would be that any increase in the tax base for social security purposes would automatically result in an increase in the tax base for railroad retirement purposes to one-twelfth of the annual social security base as increased.

It is also important to emphasize that when the railroad retirement system was established in 1937, 98 percent of the gross railroad payroll was taxable on a \$300 monthly maximum; but only 79 percent of the gross payroll is now taxable on the present \$450 monthly limit; and by increasing the monthly limit to \$550, only 87.7 percent of the gross payroll will be taxable—about 10 percentage points lower than was the case when the system was first established.

¹ Number of employees in June 1965 distributed in accordance with earnings' patterns in an average month in 1963 is as follows: Under \$450 a month, 277,000; \$450 to \$550, 214,000; \$550 and more, 273,000; total—764,000. Distribution of employees according to their earnings in the entire year would differ from the above because many employees have earnings over a specified limit in only part of the months they work.

Further, under section 5(k)(2) of the Railroad Retirement Act, the social security system, in effect, charges the railroad retirement system with the social security taxes that would be paid on the social security maximum taxable wage base on railroad service the same as if such service were taxable under the social security system, and credits the railroad retirement system with the benefits that would be paid under the social security system if railroad service were covered under that system. Consequently, if the maximum railroad retirement monthly taxable base is allowed to remain lower than the equivalent social security maximum taxable wage base, the railroad retirement system would be charged with taxes on a higher base than the base on which railroad retirement taxes are collected.

Aside from placing the railroad retirement system in a sound financial condition, the amendment would also increase the annuities of employees who will have paid taxes on the higher maximum. Generally speaking, for each year that the employee pays taxes on the increased base of \$550 a month, the additional tax by reason of such increase would be about \$100. For this extra cost the employee's annuity would be increased by \$1.67 a month, or about \$20 a year for each such year. Assume that an employee retires at age 65, in January 1967, after paying about \$100 in additional taxes. At the time of his retirement his life expectancy is about 13 years. Since he will receive about \$20 a year more in annuities than he would otherwise have received, his total return for the \$100 extra taxes would be about \$260 (13 times \$20). If he has 2 such years, the total additional taxes would be about \$200 and his total return in additional annuities would be about \$520 (\$260 times 2). Whatever he pays in additional taxes in 1, 2, or more years, he will recover in about 5 years after retirement.

Another consideration for the amendment is a provision in Public Law 89-97. This provision confers upon the Railroad Retirement Board the authority to administer the hospital insurance program for railroad retirement beneficiaries. Such authority, however, is contingent upon the monthly taxable base for railroad retirement purposes being equal to one-twelfth of the annual taxable social security wage base. The Board can assume such jurisdiction at the same time that the Secretary of Health, Education, and Welfare assumes jurisdiction for hospital insurance benefits for all other employees (January 1, 1966), only if the legislation to increase the railroad retirement monthly taxable base, as provided in the amendment, is in effect not later than October 1, 1965, even though the actual increase in the taxable base would not be effective before January 1, 1966. It is, of course, far more preferable that the Railroad Retirement Board administer the hospital insurance program for railroad retirement beneficiaries from the beginning of the program rather than start 1 year later. Unless such legislation (the amendment) is effective on or before October 1, 1965, the Board's administration of the program would be delayed at least until January 1, 1967. The effect of this would be to confuse railroad retirement beneficiaries who would be eligible for hospital insurance benefits and who, for the past 30 years, have been accustomed to looking to the Railroad Retirement Board for the administration of all their benefit programs. Moreover, such delay would result in serious administrative difficulties to both the Railroad Retirement Board and the Secretary of Health, Education, and Welfare.

The propriety and reasonableness of the amendment is shown also by the pertinent fact that it adopts exactly the same financing method employed by the Congress when it enacted Public Law 89-97. To provide the necessary funds for the benefits (other than hospitalization benefits) the Congress provided for an increase in the ultimate social security tax rates from 4.625 percent of payroll to an ultimate 4.85 percent of payroll—an increase of only 0.225 percent, but at the same time provided for increasing the maximum social security taxable base by \$1,800 a year (from \$4,800 to \$6,600). Under existing law, the increase in the ultimate social security tax rate by 0.225 percent of payroll results in exactly the same increase by 0.225 percent in the ultimate railroad retirement tax rate; i.e., from an ultimate 9.125 percent of payroll to an ultimate 9.35 percent. Thus, the Congress did not significantly increase the social security tax rates but provided the necessary funds by increasing instead the maximum social security taxable base by \$1,800 a year. Since the maximum annual railroad retirement tax base is now \$5,400, an increase in that base of only \$1,200, as provided in the amendment, is necessary to achieve equality with the social security tax base provided in Public Law 89-97.

Enactment of the bill without the amendment would place the railroad retirement account in an unsatisfactory financial condition. Without the amendment the increase in the deficiency resulting from Public Law 89-97 and from the passage of this bill would be of such a serious nature as to result, at sometime in the future, in insufficient funds for the payment of benefits for which the railroad retirement system is obligated.

CONCLUSION

The committee is of the opinion that the discriminatory treatment now applicable only against spouses of retired railroad employees should be eliminated, but that an increase in the running actuarial deficit in the railroad retirement system should be avoided by the adoption of such a revenue-producing amendment. Without the amendment, the actuarial deficit in the railroad retirement system would be about \$62 million a year, while with such amendment, the deficit would be only about \$24 million a year. It is the conclusion of the committee, therefore, that the bill should be adopted as amended.

It is further recognized, because of the matching contribution of industry and labor, that those workers earning more than \$450 per month and living more than 5 years after retirement will receive more than they have paid into the railroad retirement fund. This will naturally be a factor bearing on any future decisions in labor-management negotiations.

HEARINGS

Hearings were held by the Subcommittee on Railroad Retirement on June 29, 1965. Prior to the testimony by witnesses, the chairman of the subcommittee offered the amendment above described and prepared by the Railroad Retirement Board and requested the witnesses to direct their testimony to the amendment as well as to the bill. While the Railroad Retirement Board opposed the bill, it desired to keep the deficit as low as possible and, hence, concluded that if the bill is adopted, the amendment thereto must also be adopted. Of the

two groups who have the responsibility for maintaining the railroad retirement system in a sound financial condition, the Railway Labor Executives' Association favored the bill with the amendment, and the Association of American Railroads opposed the bill and the amendment. Considerable efforts were made to find a mutually acceptable formula, but to no avail. Failing in these efforts to reach agreement and because of the mounting deficit, it was believed that there was no alternative to offering this amendment, which, while opposed by the Association of American Railroads, was supported by the Railway Labor Executives Association and by the Railroad Retirement Board.

AGENCY REPORTS

RAILROAD RETIREMENT BOARD,
Chicago, Ill., June 23, 1965.

HON. LISTER HILL,
*Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.*

DEAR SENATOR HILL: This is a report on the bill H.R. 3157 which was passed by the House of Representatives on June 7, 1965, and referred to your committee for consideration.

The provisions of this bill are identical to those of the bill, S. 1978, which was introduced by Senator Dominick on May 17, 1965. Accordingly, our report on this bill is like the report on S. 1978.

The bill, H.R. 3157, would amend the Railroad Retirement Act of 1937 by repealing the present provision in section 2(e) of the act which requires the reduction of a spouse's annuity by the amount of the spouse's own insurance benefit under the Social Security Act (except for a wife's or husband's insurance benefit) and by the amount of an annuity under sections 2(a) or 5(d) of the Railroad Retirement Act for which the spouse is eligible. The change would be effective with respect to spouses' annuities accruing in months after the month of enactment of the bill. The amendment would apply to annuities paid in lump sums equal to their commuted value because of a reduction under section 2(e) of the act as now in effect.

It is estimated that the additional costs of the amendment proposed by the bill would come to approximately 0.32 percent of taxable payroll, or \$14 million a year, on a level basis. Of this, 0.30 percent of taxable payroll or \$13 million a year would be attributable to the removal of the reduction because of social security benefits, and 0.01 percent of taxable payroll or \$400,000 a year to the removal of the reduction because of railroad retirement benefits.

There is now an actuarial deficit in the financing of the railroad retirement system of approximately 0.44 percent of taxable payroll, or \$19.5 million a year, on a level basis. Enactment of the bill would increase this actuarial deficiency to approximately 0.76 percent of taxable payroll, or \$33.5 million a year.¹

The Board is opposed to the bill for the following reasons:

(1) The bill makes no provision for additional revenue to meet the increase in the costs of benefits which the bill would provide. Even if it were considered feasible to provide for additional revenue in an

¹ The slight inconsistencies between figures are due to rounding procedures.

amount sufficient to cover the added costs of the bill, the Board's position would not change for new income could better be used for improvements in other areas where the need seems greater.

(2) The present provision in section 2(e) of the Railroad Retirement Act for reducing a spouse's annuity by the amount of the spouse's own benefit under the Social Security Act is the same, in principle, as the provision in the Social Security Act for reducing a wife's benefit under that act by the amount of such wife's primary benefit under that act. In view of the reduction in a wife's benefit, the reduction of the spouse's annuity under section 2(e) of the act is only in the amount, if any, by which her benefit under the Social Security Act exceeds the wife's benefit under that act to which she would be entitled except for her other benefit.

(3) More than one of five women entitled to spouses' benefits under the Railroad Retirement Act are also entitled to primary old-age benefits under the Social Security Act (a total of about 40,000 spouses whose benefits were either reduced or eliminated), and the costs to the railroad retirement system for the nonreduction proposed by the bill now and for the future would be about \$14 million a year, as previously stated.

The Social Security Act does not require a reduction in a wife's benefit by the amount of her retirement annuity under the Railroad Retirement Act; however, there are only about 1,000 of the 2,800,000 women entitled to a wife's benefit under the Social Security Act who are also entitled to an employee annuity under the Railroad Retirement Act, and by reason of the financial interchange between the two systems, the loss to the social security system for this nonreduction is zero. The railroad retirement account thus absorbs the cost of the failure to reduce the wife's benefit under the Social Security Act by the amount of her railroad retirement annuity. The estimated cost to the railroad retirement account from this absorption is 0.01 percent of taxable payroll, or \$500,000 a year.

(4) Before the 1951 amendments to the Railroad Retirement Act, there was no provision, in that act, for a spouse's annuity. The reason for providing a spouse's annuity by such amendments is stated in the Senate committee report (S. Rept. No. 890, 82d Cong., 1st sess., p. 17) as follows:

"If the finances were adequate to permit doing all the other things that need to be done and also to increase all retirement annuities by, say, 65 percent, one might well consider that as an alternative to providing a spouse's annuity. But since such a course is obviously out of the question, the spouse's annuity affords a means of doing substantially that in cases of greatest need; i.e., where two adult and aged people rather than just one must live on the annuity."

The provision for a spouse's annuity was, therefore, in substitution for an increase in employee annuities in cases where two persons had to live largely on the income from the one annuity under the Railroad Retirement Act. For this very reason, the 1951 amendments provided that where a spouse has an income from a railroad retirement annuity or a social security benefit, the spouse's annuity would not be paid except to the extent by which it exceeds such annuity or benefit.

(5) There is a general misunderstanding about the "purchase" of a spouse's annuity through railroad retirement taxes. A railroad employee with a wife entitled to a spouse's annuity paid no more in

taxes than he would have paid if he had no such wife. A spouse's annuity is no more "purchased" than is a wife's benefit under the Social Security Act; yet a wife's benefit under that act is reduced by the amount of her own primary benefit.

In view of the foregoing, the Board recommends that the bill, H.R. 3157, not be reported favorably by your committee.

The Board's report of April 26, 1965, to the House Committee on Interstate and Foreign Commerce on the bill, H.R. 3157 (the bill as introduced in the House of Representatives is essentially like the bill now before your committee), which is like this report, was cleared with the Bureau of the Budget. That Bureau had no objection to the presentation of the report from the standpoint of the administration's program.

Sincerely yours,

HOWARD W. HABERMEYER, *Chairman.*

cc: Hon. Charles L. Schultze, Director, Bureau of the Budget,
Executive Office of the President, Washington, D.C.

TREASURY DEPARTMENT,
Washington, D.C., June 28, 1965.

HON. LISTER HILL,
*Chairman, Labor and Public Welfare Committee,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.R. 3157, entitled "A bill to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits." This bill is identical with S. 1978 which was introduced in the Senate on May 17, 1965, and on which the Department reported to your committee by letter of June 17, 1965.

This bill would amend subsection (c) of section 2 of the Railroad Retirement Act of 1937 by striking the third proviso of this subsection. The provision which would be repealed provides that the annuity of a spouse of a person receiving railroad retirement benefits is subject to reduction if such spouse is also entitled to any social security benefit or any other benefit under the Railroad Retirement Act. The amendment would permit the payment of a spouse's annuity without reduction on account of any of these other benefits that a spouse may be receiving.

The administration of the provisions of the Railroad Retirement Act is vested in the Railroad Retirement Board. S. 1978 involves a question of benefits payable under the act which are primarily the concern of the Board. Accordingly, the Treasury expresses no views concerning the merits of this bill.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

(Signed) Stanley S. Surrey.
STANLEY S. SURREY.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 6, 1965.

HON. LISTER HILL,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Your committee has under consideration H.R. 3157, a bill to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

This office generally concurs in the views expressed by the Railroad Retirement Board on this bill. Primarily for these reasons but also because of the importance of retaining and extending the coordination between benefits payable under both the Railroad Retirement and the Social Security Acts, we would be opposed to the enactment of this bill.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

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

SECTION 2(e) OF THE RAILROAD RETIREMENT ACT OF 1937

(e) Spouse's Annuity.—The spouse of an individual, if—

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

(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5 of this Act, shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: *Provided, however*, That if the annuity of the individual is awarded under paragraph 3 of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: *Provided further*, That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further*, That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's

insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is desentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k)].

“COMPUTATION OF ANNUITIES

“SEC. 3. (a) The annuity shall be computed by multiplying an individual's ‘years of service’ by the following percentages of his ‘monthly compensation’: 3.35 per centum of the first \$50; 2.51 per centum of the next \$100; and 1.67 per centum of [the next \$300] *the remainder up to a total of (i) 450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable ‘wages’ as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater*

* * * * *

“MONTHLY COMPENSATION

“(c) The ‘monthly compensation’ shall be the average compensation paid to an employee with respect to calendar months included in his ‘years of service’, except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924–1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers’ hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940–August 1941: *Provided, however,* That where service in the period 1924–1931 in the one case, or in the period September 1940–August 1941 in the other case, is, in the judgement of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, or in excess of \$450 for any month after the month in which this Act was so amended *and*

before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the 'monthly compensation' computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

* * * * *

“ANNUITIES AND LUMP SUMS FOR SURVIVORS

“SEC. 5. (a) * * *

“(f) Lump-Sum Payment.—(1) * * *

“(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

“(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death, or

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

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

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

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

“(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee, a lump sum in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30,

1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, and in excess of \$450 for any month after the month in which this Act was so amended *and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended*), minus the sum of all benefits paid to him or her, and to others deriving from him or her, during his or her life, or to others by reason of his or her death, under this Act, and pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended: *Provided, however*, That if the employee is survived by a widow, widower, or parent who may upon attaining age sixty be entitled to further benefits under this section, or pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) be entitled to further benefits under title II of the Social Security Act, as amended, such lump sum shall not be paid unless such widow, widower, or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow, widower, or parent making such election of any insurance benefits under title II of the Social Security Act, as amended, to which such widow, widower, or parent would have been entitled had this section not been enacted. The term 'benefits' as used in this paragraph includes all annuities payable under this Act, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under title II of the Social Security Act, as amended, pursuant to subsection (k) of this section, except that the deductions of the benefits which, pursuant to subsection (k)(1) of this section, are paid under title II of the Social Security Act, during the life of the employee to him or to her and to others deriving from him or her, shall be limited to such portions of such benefits as are payable solely by reason of the inclusion of service as an employee in 'employment' pursuant to said subsection (k)(1).

* * * * *

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

"(1) * * *

"(9) An employee's 'average monthly remuneration' shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the employee's closing date eliminating any excess over \$300 for any calendar month before July 1, 1954, any excess over \$350 for any calendar month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, any excess over \$400 for any calendar

month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963 [and], any excess over \$450 for any calendar month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended, and (ii) if such compensation for any calendar year before 1955 is less than \$3,600 or for any calendar year after 1954 and before 1959 is less than \$4,200, or for any calendar year after 1958 and before 1966 is less than \$4,800, or for any calendar year after 1965 is less than [\$6,600] an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, and the average monthly remuneration computed on compensation alone is less than \$450 and the employee has earned in such calendar year 'wages' as defined in paragraph (6) hereof, such wages, in an amount not to exceed the difference between the compensation for such year and \$3,600 for years before 1955, \$4,200 for years after 1954 and before 1959, \$4,800 for years after 1958 and before 1966, and [\$6,600] an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for years after 1965, by (B) three times the number of quarters elapsing after 1936 and before the employee's closing date: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided, further*, That there shall be excluded from the divisor any calendar quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him. An employee's 'closing date' shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, which ever would produce the highest 'average monthly remuneration' as defined in the preceding sentence. If the amount of the 'average monthly remuneration' as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

"With respect to an employee who will have been awarded a retirement annuity, the term 'compensation' shall, for the purposes of this paragraph, mean the compensation on which such annuity will have been based;

"(10) The term 'basic amount' shall mean—

"(i) for an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7)(i) or (7)(ii) or both: the sum of (A) 49 per centum of his average monthly remuneration, up to and including \$75; plus (B) 12 per centum of such average monthly remuneration exceeding \$75 and up to and including [\$450] (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, plus (C) 1 per centum of the sum of (A) plus (B)

multiplied by the number of years after 1936 in each of which the compensation, wages, or both, paid to him will have been equal to \$200 or more; if the basic amount, thus computed, is less than \$16.95 it shall be increased to \$16.95;

“(ii) for an employee who will have been completely insured solely by virtue of paragraph (7)(iii): the sum of 49 per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, 49 per centum of the average monthly earnings on which such pension was computed, up to and including \$75, plus 12 per centum of such compensation or earnings exceeding \$75 and up to and including \$300. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed under this subdivision shall be \$40.33, except that if the pension payable to him was less than \$30.25, such amount shall be four-thirds of the amount of the pension or \$16.13, whichever is greater. The term ‘monthly compensation’ shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

“(iii) for an employee who will have been completely insured under paragraph (7)(iii) and either (7)(i) or (7)(ii): the higher of the two amounts computed in accordance with subdivisions (i) and (ii).

RAILROAD RETIREMENT TAX ACT

TITLE 26.—INTERNAL REVENUE CODE—UNITED STATES CODE

[CHAPTER 22—SUBCHAPTER A]

Tax on Employees

SEC. 3201. Rate of tax.

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

- (1) $6\frac{3}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and
- (2) $7\frac{1}{4}$ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961, as is not in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) 5450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable “wages” as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended. Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given*

time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.

SEC. 3202. Deduction of tax from compensation.

(a) Requirement.—

The tax imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month after the month in which this provision was amended in 1959 and the aggregate of such compensation is in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$540, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month shall be that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month.

SUBCHAPTER B

Tax on Employee Representatives

SEC. 3211. Rate of tax.

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

(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,

as is not in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended: Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101 at such time exceeds the rate provided by paragraph (2) of such section 3101 as amended by the Social Security Amendments of 1956.*

SUBCHAPTER C

Tax on Employers

SEC. 3221. Rate of tax.

(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

(1) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961, as is, with respect to any employee for any calendar month, not in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, which-*

ever is greater, for any month after the month in which this provision was so amended; except that if an employee is paid compensation after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month after the month in which this provision was amended in 1959, the tax imposed by this section shall apply to not more than \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended of the aggregate compensation paid to such employee by all such employers after the month in which this provision was amended in 1959, for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month.

(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3111 at such time exceeds the rate provided by paragraph (2) of such section 3111 as amended by the Social Security Amendments of 1956.

Calendar No. 627

89TH CONGRESS
1ST SESSION

H. R. 3157

[Report No. 645]

IN THE SENATE OF THE UNITED STATES

JUNE 8 (legislative day, JUNE 7), 1965

Read twice and referred to the Committee on Labor and Public Welfare

AUGUST 25, 1965

Reported by Mr. PELL, with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (e) of section 2 of the Railroad Retirement
4 Act of 1937 (45 U.S.C. 228b(e)) is amended by changing
5 the colon before the last proviso to a period and by striking
6 out all that follows down through the period at the end of
7 such subsection.

8 SEC. 2. This Act shall take effect with respect to an-
9 nuities accruing in months after the month in which this
10 Act was enacted, and shall apply also to annuities paid in

1 lump sum equal to their commuted value because of a re-
2 duction in such annuities under section 2-(e) of the Railroad
3 Retirement Act of 1937, as in effect before the amendments
4 made by this Act, as if such annuities had not been paid
5 in such lump sums: *Provided, however,* That the amounts
6 of such annuities which were paid in lump sums equal to
7 their commuted value shall not be included in the amount
8 of annuities which become payable by reason of section 1
9 of this Act.

10 TITLE I—AMENDMENTS TO THE RAILROAD
11 RETIREMENT ACT OF 1937

12 SEC. 1. Subsection (e) of section 2 of the Railroad Re-
13 tirement Act of 1937 (45 U.S.C. 228b(e)) is amended by
14 changing the colon before the last proviso to a period and by
15 striking out all that follows down through the period at the
16 end of such subsection.

17 SEC. 2. (a) Subsection (a) of section 3 of the Railroad
18 Retirement Act of 1937 is amended by striking out "the next
19 \$300" and inserting in lieu thereof the following: "the re-
20 mainder up to a total of (i) \$450, or (ii) an amount equal
21 to one-twelfth of the current maximum annual taxable 'wages'
22 as defined in section 3121 of the Internal Revenue Code of
23 1954, whichever is greater".

24 (b) The second sentence of subsection (c) of such sec-
25 tion 3 is amended by inserting before ", shall be recognized"

1 *the following: “and before the calendar month next following*
2 *the calendar month in which this Act was amended in 1965,*
3 *or in excess of (i) \$450, or (ii) an amount equal to one-*
4 *twelfth of the current maximum annual taxable ‘wages’ as*
5 *defined in section 3121 of the Internal Revenue Code of*
6 *1954, whichever is greater, for any calendar month after*
7 *the month in which this Act was so amended”.*

8 *SEC. 3. (a) Subsection (f) (2) of section 5 of such Act*
9 *is amended by inserting after “so amended” where it appears*
10 *the second time in the first parenthetical phrase after clause*
11 *(vi) the following: “and before the calendar month next*
12 *following the month in which this Act was amended in 1965,*
13 *and in excess of (i) \$450, or (ii) an amount equal to one-*
14 *twelfth of the current maximum annual taxable ‘wages’ as*
15 *defined in section 3121 of the Internal Revenue Code of*
16 *1954, whichever is greater, for any month after the month*
17 *in which this Act was so amended”.*

18 *(b) Subsection (l) (9) of section 5 of such Act is*
19 *amended—*

20 *(1) by striking out “and” where it appears the*
21 *fourth time and inserting in lieu thereof a comma;*

22 *(2) by inserting after “so amended” where it ap-*
23 *pears the second time the following: “and before the*
24 *calendar month next following the calendar month in*

1 *which this Act was amended in 1965, and any excess*
2 *over (i) \$450, or (ii) an amount equal to one-twelfth of*
3 *the current maximum annual taxable 'wages' as defined*
4 *in section 3121 of the Internal Revenue Code of 1954,*
5 *whichever is greater, for any calendar month after the*
6 *month in which this Act was so amended";*

7 *(3) by striking out "\$6,600" both times it appears*
8 *in such subsection and inserting in lieu thereof "an*
9 *amount equal to the current maximum annual taxable*
10 *'wages' as defined in section 3121 of the Internal Revenue*
11 *Code of 1954"; and*

12 *(4) by striking out "\$450" where it appears the*
13 *second time and inserting in lieu thereof "(i) \$450, or*
14 *(ii) an amount equal to one-twelfth of the current*
15 *maximum annual taxable 'wages' as defined in section*
16 *3121 of the Internal Revenue Code of 1954, whichever*
17 *is greater,".*

18 *(c) Subsection (1)(10) of section 5 of such Act is*
19 *amended by striking out "\$450" and inserting in lieu thereof*
20 *"(i) \$450, or (ii) an amount equal to one-twelfth of the*
21 *current maximum annual taxable 'wages' as defined in sec-*
22 *tion 3121 of the Internal Revenue Code of 1954, whichever*
23 *is greater".*

24 *SEC. 4. The provisions of sections 1, 2, and 3 of this*

1 *Act shall take effect with respect to annuities accruing and*
2 *deaths occurring in months after the month in which this Act*
3 *was enacted, and shall apply also to annuities paid in lump*
4 *sums equal to their commuted value because of a reduction*
5 *in such annuities under section 2(e) of the Railroad Retire-*
6 *ment Act of 1937, as in effect before the amendments made by*
7 *this Act, as if such annuities had not been paid in such lump*
8 *sums: Provided, however, That the amounts of such annuities*
9 *which were paid in lump sums equal to their commuted value*
10 *shall not be included in the amount of annuities which become*
11 *payable by reason of section 1 of this Act.*

12 *TITLE II—AMENDMENTS TO THE RAILROAD*
13 *RETIREMENT TAX ACT*

14 *SEC. 201. Sections 3201, 3202, 3211, and 3221 of the*
15 *Railroad Retirement Tax Act are each amended by inserting*
16 *after the phrase “or \$450 for any calendar month after the*
17 *month in which this provision was so amended”, wherever*
18 *such phrase appears in such sections, the following: “and*
19 *before the calendar month next following the calendar month*
20 *in which this provision was amended in 1965, or (i) \$450,*
21 *or (ii) an amount equal to one-twelfth of the current maxi-*
22 *mum annual taxable ‘wages’ as defined in section 3121 of the*
23 *Internal Revenue Code of 1954, whichever is greater, for any*

1 *month after the month in which this provision was so*
2 *amended*".

Amend the title so as to read: "An Act to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits, to amend the Railroad Retirement Tax Act and for other purposes."

Passed the House of Representatives June 7, 1965.

Attest:

RALPH R. ROBERTS,

Clerk.

Calendar No. 627

89TH CONGRESS
1ST SESSION

H. R. 3157

[Report No. 645]

AN ACT

To amend the Railroad Retirement Act of 1937
to eliminate the provisions which reduce the
annuities of the spouses of retired employees
by the amount of certain monthly benefits.

JUNE 8 (legislative day, JUNE 7), 1965

Read twice and referred to the Committee on Labor
and Public Welfare

AUGUST 25, 1965

Reported with amendments

AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1937 AND THE RAILROAD RETIREMENT TAX ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 627, H.R. 3157.

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

The LEGISLATIVE CLERK. A bill (H.R. 3157) to amend the Railroad Retirement Act of 1937, to eliminate the provisions which reduce the annuities of the spouses of retired employees by which the amount of certain monthly benefits, to amend the railroad retirement tax, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT OF 1937

SEC. 1. Subsection (e) of section 2 of the Railroad Retirement Act of 1937 (45 U.S.C. 228b(e)) is amended by changing the colon before the last proviso to a period and by striking out all that follows down through the period at the end of such subsection.

SEC. 2. (a) Subsection (a) of section 3 of the Railroad Retirement Act of 1937 is amended by striking out "the next \$300" and inserting in lieu thereof the following: "the remainder up to a total of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater".

(b) The second sentence of subsection (c) of such section 3 is amended by inserting before "shall be recognized" the following: "and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended".

SEC. 3. (a) Subsection (f)(2) of section 5 of such Act is amended by inserting after "so amended" where it appears the second time in the first parenthetical phrase after clause (vi) the following: "and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended".

(b) Subsection (1)(9) of section 5 of such Act is amended—

(1) by striking out "and" where it appears the fourth time and inserting in lieu thereof a comma;

(2) by inserting after "so amended" where it appears the second time the following: "and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended";

(3) by striking out "\$6,600" both times it appears in such subsection and inserting in lieu thereof "an amount equal to the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954"; and

(4) by striking out "\$450" where it appears the second time and inserting in lieu thereof "(i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater,".

(c) Subsection (1)(10) of section 5 of such Act is amended by striking out "\$450" and inserting in lieu thereof "(i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater".

SEC. 4. The provisions of sections 1, 2, and 3 of this Act shall take effect with respect to annuities accruing and deaths occurring in months after the month in which this Act was enacted, and shall apply also to annuities paid in lump sums equal to their commuted value because of a reduction in such annuities under section 2(e) of the Railroad Retirement Act of 1937, as in effect before the amendments made by this Act, as if such annuities had not been paid in such lump sums; *Provided, however,* That the amounts of such annuities which were paid in lump sums equal to their commuted value shall not be included in the amount of annuities which become payable by reason of section 1 of this Act.

TITLE II—AMENDMENTS TO THE RAILROAD RETIREMENT TAX ACT

SEC. 201. Sections 3201, 3202, 3211, and 3221 of the Railroad Retirement Tax Act are each amended by inserting after the phrase "or \$450 for any calendar month after the month in which this provision was so amended", wherever such phrase appears in such sections, the following: "and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended".

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1937 AND RAILROAD RETIREMENT TAX ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business, which is H.R. 3157.

The Senate resumed the consideration of the bill (H.R. 3157) amending the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act.

Mr. PELL. Mr. President—

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. MANSFIELD. Mr. President, if the Senator will yield without losing his right to the floor, I suggest the absence of a quorum.

Mr. PELL. I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG of Louisiana. Mr. President, I feel it necessary to make the point of order that the pending Senate amendment is a tax amendment on a nonrevenue bill. Since the Constitution requires that all revenue measures must originate in the House of Representatives, and since Senators by their oaths are sworn to uphold the Constitution, the Senate is clearly forbidden to originate a tax measure.

As the ranking majority member of the Committee on Finance, I am well aware—and it has been the experience of the committee—that the House of Representatives has consistently refused even to consider a tax measure that originated in this body, so much so that I do not recall an instance, during the period of my membership, when the Senate has even made an effort to originate a tax bill.

The pending measure is a House bill, but is not a revenue bill.

Mr. PELL. The bill is not yet before the Senate.

Mr. LONG of Louisiana. I am sorry; I thought the bill was before the Senate.

Mr. President, I ask that the bill be laid before the Senate.

The PRESIDING OFFICER. The bill is before the Senate.

Mr. PELL. The bill is before the Senate? I misspoke.

Mr. LONG of Louisiana. Then, Mr. President, I wish to make the point of order that the bill came to the Senate as a bill which was not a tax bill. The pending Senate amendment to the bill is a major tax amendment, and it is clearly unconstitutional for the Senate to attach a tax provision to a bill which is not a tax bill. To do so would be in violation of our oaths.

Mr. President, this question has been considered before in both the House of Representatives and the Senate. From my study of the precedents, it is clear—and I have discussed the question with the Parliamentarians of both the House of Representatives and the Senate—that inasmuch as revenue bills must originate in the House of Representatives, a bill providing for a tax must be a revenue bill when it comes to the Senate, and the Senate cannot convert a nonrevenue bill to a revenue bill. For the Senate to attach a tax provision to simple legislation that has nothing to do with revenue when it comes from the House of Representatives is not condoned.

Therefore, I am constrained to make the point of order that this amendment is unconstitutional.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Is the point of order subject to discussion?

The PRESIDING OFFICER. Under the uniform practices of the Senate for more than 100 years, the Chair has no authority to pass upon points of order as to the constitutionality of a proposal. Those are questions for the Senate to determine. Therefore, the Chair submits to the Senate the question whether or not, under the Constitution, the Senate has a right to consider this amendment, or whether the point of order is well taken. The question, of course, is debatable.

Mr. PELL. Mr. President, first I ask unanimous consent that during the consideration of H.R. 3157, Mr. David Schrieber and Mr. Charles McLaughlin, of the office of the General Counsel of the Railroad Retirement Board, be granted the privilege of the floor, as has been the custom in previous years.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PELL. Mr. President, I recognize, as the Senator from Louisiana [Mr. LONG] has pointed out, that article I, section 7, of the Constitution of the United States provides:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

First, I submit that the amendment to H.R. 3157, which would raise the taxable wage base under the Railroad Retirement Act from \$450 to \$550 a month, is incidental to the main purpose of the bill, which is to grant benefits to the spouses of railroad retirees.

In fact, in the annotated copy of the Constitution, which all Senators have, and which was prepared by the legislative reference service, I note the statement that only bills to levy taxes in the strict sense of the word are comprehended by the phrase "all bills raising revenue." Bills for other purposes which incidentally create revenues are not included. As an example, a case is cited wherein a bill which provided that the District of Columbia should raise by taxation and pay to designated rail-

road companies a specific sum for the elimination of grade crossings and the construction of the union railroad station did not have to originate in the House of Representatives.

Other cases decided by the Supreme Court are in point: In *Twin City Bank against Nebeker*, a case dealing with a tax on bonds used to secure the national currency, the Court held that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue.

The purpose of this amendment is corollary to the purpose of the bill, and my principle objective is to provide some method for maintaining the deficit in the Railroad Retirement Fund at a tolerable level. Without this amendment, the deficit will rise to approximately \$62 million per year; with it, we can reduce the deficit to about \$24 million.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a brief concerning the case I have already cited, *Twin City Bank against Nebeker*. Another case, too, is cited; that of *Millard against Roberts*.

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

EXCERPT FROM THE DECISION OF THE U.S. SUPREME COURT IN THE CASE OF *TWIN CITY BANK v. NEBEKER*, 167 U.S. 198

The contention in this case is that the section of the act of June 3, 1864, providing a national currency secured by a pledge of U.S. bonds, and for the circulation and redemption thereof, so far as it imposed a tax upon the average amount of the notes of a national banking association in circulation, was a revenue bill within the clause of the Constitution declaring that "all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills" (art. 1, sec. 7); that it appeared from the official Journals of the two Houses of Congress that while the act of 1864 originated in the House of Representatives, the provision imposing this tax was not in the bill as it passed that body, but originated in the Senate by amendment, and, being accepted by the House, became a part of the statute; that such tax was, therefore, unconstitutional and void, and that, consequently, the statute did not justify the action of the defendant.

The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, "bills for raising revenue." What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives. Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word and are not bills for other purposes which may incidentally create revenue. (P. 202.)

EXCERPT FROM THE DECISION OF THE U.S. SUPREME COURT IN THE CASE OF MILLARD v. ROBERTS, 202 U.S. 429

The first contention of appellant is that the acts of Congress are revenue measures, and therefore, should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention the case of *Twin City Bank v. Nebeker*, 167 U.S. 196, need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bill shall be said to be "bills for raising revenue" within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, "that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue." (1 Story on Constitution, sec. 880.) And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this Court saying:

"The tax was a means of effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act (pp. 436-437).

Mr. PELL. Mr. President, a further point I wish to raise is that any money raised by this amendment does not go into the General Treasury, but rather goes to a special railroad retirement fund. Revenue is defined in Webster's New International Dictionary as:

The annual or periodical yield of taxes, excise, customs, duties, rents, etc., which a nation, State, or municipality collects and receives into the treasury for public use; public income of whatever kind.

Insofar as the funds that would be raised by this amendment are for a private pension fund, I do not see any constitutional prohibition against its origination in the Senate.

Finally, I submit that from the viewpoint of precedent, we have already passed legislation similar to this; that in 1959 the Senate originated a raise in the base of the taxable income, passed it, and sent it to the House, which changed it to a House number but passed a bill in identical form, including a misplaced comma, and sent it back to the Senate.

At that point, various Senators rose to deplore the action of the House, and to defend the constitutionality of the original action of the Senate, including the then majority leader, Senator Johnson, of Texas, and including the present majority whip, the Senator from Louisiana [Mr. Long], and other Senators.

For these reasons, Mr. President, I submit that we are within our rights in passing this amendment as a method to

keep the system fiscally sound, which it certainly is not at this time.

Mr. President, I yield the floor.

Mr. MORSE. Mr. President—

The PRESIDING OFFICER (Mr. JOHNSON of Idaho in the chair). The Senator from Oregon is recognized.

Mr. MORSE. Mr. President, in view of the fact that the chairman of the Subcommittee on Railroad Retirement—on which I am privileged to be a member—has made reference to the action in this body of May 5, 1959, in regard to the railroad retirement bill of that year, S. 226, I wish to discuss that precedent briefly.

Enactment by the Senate on May 5, 1959, of S. 226, provided for increases in tax rates under the Railroad Retirement Tax Act to cover the additional benefits provided by the bill. A House companion bill had been reported to, but not enacted by the House. The House reported bill was approved by the House Committee on Interstate and Foreign Commerce, but was unacceptable to railroad labor because the House approved bill failed to provide sufficient revenue and contained other unacceptable provisions. When the satisfactory Senate bill S. 226 reached the House floor, it was adopted by the House in substitution for the House reported bill. No constitutional question was raised by the House, at that time.

It was known, however, that President Eisenhower would veto the bill; and it was also known that if the bill were vetoed on its merits, the veto would be overridden by both Houses of Congress—at least, that was the belief.

It was feared, however, that if the President were to veto the bill because it had a Senate number, some Members of the House might be inclined into following the position of accepting the veto. To avoid this, a Member of the House moved, a few days later, to vacate the previous House action, and then moved to strike from the House-reported bill all after the enacting clause and insert in lieu thereof the Senate provision. This was done, and the enacted bill with a House number was reenacted by the Senate on May 5, 1959.

At that time I was chairman of the subcommittee of the Senate on railroad retirement, occupying the same position which the Senator from Rhode Island [Mr. PELL] occupies today.

The majority leader was the Senator from Texas, Mr. Johnson. The majority leader and I thought that the whole procedure was unnecessary from the standpoint of parliamentary requirement. Nevertheless, we agreed to go along with it, because our objective was to get the bill passed.

I believe it is important that there be read into the Record at this time—because I believe it is of controlling and precedential value—the discussion which took place at that time, because in my judgment, if S. 226 on May 5, 1959, was not unconstitutional, the bill before us today is not unconstitutional.

For all intents and purposes, the substantive objectives are the same.

I read from the Record of May 5, 1959, starting on page 7472:

AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1937

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of House bill 5610, to amend the Railroad Retirement Act.

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

The LEGISLATIVE CLERK. A bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, which was read the first time by title and the second time at length.

Mr. JOHNSON of Texas. Mr. President, if I may have the attention of the Senator from Oregon [Mr. MORSE], let me say that the House passed, on May 4, H.R. 5610, which amends the Railroad Retirement Act. H.R. 5610 is identical with Senate bill 226, which was passed by the Senate on April 29, and which had been reported by the Senator from Oregon [Mr. MORSE].

The House adopted every line, every word, every punctuation mark in the Senate bill—including a misplaced quotation mark.

I am informed that the House took that action because the bill contained a revenue feature, inasmuch as the bill increases the rate of tax on employers and employees under the railroad retirement system. However, the tax-increase provision is only one of many changes effected by the bill in the railroad retirement law.

Senate bill 226, as passed by the Senate, is not primarily a tax measure. The increase in tax is only part of a bill which is designed to provide much-needed increases in the benefits under the act. In my mind, there is no doubt about the constitutional power of the Senate to initiate such a measure. The Supreme Court has long held that the Senate can initiate and can pass general legislation which contains, as an incidental feature, a revenue provision. The case of *Millard v. Roberts*, decided in 1906, is specific on this point. The annotated constitution, compiled by Professor Corwin, contains numerous citations in support of this view.

I have conferred with the distinguished chairman of the subcommittee who handled the bill, the Senator from Oregon [Mr. MORSE]. It is our conclusion that we do not wish to quibble over the matter; we are primarily concerned with sending this proposed legislation to the President at an early date. In our judgment, the power of the Senate to initiate and to dispose of proposed legislation such as Senate bill 226 is clear and beyond any doubt; and we do not intend to delay the taking of final action on this matter by arguing the procedural question. It is far more important to the railroad workers that such a bill be passed and go to the President and be signed by him into law, rather than that there be long argument over the question of whether the bill bear a House bill number or a Senate bill number.

So, Mr. President, after conferring with the Senator from Oregon and other members of the committee, I urge immediate Senate consideration of House bill 5610, which is identical in every respect with Senate bill 226, which was passed by the Senate on April 29, I believe, by unanimous vote.

Mr. President, I yield now to the Senator from Oregon, so that he may make whatever

comments he desires to make, and that then the Senate may perhaps take action on the bill.

Mr. MORSE. Mr. President, the majority leader has explained the reason why there has been some confusion in regard to railroad retirement legislation. In my judgment, he has stated the law accurately. There is no question about the fact that it was within the province of the Senate to initiate such proposed legislation and to pass it. I quite agree with the Senator from Texas that we should proceed to re-pass the bill, this time in the form of House bill 5610.

In making legislative history on the bill, our obligation is to make sure that no question at all in regard to the legislative process can be raised successfully by anyone in any future litigation.

Mr. President, until yesterday we had thought a conference would be necessary in order to resolve a difference between the bill which was passed by the Senate—Senate bill 226, the Morse bill—and the bill which was passed last Wednesday by the House—House bill 5610.

Yesterday, however, the House passed a new bill, numbered H.R. 5610, with language identical to that of the Morse bill, Senate bill 226, as passed by the Senate.

It is much to be desired that the Senate now pass House bill 5610, and thus permit a railroad retirement bill to reach the White House as soon as possible. In urging that the Senate take this action, I assure this body that such action by it will merely reaffirm the action the Senate took last week in passing Senate bill 226.

Mr. JOHNSON of Texas. Mr. President, I yield to the minority leader first. Then I shall yield to the Senator from Louisiana [Mr. LONG].

Mr. DIRKSEN. Mr. President, I think we had some discussion of this matter when the bill first came up in the Committee on Labor and Public Welfare. I did not feel there was any doubt whatsoever that the Senate had authority to consider this bill originally and send it to the House. I do indeed concur in the opinion expressed by the majority leader; but, in the interest of felicity as between the two Houses, if this is what it takes in order to expedite action, certainly I have no objection.

Mr. LONG. Mr. President—

Mr. JOHNSON of Texas. I yield now to my friend from Louisiana.

Mr. LONG. Mr. President, as one of those who greatly admire the majority leader, I hope he is not going to permit the House, in matters of this sort, continually to downgrade the Senate. This type of procedure can hardly be more than an excuse for the House to claim to be the author of legislation by acting first. If the House had proceeded expeditiously, it could have acted first on this measure, rather than second, as it has. Then the Senate might properly be denied credit for being the body of Congress to act first on this bill. The Senate is already bound in a number of ways when the House insists, unreasonably in some instances, on having its way. For example, the Senator from Louisiana has several times sponsored legislation involving veterans insurance, which the House has failed to consider because of objection on the part of a single Member of the House.

I urge the majority leader to see that the responsibilities, duties, and powers of the Senate are maintained. I hope he will try to do something about it, as time goes on, so that the House will act reasonably in such matters.

Mr. JOHNSON of Texas. I appreciate the remarks of the Senator from Louisiana. I shall do all I can, in a constructive manner, to see that the responsibilities of the Senate are recognized. In this instance I do not agree with the way the House has acted, but I do not see that there is any good purpose to

be served by further quibbling and delay, and I certainly do not want to emulate the action of the House in this instance.

Mr. President, if we can get action on this bill—

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered the question is on the third reading of the bill. The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

Mr. MORSE. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

That is chapter No. 1 in my argument, Mr. President. I now turn to chapter No. 2.

We now deal directly with the constitutional question raised in 1959 and raised today, in 1965. The chairman of the subcommittee has already referred to the short legal brief that has been prepared in support of the position that the bill before the Senate is constitutional, and that it does not violate the Constitution in the sense that it violates the provision that requires that revenue-raising measures must originate in the House.

The chairman of the subcommittee, in citing this brief, calls attention to the U.S. Supreme Court case of *Twin City Bank v. Nebeker*, 167 U.S. 196. I read these excerpts from the decision of the Supreme Court. The Court said:

The contention in this case is that the section of the act of June 3, 1864, providing a national currency secured by a pledge of U.S. bonds, and for the circulation and redemption thereof, so far as it imposed a tax upon the average amount of the notes of a national banking association in circulation, was a revenue bill within the clause of the Constitution declaring that "all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills," (art. 1, sec. 7); that it appeared from the official Journals of the two Houses of Congress that while the act of 1864 originated in the House of Representatives, the provision imposing this tax was not in the bill as it passed that body, but originated in the Senate by amendment, and, being accepted by the House, became a part of the statute; that such tax was, therefore, unconstitutional and void, and that, consequently, the statute did not justify the action of the defendant.

The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, "bills for raising revenue." What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives. Mr. Justice Story has well said that the practical construction of the Constitution and the his-

tory of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue.

Continuing, Mr. President, I call the attention of the Senate to an excerpt from the decision of the U.S. Supreme Court in the case of *Millard v. Roberts*, 202 U.S. 429. It is a case that the majority leader of the Senate in 1959, Mr. Johnson, alluded to. The Court said:

The first contention of appellant is that the acts of Congress are revenue measures, and therefore, should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention, the case of *Twin City Bank v. Nebeker*, 167 U.S. 196, need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bills shall be said to "bills for raising revenue" within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, "that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue" (1 Story on Constitution, sec. 880). And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of the notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this Court saying:

"The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act.

Without taking the time to read the memorandum, I ask unanimous consent that another memorandum be inserted in the RECORD which discusses this constitutional question, citing additional cases, not only the *Nebeker* case and the *Roberts* case, but citing also the House of Representatives in regard to this matter.

There is a series of precedents, even from the House, which recognize that in a situation such as this, it is not a revenue bill, because the so-called tax or revenue features are not controlling, but incidental thereto.

I have no doubt that the Senator from Rhode Island is right when, as chairman of the subcommittee, he asks the Senate to sustain the bill on constitutional grounds.

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

MEMORANDUM: THE SENATE COMMITTEE'S AMENDMENT TO H.R. 3157 DOES NOT INFRINGE ON THE PREROGATIVE OF THE HOUSE TO ORIGINATE REVENUE MEASURES

It is well established by both judicial and legislative precedents that measures origi-

nating in the Senate whose general purpose is within the jurisdiction of the Senate do not violate the prerogative of the House if they incidentally raise revenue, especially if the revenue raised is not for the general support of the Government but for a specific purpose related to the general purpose of the measure.

Article 1, section 7 of the Constitution provides: "All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."

Justice Story, in his "Commentaries on the Constitution," traced the origin of article 1, section 7 to the British Parliamentary system where tax revenue measures, there known as "money bills," could originate only in the House of Commons. The House of Lords could only oppose or concur with tax legislation initiated in the House of Commons.

In defining the term "bills for raising revenue," Justice Story states: " * * * the practical construction of the Constitution * * * [a]nd, indeed the history of the origin of the power already suggested abundantly proves that it has been confined to bills to levy taxes in the strict sense of the words, and has not been understood to extend to bills for other purposes, which may incidentally create revenue" (1 Story on the Constitution, sec. 880).

PRECEDENTS OF THE SUPREME COURT

Justice Story's definition of a "bill for raising revenue" under article 1, section 7 of the Constitution has been adopted by the Supreme Court and has been used by it as the measuring stick in each of the cases coming before the Court involving an interpretation of that constitutional provision.

For example, in *United States v. Norton*, 91 U.S. 569, 23 L. ed. 454 (1876), the issue arose as to whether the act creating the postal money order system was a bill to raise revenue, under article 1, section 7. The contention was made that it was a bill to raise revenue since it provided that the Postmaster General was authorized to use a part of the moneys collected to pay post office employees.

The Supreme Court, however, applying Justice Story's definition of what constituted a bill for raising revenue, rejected the contention. The Court reasoned that since the primary purpose of the act was not to raise revenue, indeed Congress showed "a willingness to sink money, if necessary, to accomplish that purpose," the act was not "made for the direct and avowed purpose of creating revenue or public funds for the service of the Government," and was, therefore, not a bill to raise revenue within the meaning of article 1, section 7.

In *Twin City National Bank v. Nebeker*, 167 U.S. 196, 42 L. ed. 134 (1897), a contention was made that the act providing for a national currency was unconstitutional since that part of the act which imposed a tax upon the amount of notes held by a national banking association was originated in the Senate and the tax amounted to a bill to raise revenue under article 1, section 7.

The Court, however, after setting forth Justice Story's definition of a revenue bill, found that the act in question was not a bill to raise revenue despite the provision for the levying of a tax. The Court stated (167 U.S. at 202):

"The main purpose that Congress had in view was to provide a national currency based upon U.S. bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means of effectually accomplishing the great object of giving the people a currency that would rest, primarily, upon the honor of the United States, and be available to every part of the country. There was no purpose by the act or by any part of its provisions to raise revenue to be applied in meeting expenses or obligations of the Government."

In *Millard v. Roberts*, 202 U.S. 429, 50 L. ed. 1090 (1906), the Senate initiated an act which required certain railroads to eliminate grade crossings and to construct a railroad depot. A sum of money was to be paid to the railroads to be raised by the levy of a tax on the property of area residents. The Court, relying on its decision in *Twin City National Bank v. Nebeker*, supra, held that the tax did not convert the act into a bill to raise revenue. The Court concluded, "Whatever taxes are imposed are but means to the purposes provided by the act" (202 U.S. at 437).

PRECEDENTS OF THE HOUSE OF REPRESENTATIVES

1. On March 29, 1922, a motion was made on the floor of the House that a bill authorizing the extension of time for payment of a debt incurred by Austria be sent to the Ways and Means Committee on the ground that it was a bill to raise revenue.

The Speaker decided that the bill was not one to raise revenue as defined in article 1, section 7, and stated:

"The best definition the Chair has seen is in the 13th of Blatchford, where the court says:

"Certain legislative measures are unmistakably bills for raising revenue. These impose taxes upon the people either directly or indirectly, or lay duties, imports, or excise for the use of the Government, and to give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment in common with the rest of the citizens of the benefit of good government'" (8 Cannon's Precedents of the House of Representatives, sec. 2278 (1936)).

2. On May 4, 1922, the Speaker was called upon to decide whether a bill banning the importation of narcotics was a revenue bill since it also had provision for the raising of revenue. The Speaker decided that the bill was not a revenue bill stating:

"The Chair concludes that it is not privileged; that while [the bill] relates to revenues, yet that that is incidental; that the main purpose of the bill is not to raise revenue; and that therefore it is not privileged" (8 Cannon's Precedents of the House of Representatives, sec. 2279 (1936)).

3. On December 18, 1920, the Speaker was called upon to decide whether a Senate resolution reviving the activities of the War Finance Corporation constituted a revenue bill. During the ensuing debate a member of the House stated:

"[Article 1, section 7 of the Constitution] provides that bills for the purpose of raising revenue shall originate in the House of Representatives. It does not provide that laws which take the effect and which will have the effect either of raising revenue or producing a deficit shall originate in the House * * * No one can tell whether the passage of this resolution, if it shall be carried out in the spirit of the resolution, will produce revenue or produce a deficit. But everyone knows that the purpose of the law is not to produce revenue" (6 Cannon's Precedents of the House of Representatives, sec. 315 (1936)).

The Speaker decided that such questions were for the House rather than the Speaker, and the House voted that the bill was one which the Senate could originate.

Applying these precedents specifically to the Senate committee's amendment to H.R. 3157, it would appear that no serious question arises concerning the infringement of the House prerogative to originate revenue measures.

Although the Railroad Retirement Tax Act is a part of the Internal Revenue Code, the proceeds derived from it are devoted exclusively to the payment of benefits under and the expenses of administering the Railroad Retirement Act; no part of the proceeds is devoted to general revenue purposes.

In the early years of the railroad retirement system it was the practice to appro-

priate annually to the railroad retirement account the estimated proceeds of the Railroad Retirement Tax Act, and to make adjustments in subsequent appropriations to correct any inaccuracy in the estimates.

However, by title V of Public Law 452, 82d Congress, 2d session, 1952, it was provided that there is appropriated:

"For annual premiums after June 30, 1952, to provide for the payment of all annuities, pensions, and death benefits, in accordance with the provisions of the Railroad Retirement Acts of 1935 and 1937, as amended (45 U.S.C. 228-228s), and for expenses necessary for the Railroad Retirement Board in the administration of said acts as may be specifically authorized annually in appropriation acts, for crediting to the railroad retirement account, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act (28 U.S.C. 1500-1538)."

This is a standing appropriation to the railroad retirement account that operates in each subsequent fiscal year; annual appropriations are then made from the account (not from general funds) for administrative expenses.

Thus it has been established by law that the Railroad Retirement Act and the Railroad Retirement Tax Act are integral parts of a single insurance system. They are as closely related as the premium clauses and the benefit clauses of an insurance policy. When the House passes a bill that enlarges the insurance protection it necessarily opens up for consideration the question of the adequacy of the premium to cover the insurance benefits as so enlarged. In this instance the House chose to enlarge the deficit by enlarging the benefits without enlarging the premium. It would be indefensibly restrictive of the jurisdiction of the Senate to say that it is foreclosed from giving consideration to and possibly making amendments of the premium provisions to deal with the deficit in a different way.

The indefensibility of such a restriction upon the Senate is well illustrated by the facts before the Senate Committee on Labor and Public Welfare in its consideration of H.R. 3157. That these facts motivated the amendment adopted by the committee appears clearly from the committee report (S. Rept. 645, 89th Cong., 1st sess.). These facts are:

1. The enlargement of benefits provided by the bill introduced an additional cost estimated at \$14 million per year without any premium to cover these costs;

2. The railroad retirement system was already currently incurring an actuarial deficit equivalent to a level of about \$20 million per year;

3. After the passage of H.R. 3157 by the House and before its consideration by the Senate committee, Congress had enacted the social security amendments of 1965 (Public Law 89-97). The social security amendments had a far-reaching effect on the financing of the railroad retirement system:

a. By reason of certain minimum and maximum provisions in the Railroad Retirement Act that are contingent upon the provisions of the Social Security Act, many railroad retirement benefits were automatically increased;

b. By reason of the railroad retirement tax rates being contingent upon the social security tax rates the scheduled railroad retirement tax rates prior to 1973 were reduced with a consequent reduction in income;

c. By reason of the increase in the social security maximum taxable wage base to \$6,600 per year the railroad retirement account would be adversely affected in the interchange of funds between the two systems so long as the railroad retirement maximum taxable wage base remained at \$450 per month (\$5,400 per year);

d. Congress made provision for the administration of the medicare program so far

as railroad employees are concerned by the Railroad Retirement Board, but to become effective only if and when the railroad retirement monthly tax base should be the equivalent of one-twelfth of the social security annual tax base.

Financially, the effect of the social security amendments was to enlarge the pre-existing deficit and the additional deficit to be created by H.R. 3157 by an additional \$28 million per year.

To deny to the Senate the jurisdiction to consider and legislate in light of these events, largely supervening House passage of the bill, is to deny to the Senate jurisdiction to legislate intelligently.

Under any such restrictive jurisdiction the only courses open to the Senate in its consideration of H.R. 3157 would be to accept the enlargement of the deficit, even though it might consider the enlargement of the deficit unwise, or to reject the enlargement of benefits because it was unwilling to enlarge the deficit.

Furthermore, it is inherent in the structure of the railroad retirement system that the maximum limit of taxable compensation is also the maximum limit of creditable compensation for benefit purposes. Certainly no one can deny that the Senate has jurisdiction to originate increases in the maximum compensation creditable for benefit purposes. But that jurisdiction would as a practical matter be also effectively negated if it lacked jurisdiction to increase the corresponding base in the Railroad Retirement Tax Act.

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the RECORD another memorandum dealing with the facts of the bill itself.

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

MEMORANDUM: COMPARISON OF CARRIERS' INCREASED RAILROAD RETIREMENT TAX LIABILITIES UNDER H.R. 3157, AS AMENDED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, WITH SCHEDULED INCREASES IN TAX LIABILITY PRIOR TO 1965 LEGISLATION

Under the present maximum taxable and creditable compensation base of \$450 per month (\$5,400 per year) in the railroad retirement system the level projected taxable payroll is \$4.3 billion per year. If the monthly maximum base is increased to \$550 (\$6,600 per year), as proposed in H.R. 3157 as amended by the Senate committee, the level projected taxable payroll becomes \$4.775 billion per year, an increase of \$475 million.

Under present provisions of the Railroad Retirement Taxing Act scheduled increases in the tax rate are contingent upon increases in the social security tax rate. By reason of scheduled increases in the social security tax rate in effect prior to the 1965 amendments of the Social Security Act (Public Law 89-97) the railroad retirement tax rate was scheduled to increase by one-half of 1 percent each on carriers and employees on January 1, 1966, and by another one-half of 1 percent on each beginning January 1, 1968. These scheduled increases in tax rates would have increased the carrier tax obligations, based on a \$4.3 billion taxable payroll, by \$21.5 million per year in 1966 and another \$21.5 million in 1968, or a total of \$43 million.

However, the Social Security Amendments of 1965 have reduced the 1966 and 1968 scheduled increases in the social security tax rate, and thereby automatically reduced the increases in the scheduled railroad retirement tax rate, with the consequence that the railroad retirement tax rate in 1966 will be 8.35 percent each on carriers and employees as compared with the previously scheduled 8.625 percent, and in 1967 and 1968 will be 8.4 percent as compared with the previously scheduled 9.125 percent in 1968.

If the tax rate increases scheduled under the law as it stood at the beginning of this year had not been changed by the social security amendments, and the present \$450 monthly base were also retained the carrier tax liability for 1968 would be \$392.375 million. The carriers, by seeking to retain the present base despite the reduction in scheduled rates are trying to reduce that liability to \$361.2 million, and thus pay \$31.175 million less than they had been scheduled to pay.

By contrast, if the new reduced rate is applied to the increased taxable payroll that would result from increasing the base to \$550 per month their liability in 1968 would be \$401.1 million, i.e., only \$8.725 million over the \$392.375 million they were already scheduled to pay.

The decrease in scheduled social security tax rates, and the consequent decrease in scheduled railroad retirement tax rates, was made possible only by the fact that the social security tax base was increased to \$6,600 per year. In objecting to an increase in the railroad retirement tax base to the same level as the social security base, the carriers are seeking to avail themselves of the lower rate made possible by an increased base without paying on the increased base.

The foregoing figures are exclusive of the cost of medicare. In this connection it should be observed that during the last preceding Congress, and without change of position during the present Congress, the railroad managements agreed with the railway labor organizations that railroad employees should participate equally with other employees in the benefits of whatever medicare program might be enacted. At the time of this agreement it was generally believed that the medicare program would cost employers and employees each one-half to three-quarters of 1 percent of taxable payroll. The actual scheduled cost under Public Law 89-97 is 0.35 percent of payroll in 1966 and will not exceed three-quarters of 1 percent until 1987. This reduction below anticipated rates is likewise made possible by increasing the taxable wage base to \$6,600 per year.

Mr. MORSE. Mr. President, one who has those memoranda, he has all that is needed to support my argument that we are dealing with a matter which, under the precedents of the Supreme Court and the precedents of the House itself, raises no constitutional question.

Mr. LONG of Louisiana. Mr. President, the Senator from Oregon made reference to arguments I made myself involving this general problem. I made that argument after hearing the statement by the then majority leader, Mr. Johnson, in the very case the Senator from Oregon is citing as a precedent, but said that where the Senate originated a bill inserting a tax, the House declined to send the bill back to the Senate, but, instead, passed its own bill, sent that bill to the Senate, and the Senate passed that bill. The very case the Senator from Oregon cites, including my statement, shows that the House should act first.

If the Senator from Oregon is right in what he says, the Finance Committee would have had a right to originate the social security bill and the medicare bill. The Senate Finance Committee agreed so strongly to the contrary that our chairman and the committee declined to hold hearings on that bill until the House acted and sent the Senate a bill.

This year, in this session, the Senate

sent to the House a bill, S. 1734, to conserve and protect domestic fisheries. In connection with that bill the Senate imposed a 50 percent tax to protect fisheries.

The House sent the Senate back a blue sheet, which in polite language stated that the bill "in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States, and is an infringement of the privileges of this House, and that the said bill be respectfully returned to the Senate." That is what happened.

The Senate sent back a polite message to the effect that this was not correct procedure and "here is your bill back." The House returned the bill, which it had a perfect right to do.

This particular measure imposes a tax of about \$90 million. In my opinion, that involves much more than incidental revenue.

I am not arguing about the necessity of the tax. It may well be necessary to have it, and that we will do it in due course.

When revenues are to be raised, those measures should originate in the House. The Senate Committee on Finance sometimes has to wait 3 months for the House to send to the Senate revenue bills so the Senate may act on them. Religiously and respectfully, the Finance Committee respects the House of Representatives in respect to the Constitution; and circumpect as we are, we feel we should show the same consideration and insist on the same consideration for others who have the same responsibility we have.

Mr. President, this matter was discussed with the policy committee. After we discussed it, it was agreed that a point of order would be made by the policy committee on this side of the aisle.

This Senator, as a ranking member of the Finance Committee, as well as being a member of the policy committee, believes it to be his responsibility and duty to do so, but I do not stand alone.

I hope the Senate will stand with those of us who take this view on revenue bills, in connection with a bill which is not a revenue bill, both in connection with the precedents laid down, which have already been mentioned—and even the Senator's case which he cites as a precedent sustains that position—and will consider the House's point of view that this is a tax on a nonrevenue bill.

Mr. MORSE. Mr. President, I wish to reply briefly to the point made by my friend the Senator from Louisiana. I am completely lost in his maze of comments concerning the action taken on May 5, 1959, as being a precedent for his present position. I read every word spoken on the floor of the Senate on May 5, 1959. It was perfectly obvious that the Senate did not take the position that the House had a constitutional right to originate this particular measure. The language of the Senator from Louisiana makes it crystal clear that that was not the position he took on May 5, 1959. On the contrary, the Senator was for leaving the Senate bill. He suggested to the majority leader that we should not go

along with the objections because, in the view of the Senator from Louisiana, that would be downgrading the Senate.

On May 5, 1959, the Senator from Louisiana thought the railroad retirement bill was set out in the proper framework of a Senate bill and he was for passing the Senate bill, not the House bill.

The point was raised in that debate very clearly that the Senate did not recognize any constitutional right of the House to originate all those bills in the first instance. It was perfectly clear from the statements of the then majority leader, Mr. Johnson, the chairman of the subcommittee which handled the railroad retirement bill, the senior Senator from Oregon, and the minority leader, that we were not going to take the House bill on any constitutional right of the House, but because we recognized the parliamentary realities that confronted the Senate, and that we had a better chance of getting the bill on the books. But there is no precedent, by the slightest stretch of the imagination, in the May 5, 1959, case, that there was any admission on the part of the Senate that the House had the constitutional right to originate the bill. This was what we call accommodation between the two Houses. There was no waiver of the right of the Senate to originate the legislation. That is perfectly clear.

Let me say if that action is a precedent—it does not have the slightest relevancy, but if the Senate did agree in May 1959, to do that—it does not rewrite the Constitution of the United States.

We cannot amend the Constitution of the United States by decreeing on the floor of the Senate that a bill is a revenue bill. That is a question of law.

All the Senate did was to parliamentarily accommodate the House of Representatives on May 5, 1959, in order to have a railroad retirement bill passed. The Chairman of the Railroad Retirement Committee and Mr. Johnson, the then-majority leader of the Senate, and Mr. DIRKSEN, as the minority leader of the Senate, agreed among themselves that that would be an appropriate parliamentary procedure to follow.

Let the senior Senator from Oregon state again for the RECORD, because it will be read 10, 15, 20 years from now, that not a word can be found in the May 5, 1959, RECORD of any admission on the part of the Senate that it had encroached upon the power of the House of Representatives in that it had initiated a revenue bill.

To the contrary, it was our position that it was not a revenue bill within the meaning of article I, section 7 of the Constitution of the United States, referred to by Justice Story in the Nebeker case, from which I have already quoted at length.

There is before the Senate the clear issue of whether or not the Senate is going to send the bill back to committee, or to some other committee, or refuse to take action on it because of a point of order, because we have said once again, acting as "Justices of the U.S. Supreme Court" that article I, section 7 of the Constitution of the United States would be violated thereby.

Let us face up to the issue. If there is any real question about the constitutionality of the bill, let us pass it and let the Supreme Court decide it. I tell Senators, in my judgment, the decision that will be rendered. There will be an even briefer decision than Justice Story rendered in the Nebeker case. The Court will dismiss it in a paragraph or two, unless it recites the Nebeker case and also the Roberts case, at the time the leader of the Senate referred to when the position was taken on May 5, 1955, that a constitutional question was not involved.

It is my opinion—and every Senator is entitled to his opinion—that this adds up to a parliamentary maneuver to avoid a decision on the substantive merits of the amendment. I am ready to vote on the substantive merits of the amendment. I am perfectly willing to vote on the substantive merits because I am satisfied the bill is constitutional.

I have great respect for my colleagues in the Senate, but I prefer to walk a few steps from the Senate of the United States to that great cathedral of justice, the U.S. Supreme Court building, for constitutional rulings.

I am satisfied what that ruling would be if the bill were passed, and whether or not the Senate, in passing it, acted constitutionally.

The Supreme Court will render a decision that the so-called tax features of the bill are incidental thereto and do not constitute a revenue measure in the sense that a revenue measure must originate in the House.

Mr. LONG of Louisiana. I do not quarrel with the Senator on this matter.

If he has a different interpretation of the Constitution than I hold, when it says revenue bills shall originate in the House, so far as I am concerned, that applies to the \$90 million tax. He is entitled to his opinion, and I am entitled to my opinion. A Senator should vote to uphold the Constitution of the United States. I do not have to vote for something I think is unconstitutional and rely upon the Supreme Court to tell me I did an unconstitutional act and save me from my own mischief.

If I believe it is wrong I should abide by my oath. That is my judgment.

The Senator said that it did not create a precedent for what we are doing here. I heard the majority leader say that we had not done an unconstitutional act. The House took the attitude that we had. Having proceeded to say that we had not done anything unconstitutional, we then proceeded to act as though we had. We passed the House bill. The House bill was enacted into law and signed by the President. We went along with the argument of the House on the House contention that we had done something unconstitutional. We said, in effect, that we had not done something unconstitutional, but said to the House, in effect, "Even so, we will do it your way."

So far as the merits of the amendment are concerned, what we are talking about here is a matter of increasing the tax base and increasing the tax on the working people and on the railroads. It means that the average workingman

would have to pay \$10 a month more to get the benefits of the medicare proposal that we added to the Social Security bill, which was passed recently. Am I stating the situation correctly?

Mr. PELL. That is not completely correct. The tax would be paid half and half by the railroad industry and by those workers who earn more than \$450 a month. It would not cover hospital care through railroad retirement or social security. There would be, however, other benefits.

Mr. LONG of Louisiana. Would it cover medical benefits?

Mr. PELL. It would not.

Mr. LONG of Louisiana. In any event, this is a major tax increase. It is something that we can take care of later in the session or next year. It ought to be considered in connection with a revenue bill. The bill before us is not a revenue bill. I hold in my hand another bill, which the House in all propriety, in my judgment, based on the precedents that have been in effect in the time that I have been a Senator, declined to consider. The bill concerns fisheries. We imposed a tax, and the House politely sent the bill back to us.

I am sure the Senator would not say that the House took the wrong attitude. The House of Representatives has consistently acted in this fashion, at least while I have been a Member of the Senate. There is that precedent even in the 1959 debate, to which reference has been made. The House sent S. 1734 back to us with a polite note, rejecting it.

Mr. PELL. In this connection there should be printed in the RECORD a letter from the Executive Office of the President, Bureau of the Budget, addressed to the committee which says:

We are opposed to this measure, as is the Railroad Retirement Board. However, we understand that you have introduced an amendment to this bill which would equate the wage base of the railroad retirement system to that of the social security system. We believe this provision is desirable not only because it will assist in keeping the railroad retirement and social security systems in step but because it will assist in maintaining the financial soundness of the railroad retirement system. We hope that this provision will receive favorable consideration by your committee.

I ask unanimous consent to have printed in the RECORD at this point the entire letter from the Bureau of the Budget.

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

EXECUTIVE OFFICE OF
THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 31, 1965.
Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Railroad Retirement, Committee on Labor and Public Welfare, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Your committee has under consideration H.R. 3157, a bill "To amend the Railroad Retirement Act of 1937, to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits."

We are opposed to this measure, as is the Railroad Retirement Board. However, we understand that you have introduced an

amendment to this bill which would equate the wage base of the railroad retirement system to that of the social security system. We believe this provision is desirable not only because it will assist in keeping the railroad retirement and social security systems in step but because it will assist in maintaining the financial soundness of the railroad retirement system. We hope that this provision will receive favorable consideration by your committee.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for
Legislative Reference.

Mr. PELL. That is the administration's views on the merits. Why would it not be appropriate to let the bill be passed, without our being the judge of its constitutionality, and let the House politely decide the question?

Mr. LONG of Louisiana. We ought to pass on the question ourselves. We ought to exercise our own best judgment. We have a responsibility, just as the House has its responsibility. We should discharge our own responsibility.

The PRESIDING OFFICER. The Chair submits the question to the Senate as to whether the Senate, under the Constitution, has the right to consider this amendment, or whether the point of order is well taken on H.R. 3157, an act to amend the Railroad Retirement Act.

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

The yeas and nays were not ordered.

Mr. MORSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG of Louisiana. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORSE. The pending question, as I understand, is the point of order raised by the Senator from Louisiana [Mr. LONG], that the pending legislation is unconstitutional because of the allegation that it violates article I, section 7 of the Constitution, which prescribes that revenue measures shall originate in the House.

The PRESIDING OFFICER. The Senator is correct.

Mr. MORSE. Therefore, a vote of "nay" against the point of order will be a vote to sustain the constitutionality of the pending proposal offered by the Senator from Rhode Island [Mr. PELL]. Is that correct?

The PRESIDING OFFICER. A vote of "nay" would dispose of the point of order, and the amendment would continue to be before the Senate for action. A vote of "yea" would sustain the point of order, and the proposal would be removed from the Senate.

Mr. MORSE. I respect the Chair's language, but I respectfully say it means the same thing that I said.

Mr. MILLER. I point out that in the committee report on page 2, the committee states:

There is now an actuarial deficit in the financing of the railroad retirement system of about \$20 million a year, and Public Law 89-97 (approved July 30, 1965) will add about \$28 million to the deficit, bringing it to a total of about \$48 million a year on a level basis. The enactment of the bill H.R. 3157 would add to this deficit about \$14 million a year, bringing the total deficit to about \$62 million a year on a level basis.

On page 3 of the committee report this statement appears:

By reason of such increase in the taxable compensation base, the railroad retirement taxable payroll would be about \$4.8 billion a year, and the additional tax income to the system would be about \$87 million a year. About \$39 million of this amount would be applied to reducing the \$62 million deficit to about \$23 million.

Mr. President, in view of that language, it seems to me that to say the financing features or the tax features of the bill are incidental is not being realistic at all. They are very substantial. I shall support the point of order made by the distinguished Senator from Louisiana [Mr. LONG].

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Idaho [Mr. CHURCH], the Senator from Ohio [Mr. LAUSCHE], the Senator from Wyoming [Mr. MCGEE], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Minnesota [Mr. MCCARTHY], the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], and the Senator from New York [Mr. KENNEDY] are necessarily absent.

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Nebraska [Mr. HRUSKA]. If present and voting, the Senator from Maryland would vote "nay," and the Senator from Nebraska would vote "yea."

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Ohio [Mr. YOUNG]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Ohio would vote "nay."

On this vote, the Senator from Ohio [Mr. LAUSCHE] is paired with the Senator from New York [Mr. KENNEDY]. If present and voting, the Senator from Ohio would vote "yea," and the Senator from New York would vote "nay."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from Wyoming [Mr. MCGEE]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Wyoming would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. MORTON] and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from Utah [Mr. BENNETT] and the Senator from Nebraska [Mr. HRUSKA] are detained on official business.

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Maryland [Mr. BREWSTER]. If present and voting, the Senator from Nebraska would vote "yea," and the Senator from Maryland would vote "nay."

On this vote, the Senator from Utah [Mr. BENNETT] is paired with the Senator from Kentucky [Mr. MORTON]. If present and voting, the Senator from Utah would vote "yea," and the Senator from Kentucky would vote "nay."

The yeas and nays resulted—yeas 41, nays 44, as follows:

[No. 246 Leg.]

YEAS—41

| | | |
|--------------|---------------|----------------|
| Allott | Hickenlooper | Randolph |
| Bartlett | Hill | Russell, S.C. |
| Bass | Holland | Russell, Ga. |
| Byrd, W. Va. | Inouye | Scott |
| Carlson | Jordan, N.C. | Simpson |
| Cotton | Jordan, Idaho | Smathers |
| Curtis | Long, La. | Smith |
| Dirksen | Mansfield | Sparkman |
| Dominick | McClellan | Stennis |
| Eastland | Miller | Symington |
| Ellender | Mundt | Talmadge |
| Ervin | Murphy | Tower |
| Fannin | Pearson | Williams, Del. |
| Fong | Prouty | |

NAYS—44

| | | |
|----------|----------------|----------------|
| Alken | Hartke | Morse |
| Anderson | Hayden | Moss |
| Bayh | Jackson | Muskie |
| Bible | Javits | Nelson |
| Boggs | Kennedy, Mass. | Neuberger |
| Burdick | Kuchel | Pastore |
| Cannon | Long, Mo. | Pell |
| Case | Magnuson | Proxmire |
| Clark | McGovern | Ribicoff |
| Cooper | McIntyre | Thurmond |
| Dodd | McNamara | Tydings |
| Douglas | Metcalf | Williams, N.J. |
| Gruening | Mondale | Yarborough |
| Harris | Monroney | Young, N. Dak. |
| Hart | Montoya | |

NOT VOTING—15

| | | |
|-----------|---------------|-------------|
| Bennett | Gore | McGee |
| Brewster | Hruska | Morton |
| Byrd, Va. | Kennedy, N.Y. | Robertson |
| Church | Lausche | Saltonstall |
| Fulbright | McCarthy | Young, Ohio |

The PRESIDING OFFICER (Mr. Moss in the chair). The point of order is not well taken and is dismissed.

Mr. PELL. Mr. President, I move that the vote by which the point of order was not well taken and was dismissed be reconsidered.

Mr. PASTORE and Mr. MANSFIELD moved that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1937 AND RAILROAD TAX ACT

The Senate resumed consideration of the bill (H.R. 3157) to amend the Railroad Retirement Act of 1937, to eliminate the provisions which reduce the annuities of the spouses of retired employees by

which the amount of certain monthly benefits, to amend the railroad retirement tax, and for other purposes.

Mr. PELL. Mr. President —
The PRESIDING OFFICER (Mr. Tydings in the chair). The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, the bill H.R. 3157, now under consideration by this body, would change the Railroad Retirement Act so that payment of an annuity to a spouse of a retired railroad employee could be made in the full amount even though she is at the same time entitled to monthly benefits under the Railroad Retirement Act or Social Security Act derived from her own employment. The present law requires a reduction in the spouse's annuity by the amount of benefits derived from her own employment, as well as by the amount of certain other benefits to which she may be entitled. The spouses' annuity is the only benefit under the Railroad Retirement Act which cannot now be paid in full concurrently with other benefits under the Social Security and Railroad Retirement Acts, although in the past there were others. The discriminatory provisions against spouses should be removed.

The change in the law as to spouse's annuities would, of course, increase the costs of the railroad retirement system. It is estimated that the added costs of this change would be about \$14 million a year on a level basis. When H.R. 3157 passed the House in June of this year, there was a deficit on a long-range actuarial basis in the financing of the system of about \$20 million a year. A deficit in this amount is considered to be within the range of actuarial tolerance, and the system was regarded as being in a satisfactory financial condition. Since that time, Public Law 89-97, the Social Security Amendments of 1965, has been enacted. The changes in the Social Security Act will have the effect of increasing certain direct financial benefits under the Railroad Retirement Act and will add an estimated \$28 million a year to the costs of the system, increasing the deficit to about \$48 million a year.

With a deficit of this amount, the railroad retirement system is now in an unsatisfactory financial condition and the additional costs of the effect of this bill on spouses' annuities would cause the financial conditions to be considerably worse. The deficit would then be approximately \$62 million a year. The system cannot, of course, endure in an unsatisfactory financial condition.

The committee is cognizant of the fact the situation cannot be corrected unless additional revenue is obtained. It, therefore, amended the bill to change the limit on creditable and taxable compensation for the railroad retirement system from the present flat \$450 a month to an amount equal to one-twelfth of the limit on annual taxable wages for the social security system. As we know, the annual taxable wage base for social security has been raised to \$6,600 from \$4,800, an increase of \$1,800 a year. The effect of the amendment would be to raise the base for the railroad retirement system to \$550 a month from the present \$450, an increase of the equivalent of only \$1,200 a year.

The increase in the base will provide additional benefits for those railroad employees whose earnings exceed \$450 a month and who will have to pay additional tax amounts. Those employees, who do not earn over \$450 a month, will pay no additional taxes and will gain no credits toward higher benefits.

The increase in the compensation base will reduce the deficit from the projected \$62 million a year to approximately \$24 million a year. The railroad retirement system would then be in a satisfactory financial condition. It is estimated that the change in base would produce an additional \$87 million a year in the tax income. Over one-half of this amount, \$48 million, would be required to pay the additional benefit amounts and the remainder, \$39 million, would apply to the reduction of the deficit.

As I have indicated, the problem cannot be solved without legislative action. Tax revenue to the system can be increased only by increasing the taxable wage base, or by raising tax rates. A rate increase would have a harsh impact, particularly on employees with low earnings. Their tax amounts would be increased and they would get no additional benefits; Congress, to my knowledge, has never increased social insurance taxes without an accompanying increase in benefit amounts.

In the financing of the recent improvement of social security benefits, the Congress has relied principally on an increase in the wage base for the increase in tax rates was relatively slight.

Tax rates for the railroad retirement system are, under existing law, automatically geared to the tax rates for the social security system, although the railroad rates are approximately twice as large. Therefore, the increases in the social security tax rates will be reflected in the railroad retirement rates. There is not now a coordination as to the earnings base. Historically, the railroad retirement base has always, except for a few months in the late 1950's, equaled or exceeded the social security base. It is also significant that even with the change, a substantially lower percentage of gross railroad earnings would be taxable than was the case when the system was first established, and the monthly base was only \$300.

The increase in the railroad retirement tax base will, of course, add to the taxes of railroad companies, but the larger increase in the social security tax base will also add to the taxes for companies in industry covered by the social security system.

Finally, it is to be noted that if there is a difference in the taxable wage law, those under railroad retirement or compared with those under social security, then the hospital insurance program would be administered by the Social Security Administration rather than by the Railroad Retirement Board as would be the case if this amendment were adopted.

In reporting this bill, it is recognized that benefits will accrue to those workers who pay the additional tax. Under the heading of "Conclusion," on page 5 of the report, it is stated:

It is further recognized, because of the matching contribution of industry and labor, that those workers earning more than \$450 per month and living more than 5 years after retirement will receive more than they have paid into the railroad retirement fund. This will naturally be a factor bearing on any future decisions in labor-management negotiations.

Mr. DOMINICK. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I am happy to yield to the Senator from Colorado.

Mr. DOMINICK. I appreciate the courtesy of the Senator from Rhode Island in yielding to me. As he well knows, the original bill on this proposal was introduced by me, so far as the Senate is concerned. It was a companion bill to one introduced by Representative HARRIS, of Arkansas, in the House of Representatives, which passed without this amendment.

My interest, at the time I introduced the bill, was to try to do something about the existing inequities so far as a specific class of railroad employees' spouses are concerned, in that they have their railroad retirement reduced by social security while their spouse is still alive, and yet they get both amounts when one of them has died.

It seems to me that this is wrong. This is the reason we included it in the bill. The bill passed the House, as I recall, almost unanimously, in a form without any taxation being added to it at all.

Mr. President, I suggest that the action which has just been taken by the Senate may easily result in the defeat of the entire bill, because I am positive that the House will not absorb this degree of autonomy by the Senate over what the House considers to be its private reserve.

Therefore, I believe that serious trouble lies ahead, so far as the future of the bill is concerned.

I intend to vote for it, because this was my original bill. I voted against the Pell amendment in subcommittee. I voted against it again on the floor. I am still going to vote for the bill, in the hope that we can get something out of conference. Perhaps, if the House remains adamant, we can show the Senate that if it is going to do anything for the spouses, it had better take the bill in the original draft as it was first introduced.

Mr. President, we are dealing with economic benefits which will accrue to 41,000 persons. Many of them will disappear as time goes on, which is inevitable to all of life, so that the drain on the retirement fund, which has been mentioned over and over again, will progressively decrease as time goes on.

It has already been stated that it would be 4 years before we really had to worry about retirement funds in any way whatsoever. Therefore, it seems to me, for us to take the position that we must move now, so far as railroad retirement funds are concerned, is quite premature.

This assumes that Congress would not do anything after full hearings before the proper committee, in order to take care of the problem, if we presented it to them.

Thus, we are taking an action with the wrong committee, insofar as revenues are concerned, even within the Senate, not speaking of the fact that it comes from the wrong House.

I appreciate the Senator from Rhode Island yielding to me so that I may make these points, which I believe are important. They should be included in the RECORD. All Senators should know that the action taken in the Senate today may easily result in the inevitable defeat of the bill, if the Senate is refusing to move, and if the House will refuse to move—as I am sure it will.

AMENDMENT NO. 388

Mr. HARTKE. Mr. President, I call up my amendment No. 388, and ask unanimous consent that the reading of the amendment be dispensed with, but that it be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment is as follows:

On page 1, line 8, strike out "Sec. 2. This Act" and insert "(b) This section".

At the end of the bill, add the following:

"TITLE III COVERAGE OF TIPS

"Sec. 301. (a) (1) Subsection (a) of section 3202 of the Internal Revenue Code of 1954 (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new sentence: 'An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3)(B) of section 3231 (e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.'

"(2) Such section 3202 is amended by adding at the end thereof the following new subsection:

"SPECIAL RULE FOR TIPS.—

"(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2) as are under control of the employer.

"(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

"(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employees—

"(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

"(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

"(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

"(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.'

"(b) (1) The second sentence of subsection (e) (1) of section 3231 of the Internal Revenue Code of 1954 (relating to definition of compensation for purposes of the Railroad Retirement Tax Act) is amended by inserting '(except as is provided under paragraph (3))' after 'tips'.

"(2) Subsection (e) of such section 3231 is further amended by adding at the end thereof the following new paragraph:

"(3) Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term "compensation" also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.'

"(3) Such section 3231 is further amended by adding at the end thereof the following new subsection:

"(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.'

"(c) Section 3402(k) of such Code is amended (A) by inserting 'or section 3202(c) (2)' after 'section 3102(c) (2)' wherever it appears therein and (B) by inserting 'or section 3202(a)' after 'section 3102(a)' wherever it appears therein.

"(d) Section 6053(b) of such Code (relating to reporting of tips) is amended (1) by inserting 'or section 3201 (as the case may be)' after 'section 3101', and (2) by inserting 'or section 3202 (as the case may be)' after 'section 3102'.

"(e) Section 6852(c) of such Code (relating to failure to report tips) is amended (1) by inserting 'or which are compensation (as defined in section 3231(e))' after 'which are wages (as defined in section 3121(a))', and (2) by inserting 'or section 3201 (as the case may be)' after 'section 3101'.

"(f) (1) Subsection (h) of section 1 of the Railroad Retirement Act of 1937 is amended (A) by inserting '(1)' after '(h)', (B) by inserting in the second sentence thereof '(except as is provided under paragraph (2))' after 'tips', and (C) by adding at the end thereof the following new paragraphs:

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term "compensation" shall (subject to section 3(c)) also

include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received.'

"302. The amendments made by this title shall apply only with respect to tips received by employees after 1965."

Mr. HARTKE. Mr. President, this amendment is one which came to my attention as a need in order to maintain the parallels between social security and railroad retirement. It came to my attention too late for consideration by the committee in connection with H.R. 3157, but I believe it is a worthy change and one which is needed in the light of action taken in the Social Security Amendments Act. It does just one thing, namely, secures for tip employees of the railroads the same treatment of their tips for retirement purposes as that which is now accorded tip employees in the social security law. That is, it allows dining car employees, porters, and those relatively few employees of the railroads who receive tips to furnish the employer with a statement of those sums thus received in a calendar month. The employer then deducts the tax required, and the employee receives credit in his payments for the additional earnings represented by the tips. As in the case of the social security law, there is no payment made by the employer.

The numbers of persons thus affected is small in relation to total railroad employment, but for each of them the opportunity to count tips as wages for retirement purposes should be extended just as we have done to hotel and restaurant workers and others under social security.

I have talked with the Associate General Counsel of the Railroad Retirement Board, and he informs me that the Board has no objections. Neither do the railroad unions as represented by the Railway Labor Executives Association, and since the employers do not under this bill acquire additional financial obligations, I do not believe they have objections.

Consequently, Mr. President, I would like to ask that the committee accept this amendment, so that equity may be maintained in this small area of employment where tips are received.

Mr. PELL. Mr. President, I congratulate the Senator from Indiana on his amendment. It is excellent. I accept the amendment.

The amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment as amended.

Mr. MORSE. Mr. President, I ask for the yeas and nays on passage of the bill. The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

The VICE PRESIDENT. The bill having been read the third time the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Ohio [Mr. LAUSCHE], the Senator from Wyoming [Mr. MCGEE], the Senator from Virginia [Mr. ROBERTSON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. KENNEDY], and the Senator from Minnesota [Mr. MCCARTHY] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from New York [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from Virginia [Mr. ROBERTSON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Ohio [Mr. YOUNG] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. MORTON] and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

If present and voting, the Senator from Kentucky [Mr. MORTON] and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 247 Leg.]

YEAS—88

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

NAYS—0

NOT VOTING—12

| | | |
|---------------|----------|-------------|
| Church | Lausche | Robertson |
| Fulbright | McCarthy | Saltonstall |
| Gore | McGee | Stennis |
| Kennedy, N.Y. | Morton | Young, Ohio |

So the bill (H.R. 3157) was passed.

The title was amended, so as to read: "An act to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits, to amend the Railroad Retirement Tax Act and for other purposes."

Mr. PELL. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I voted for the bill which was just passed because, in common with all Senators, I believe it should have been passed, and I am in sympathy with the humanitarian objectives of the bill; but I want to make it very clear that if the amendment which was attached to this bill that would tend to make the Railroad Retirement Fund solvent is eliminated from the bill by the House and it comes back in that form without the revenue provisions which would allow the Railroad Retirement Fund to remain solvent, I shall vote against it.

Mr. PELL. I quite understand. I sympathize with the view of the Senator.

Mr. MANSFIELD. Mr. President, we have just completed action on H.R. 8469, a bill to amend the Railroad Retirement Act of 1937. The main and most spirited issue involved was the constitutional question raised by the junior Senator from Louisiana [Mr. Long] by his point of order. I want to commend him and the junior Senator from Rhode Island [Mr. Pell] and the senior Senator from Oregon [Mr. Morse] for the articulate presentations of their respective points of view. The junior Senator from Rhode Island [Mr. Pell] demonstrated not only his persuasiveness, but also his mastery of the constitutional questions involved and the parliamentary precedents as was evidenced by the vote sustaining his position.

Again the Senate has demonstrated that a thorough presentation of legislation can be accomplished in a relatively short period of time when a genuine spirit of cooperation exists.

For this I thank every Member of the Senate.

House of Representatives

THURSDAY, SEPTEMBER 2, 1965

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which concurrence of the House is requested a bill of the House of the following title:

H.R. 3157. An act to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits.

employers under the Railroad Retirement Tax Act, so that the tax burden on employees and employers will remain the same for the remainder of this year as it would have remained had there been no increase in the base. Then the tax rate will increase by 0.25 percent as of January 1, 1966; will increase by 0.25 percent as of January 1, 1967; will be increased again by 0.25 percent as of January 1, 1968; and then a final 0.25 percent as of January 1, 1969.

These increases will restore the Railroad Retirement fund to the position of actuarial balance in which it stood as of January 1 this year.

**AMENDING RAILROAD RETIREMENT
ACT AND RAILROAD RETIREMENT
TAX ACT**

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I am introducing today a bill amending the Railroad Retirement Act and the Railroad Retirement Tax Act. I am scheduling hearings on this bill beginning on Wednesday, September 8, and we expect to proceed expeditiously with the bill.

As Members know, a bill—H.R. 3157—providing benefits for spouses of retired railroad employees passed the House earlier this year, and passed the other body on September 1 with an amendment increasing the base wages subject to tax under the Railroad Retirement Tax Act. There is considerable controversy about this latter amendment and in the opinion of many, the form in which the amendment is proposed is unconstitutional.

I am attempting with this bill which I have introduced today to provide a resolution of the controversies that exist in this area. The bill provides as follows:

First. The bill provides exactly the same benefits for spouses of retired railroad employees as was provided in the bill as passed by the House and the Senate this year.

Second. The bill increases the base wages subject to railroad retirement tax to \$550 a month, effective October 1, this year. Because of some complexities involved in the medicare legislation, this will mean that the medicare program for railroad employees will be administered by the Railroad Retirement Board, rather than by the Social Security Administration.

Third. The third provision of the bill provides for an immediate reduction in the rates of tax paid by employees and

AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1937
AND RAILROAD RETIREMENT TAX ACT

SEPTEMBER 10, 1965.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign
Commerce, submitted the following

REPORT

[To accompany H.R. 10874]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 10874) to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce spouses' annuities by the amount of certain monthly benefits, to increase the base on which railroad retirement benefits and taxes are computed, and to change the rates of tax under the Railroad Retirement Tax Act, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, after line 2, insert the following new section:

COVERAGE OF TIPS

SEC. 2. (a)(1) Subsection (a) of section 3202 of the Internal Revenue Code of 1954 (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new sentence: "An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20."

(2) Such section 3202 is amended by adding at the end thereof the following new subsection:

“(c) SPECIAL RULE FOR TIPS.—

“(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

“(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

“(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

“(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

“(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

“(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

“(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.”

(b)(1) The second sentence of subsection (e)(1) of section 3231 of such Code (relating to definition of compensation for

purposes of the Railroad Retirement Tax Act) is amended by inserting "(except as is provided under paragraph (3))" after "tips".

(2) Subsection (e) of such section 3231 is further amended by adding at the end thereof the following new paragraph:

"(3) Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term 'compensation' also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20."

(3) Such section 3231 is further amended by adding at the end thereof the following new subsection:

"(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month."

(c) Section 3402(k) of such Code (relating to income tax collected at source on tips) is amended (1) by inserting "or section 3202(c)(2)" after "section 3102(c)(2)" and (2) by inserting "or section 3202(a)" after "section 3102(a)".

(d)(1) Section 6053(a) of such Code (relating to reports of tips by employees) is amended by inserting "or which are compensation (as defined in section 3231(e))" after "or section 3401(a)".

(2) Section 6053(b) of such Code (relating to statements furnished by employers) is amended (A) by inserting "or section 3201 (as the case may be)" after "section 3101", and (B) by inserting "or section 3202 (as the case may be)" after "section 3102".

(e) Section 6652(c) of such Code (relating to failure to report tips) is amended (1) by inserting "or which are compensation (as defined in section 3231(e))" after "which are wages (as defined in section 3121(a))", and (2) by inserting "or section 3201 (as the case may be)" after "section 3101".

(f)(1) Subsection (h) of section 1 of the Railroad Retirement Act of 1937 is amended (A) by inserting "(1)" after "(h)", (B) by inserting in the second sentence thereof "(except as is provided under paragraph (2))" after "tips", and (C) by adding at the end thereof the following new paragraphs:

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term 'compensation' shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at

4 AMENDMENTS TO RAILROAD RETIREMENT ACT

the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month."

Page 2, line 4, strike out "SEC. 2." and insert in lieu thereof "SEC. 3."

Page 4, line 12, strike out "SEC. 3." and insert in lieu thereof "SEC. 4."

Page 5, line 2, strike out "SEC. 4." and insert in lieu thereof "SEC. 5."

Page 6, line 18, strike out "3221" and insert in lieu thereof "3221 (a)".

Page 7, line 13, strike out "SEC. 5." and insert in lieu thereof "SEC. 6."

Page 7, line 13, strike out "the first two sections" and insert in lieu thereof "sections 1 and 3".

Page 7, strike out "The amendments" in line 25 and all that follows through page 8, line 5, and insert in lieu thereof the following:

The amendments made by section 2 of this Act shall apply only with respect to tips received after 1965. The amendments made by section 4 of this Act shall apply only with respect to calendar months after the month in which this Act is enacted. The amendments made by section 5 of this Act shall apply only with respect to compensation paid for services rendered after September 30, 1965.

Amend the title so as to read:

A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to eliminate certain provisions which reduce spouses' annuities, to provide coverage for tips, to increase the base on which railroad retirement benefits and taxes are computed, and to change the railroad retirement tax rates.

PRINCIPAL PURPOSE OF THE BILL

The reported bill will accomplish the following:

(1) The bill eliminates the provisions of the Railroad Retirement Act which provide for the reduction of the annuities of spouses of retired employees by the amount of social security or railroad retirement benefits which the spouse has earned in her own right;

(2) The bill will increase the maximum creditable and taxable monthly compensation under the Railroad Retirement Act and Railroad Retirement Tax Act from the present \$450 to \$550 per month, effective January, 1, 1966;

(3) The bill provides an immediate decrease in the rate of Railroad Retirement taxes by 1 percent, with the rate of tax being increased by one-fourth of 1 percent on January 1, 1966, January 1, 1967, January 1, 1968, and January 1, 1969; and

(4) The bill provides the same treatment of tips for purposes of the Railroad Retirement Act as is provided for tips under the Social Security Act as recently amended.

BACKGROUND

On June 7, the House unanimously passed H.R. 3157, a bill amending section 2(e) of the Railroad Retirement Act in exactly the same fashion as is provided by the first section of the reported bill. It was estimated that the cost of that bill was \$14 million a year, which, when added to the existing actuarial deficit of \$20 million a year of the railroad retirement system, would increase that deficit to a total of \$34 million a year, or 0.71 percent of taxable payroll. Subsequent to the passage of the bill by the House, the Congress enacted the Social Security Amendments of 1965 (Public Law 89-97), which, for reasons hereafter explained, will increase the deficit by another \$28 million a year, for a total deficit of \$62 million a year.

H.R. 3157 was reported to the Senate with an amendment increasing the wages subject to railroad retirement tax to the equivalent of the social security base provided in the Social Security Amendments of 1965, or \$550 a month, effective January 1, 1966.

A point of order was made against this amendment on the ground that this converted the bill into a bill for raising revenue, and that the revenue-raising features must have originated in the House. This point of order was rejected by a very close vote—41 to 44 and the bill was thereafter passed unanimously.

Notwithstanding the unanimous votes in both Houses on this bill, in view of the constitutional problem presented, it seems to the committee that on a matter as important as this, it is better to be on the safe side, and avoid possible constitutional objections to legislation. For that reason, H.R. 10874 was introduced containing the revenue-raising measures required to deal with the deficit. Hearings were held on September 8, the bill was considered in executive session on September 9, and is reported to the House herewith.

SPOUSES' BENEFITS

This feature of the bill was explained in the committee report accompanying H.R. 3157 (H. Rept. 1807). That report stated as follows:

Under existing law any person who is entitled to railroad retirement benefits whether as an annuitant or as a survivor of a railroad employee, who is also entitled to social security benefits based upon his own wage record, may, with one exception, draw full benefits under the Railroad Retirement Act of 1937, and full benefits under the Social Security Act, without reduction. The one exception in the foregoing statement involves women who are entitled to an annuity as the spouse of a retired railroad employee. Under the third proviso of section 2(e) of the Railroad Retirement Act of 1937 deductions are made from the annuity paid to the spouse of any railroad employee until the deductions equal the total of social security benefits to which she is entitled in her own right. If, however, a woman entitled to a spouse's annuity under the Railroad Retirement Act of 1937, is also entitled to social security benefits as a wife, because of social security wage credits earned by her husband in employment not covered by the Railroad Retirement Act, she may receive full benefits under both acts.

A retired railroad employee who is eligible for social security benefits, either based on his own social security wage record, or as a survivor, based upon another individual's wage record, may draw full railroad retirement benefits and full social security benefits without reduction.

A further illustration of the inequity involved in the present provisions of section 2(e) arises out of the different treatment provided the spouse of a railroad employee and the widow of a railroad employee. A widow may receive survivor benefits under the Railroad Retirement Act concurrently with any social security benefits to which she is entitled based on her own wage record, without reduction in railroad retirement benefits; however, the spouse of a living railroad worker has her benefits reduced by social security benefits which she has earned based on her own employment. In other words, while her husband is alive, the spouse of a retired railroad employee receives a spouse's benefit under the Railroad Retirement Act of 1937, reduced by social security benefits which she has earned based on her own wage record; yet, upon the death of her husband she becomes entitled to draw railroad retirement benefits as a widow, and full social security benefits based on her own wage record, without any reduction.

The committee feels that this discriminatory treatment, applicable only to the spouses of retired railroad employees, is not warranted, and recommends that this legislation be adopted.

INCREASE IN TAXABLE COMPENSATION

As was mentioned above, the actuarial deficit facing the railroad retirement fund as of January 1, 1966, assuming the passage of legislation relating to spouses' benefits, will total \$62 million. In order to finance this deficit, the bill reported herewith increases the base wages subject to tax of \$550 a month, effective January 1, 1966. By reason of this increase, the railroad retirement taxable payroll will be about \$4.8 billion a year, and the added income to the fund will ultimately be about \$84 million a year, of which approximately \$46 million would go to increase annuities of an estimated 487,000 employees who earn more than \$450 per month, and the remainder would be applied to decrease the actuarial deficit of the system.

The committee recognizes that the immediate impact of an increase in the base wages subject to tax by \$100 a month can work a hardship on employees, and has, therefore, provided for a decrease in the rate of railroad retirement taxes of 1 percent, effective the first day of the first month after this bill is enacted, with a one-fourth of 1 percent increase in the rate of tax on January 1, 1966, and with an identical percentage increase on January 1 of each of the next 3 years.

Two of the reasons making an increase in the base wages subject to railroad retirement tax necessary arise out of the enactment of the recent medicare legislation: One relating to the \$28 million annual projected loss to the railroad retirement system from the operation of the financial interchange provisions of the Railroad Retirement Act; and the other relating to the administration of the medicare program for retired railroad employees and their beneficiaries.

Financial interchange

The Railroad Retirement Act contains provisions, usually referred to as the "financial interchange" provisions, under which the railroad retirement system annually pays to the social security system an amount equal to the total of taxes which would be paid under the social security system by all railroad employees if railroad employment were "covered employment" within the meaning of the Social Security Act. Similarly, the social security system annually pays to the railroad retirement system an amount equal to the social security benefits which would have been paid to railroad employees if their railroad service had been covered employment under the Social Security Act, reduced by the amount of social security benefits actually paid to the employees and their beneficiaries. Because of this financial interchange provision, the base wages subject to tax under the railroad retirement system must equal or exceed the base wages subject to tax under the social security system; otherwise, the railroad retirement system will be required to pay amounts to the social security system as taxes on wages although no taxes are actually collected by the Board on these amounts. The increase in the base under social security to \$6,600, while leaving the base under railroad retirement at \$5,400, then, means that the railroad retirement system will, under the financial interchange provisions, be required to pay to the social security system taxes with respect to each railroad employee based upon his first \$6,600 in earnings, while collecting taxes only on \$5,400.

This will result in a net deficit to the railroad retirement system under the financial interchange provisions of \$28 million a year, unless the base wages under each system are identical, in which case there will be no net loss to the railroad retirement system.

It is important to emphasize that except for a relatively short period in the late 1950's the railroad retirement maximum monthly tax base has always equaled or exceeded the social security equivalent monthly taxable wages. In fact, the maximum railroad retirement tax base now is \$450 a month (equivalent of \$5,400 a year) while the maximum social security taxable wage base is now only \$4,800 a year. The increase in base would increase the railroad retirement tax base to an amount equivalent to the social security tax base; that is, the maximum monthly railroad retirement creditable and taxable base would be equal to one-twelfth of the maximum annual social security creditable and taxable base. The effect of this would be that any increase in the tax base for social security purposes would automatically result in an increase in the tax base for railroad retirement purposes to one-twelfth of the annual social security base as increased.

It is also important to emphasize that when the railroad retirement system was established in 1937, 98 percent of the gross railroad payroll was taxable on a \$300 monthly maximum; but only 79 percent of the gross payroll is now taxable on the present \$450 monthly limit; and by increasing the monthly limit to \$550, only 87.7 percent of the gross payroll will be taxable—about 10 percentage points lower than was the case when the system was first established.

Administration of medicare

A second reason why it is necessary to increase the base wages subject to taxes under the Railroad Retirement Tax Act to \$550 a month

arises out of sections 105 and 111 of the Social Security Amendments of 1965.

Section 105 of these amendments provides that medicare benefits for retired railroad employees and their beneficiaries are to be paid by the social security system, with the administration of the entire program for railroad employees vested in the Social Security Administration. All questions concerning eligibility of beneficiaries, however, must be determined on the basis of information furnished by the Railroad Retirement Board. This will create a very inefficient system for the administration of this program.

Section 111 of the Social Security Amendments of 1965 makes a further change in the law, and provides, in substance, that if on or before October 1 of any calendar year the base wages subject to tax under the Railroad Retirement Tax Act are equal each month to one-twelfth of the maximum annual compensation subject to tax under the social security system, then the medicare program for retired railroad employees and their beneficiaries will be administered during the next calendar year by the Railroad Retirement Board; otherwise, the medicare program will be administered by the Social Security Administration.

This means that unless the bill herewith reported becomes law on or before October 1 of this year, the medicare program for retired railroad employees and their beneficiaries will be administered during 1966 by the Social Security Administration, and if the base wages subject to tax under the railroad retirement system are increased next year (prior to October 1), then as of January 1, 1967, railroad employees and their beneficiaries will look to the Railroad Retirement Board, rather than to the Social Security Administration, for benefits under the medicare program, with the potentials for confusion and misunderstanding inherent in such a transfer of responsibilities.

For these reasons, the committee has voted to provide an increase in the base wages subject to railroad retirement tax to one-twelfth of the maximum annual compensation subject to social security taxes (\$6,600 a year).

INCREASE IN ANNUITIES RESULTING FROM INCREASE IN BASE WAGES

Aside from placing the railroad retirement system in a sound financial condition, the increase in base would also increase the annuities of employees who will have paid taxes on the higher maximum. Generally speaking, for each year that the employee pays taxes on the increased base of \$550 a month, the additional tax by reason of such increase would be about \$100. For this extra cost the employee's annuity would be increased by \$1.67 a month, or about \$20 a year for each such year. Assume that an employee retires at age 65, in January 1967, after paying about \$100 in additional taxes. At the time of his retirement his life expectancy is about 13 years. Since he will receive about \$20 a year more in annuities than he would otherwise have received, his total return for the \$100 extra taxes would be about \$260 (13 times \$20). If he has 2 such years, the total additional taxes would be about \$200 and his total return in additional annuities would be about \$520 (260 times 2). Whatever he pays in additional taxes in 1, 2, or more years, he will recover in about 5 years after retirement.

COVERAGE OF TIPS

The recently enacted Social Security Act Amendments of 1965 contain special provisions dealing with the coverage under the Social Security Act of tips, providing special rules for the reporting of tips and the collection of taxes upon them.

When H.R. 3157 was considered in the Senate, an amendment was agreed to providing the same coverage with respect to tips under the Railroad Retirement Act and the Railroad Retirement Tax Act as is provided with respect to tips under the Social Security Act. The addition of this amendment to the reported bill was recommended during the hearings, and no objections were made to this amendment. It merely extends, to dining car employees, porters, and a relatively few other employees of railroads who receive tips, coverage under the Railroad Retirement Act for these tips.

SECTION-BY-SECTION EXPLANATION OF THE BILL AS REPORTED

Section 1. Spouses' annuities

Section 1 of the bill amends section 2(e) of the Railroad Retirement Act of 1937 to permit the spouse of a railroad employee to receive a spouse's annuity under that section concurrently with the receipt of social security benefits (other than wife's or husband's benefits), or concurrently with the receipt of a railroad retirement annuity in the spouse's own right or as a parent, without any reduction in the spouse's annuity.

The amendment made by this section is effective (under sec. 6 of the bill) with respect to annuities accruing in months after the month in which the bill is enacted (with special rules for spouse's annuities paid in lump sums equal to their commuted value).

Section 2. Coverage of tips

Section 2 of the bill makes various amendments to chapter 22 of the Internal Revenue Code of 1954 (the Railroad Retirement Tax Act) and the Railroad Retirement Act of 1937 to provide that cash tips received by an employee after 1965 in the course of his employment (unless they are less than \$20 in a month) will constitute "compensation" both for purposes of railroad retirement benefits and for purposes of the railroad retirement employee tax. No employer tax would be imposed on any tips; and no employer would be required to collect the employee tax on any tips unless they are reported to him by the employee as described below.

Each employee would be required to furnish a statement of tips received in any month to his employer by the 10th day of the following month. The employer would deduct the employee's railroad retirement tax on such tips from other compensation due the employee or from funds specially made available to him by the employee for such purpose; to the extent that the employee's funds under the control of the employer during the relevant period are insufficient for collection of the tax by such a deduction, the employee would pay the tax directly. Authority could be provided for employers to estimate the tips which employees will report to them on a quarterly basis, and to deduct the tax (with appropriate adjustments) according to such estimates.

Tips would be deemed paid at the time reported to the employer (or at the time actually received if no report is made), and the services involved would be deemed to have been rendered at that time.

Section 3. Increase in base for benefit computation purposes

Section 3 of the bill increases the maximum monthly compensation which may be counted for benefit computation purposes from the present \$450 to the higher of (i) \$450 or (ii) one-twelfth of the current annual social security wage base. Under the Social Security Amendments of 1965, the latter wage base will increase to \$6,600 beginning with 1966, with the result that the railroad retirement maximum monthly base will increase to \$550 beginning with January 1966.

Subsection (a) of section 3 of the bill amends section 3(a) of the Railroad Retirement Act of 1937 to include compensation up to the new limit in the annuity computation formula.

Subsection (b) amends section 3(c) of the 1937 act to reflect the increased base in the definition of "monthly compensation."

Subsections (c), (d), and (e) amend section 5 of the 1937 act to give effect to the increased base in the computation of survivor benefits under that act.

The amendments made by this section are effective (under sec. 6 of the bill) with respect to annuities accruing and deaths occurring after the month in which the bill is enacted.

Section 4. Increase in base for tax purposes

Section 4 of the bill amends sections 3201, 3202, 3211, and 3221 of the Internal Revenue Code of 1954 (the Railroad Retirement Tax Act) to make the same increase in the maximum monthly compensation which may be counted for purposes of railroad retirement taxes (effective with respect to months after the month in which the bill is enacted) as section 3 of the bill makes for purposes of benefit computation. These amendments satisfy the requirement imposed by section 111(e)(2) of the Social Security Amendments of 1965; i.e., by increasing the maximum amount of monthly compensation taxable under the Railroad Retirement Tax Act to one-twelfth of the maximum wages which the Federal Insurance Contributions Act provides may be counted, they permit the program of hospital insurance benefits for the aged (under pt. A of title XVIII of the Social Security Act) to be administered with respect to railroad retirement annuitants by the Railroad Retirement Board rather than by the Social Security Administration.

Section 5. Changes in tax rates

Subsection (a) of section 5 of the bill amends section 3201 of the Internal Revenue Code of 1954 (the Railroad Retirement Tax Act) to reduce the present basic tax rate on employees from 7¼ percent to 6¼ percent (effective with respect to compensation paid for services rendered after September 30, 1965), with gradual increases in such rate thereafter as follows:

- (1) To 6½ percent with respect to compensation paid for services rendered after December 31, 1965;
- (2) To 6¾ percent with respect to compensation paid for services rendered after December 31, 1966;
- (3) To 7 percent with respect to compensation paid for services rendered after December 31, 1967; and

(4) To $7\frac{1}{4}$ percent with respect to compensation paid for services rendered after December 31, 1968.

Under this section, there is added to this basic tax rate an additional tax equal for each month to the excess of social security tax rates over $2\frac{3}{4}$ percent.

Subsection (b) of section 5 makes the same changes proportionately, with respect to tax rates on employee representatives, as were made by subsection (a) with respect to tax rates on employees, beginning with $12\frac{1}{2}$ percent for the 3-month period September–December 1965 and ending with $14\frac{1}{2}$ percent with respect to compensation paid for services rendered after 1968.

Subsection (c) of section 5 makes the same changes in tax rates for railroad employers as were made by subsection (a) for railroad employees.

Section 6. Effective dates

Section 6 of the bill provides the effective dates for the various amendments made by the preceding sections of the bill. (Each such effective date is indicated in the discussion above of the provision to which it relates.)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

RAILROAD RETIREMENT ACT OF 1937

DEFINITIONS

SECTION 1. For the purposes of this Act—

* * * * *

(h) (1) The term "compensation" means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips (*except as is provided under paragraph (2)*), or the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee. For the purposes of determining monthly compensation and years of service and for the purposes of subsections (a), (c), and (d) of section 2 and subsection (a) of section 5 of this Act, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than \$3 and (1) such compensation is earned between December 31, 1936, and April 1, 1940, and taxes thereon pursuant to section 2(a) and 3(a) of the Carriers Taxing Act of 1937 or sections 1500 and 1520 of the Internal Revenue Code are not paid prior to July 1,

1940; or (2) such compensation is earned after March 31, 1940. A payment made by an employer to an individual through the employer's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month, regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 8, the period during which such compensation will have been earned. In determining the monthly compensation, the average monthly remuneration, and quarters of coverage of any employee, there shall be attributable as compensation paid to him in each calendar month in which he is in military service creditable under section 4 the amount of \$160 in addition to the compensation, if any, paid to him with respect to such month. Compensation for service as a delegate to a national or international convention of a railway labor organization defined as an "employer" in subsection (a) of this section shall be disregarded for purposes of determining eligibility for and the amount of benefits pursuant to this Act if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his "years of service."

(2) *Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term "compensation" shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.*

(3) *Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.*

* * * * *

ANNUITIES

SEC. 2. (a) * * *

* * * * *

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

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

(ii) such spouse has attained the age of 65 or in the case of a wife, has in her care (individually or jointly with her husband) a child who, if her husband were then to die, would be entitled to a child's annuity under subsection (c) of section 5 of this Act, shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: *Provided, however,* That if the annuity of the individual is awarded under paragraph 3 of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: *Provided further,* That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further,* That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k)].

* * * * *

COMPUTATION OF ANNUITIES

SEC. 3. (a) The annuity shall be computed by multiplying an individual's "year of service" by the following percentages of his "monthly compensation": 3.35 per centum of the first \$50; 2.51 per centum of the next \$100; and 1.67 per centum of [the next \$300] the remainder up to a total of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section §121 of the Internal Revenue Code of 1954, whichever is greater.

(b) The "years of service" of an individual shall be determined as follows:

(1) In the case of an individual who was an employee on the enactment date, the years of service shall include all his service subsequent to December 31, 1936, and if the total number of such years

is less than thirty, then the years of service shall also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however,* That with respect to any such individual who rendered service to any employer after January 1, 1937, and who on the enactment date was not an employee of an employer conducting the principal part of its business in the United States no greater proportion of his service rendered prior to January 1, 1937, shall be included in his "years of service" than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service after January 1, 1937, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service rendered anywhere to an employer after January 1, 1937.

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

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

MONTHLY COMPENSATION

(c) The "monthly compensation" shall be the average compensation paid to an employee with respect to calendar months included in his "years of service", except (1) that with respect to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924-1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940-August 1941: *Provided, however,* That where service in the period 1924-1931 in the one case, or in the period September 1940-August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of \$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, or in excess of \$450 for any month after the month in which this Act was so amended *and before the calendar month next following the calendar month in which this*

Act was amended in 1965, or in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the "monthly compensation" computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

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ANNUITIES AND LUMP SUMS FOR SURVIVORS

SEC. 5. (a) * * *

* * * * *

(f) LUMP-SUM PAYMENT.—(1) Upon the death, after the month in which this Act is enacted, of a completely or partially insured employee who will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, a lump sum of ten times the employee's basic amount shall be paid to the person, if any, who is determined by the Board to be the widow or widower of the deceased employee and to have been living with such employee at the time of such employee's death and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such deceased employee. If a lump sum would be payable to a widow or widower under this paragraph except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) will have been made, are equal to such lump sum, a payment equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions shall then nevertheless be made under this paragraph to the person (or, if more than one, in equal shares to the persons) first named in the following order of preference: the widow, widower, child, or parent of the employee then entitled to a survivor annuity under this section. No payment shall be made to any person under this paragraph, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 2 of the Act of March 7, 1942 (56 Stat. 143, 144), is applicable such two years shall run from the date on which the deceased employee, pursuant to said Act, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on

the date determined pursuant to said Act to be the date or presumptive date of death.

(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits or no further benefits, other than benefits payable to a widow, widower, or parent upon attaining age sixty at a future date, will be payable under this section or, pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act) at a future date, will be payable under title II of the Social Security Act, as amended, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his or her death, or if there be no designation, to the following person (or, if more than one, in equal shares to the persons) whose relationship to the deceased employee will have been determined by the Board and who will not have died before receiving payment of the lump sum provided for in this paragraph:

(i) the widow or widower of the deceased employee who was living with such employee at the time of such employee's death; or

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

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

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

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

(vi) if there be no such widow, widower, child, grandchild, parent, brother, or sister, to the estate of such employee, a lump sum in an amount equal to the sum of 4 per centum of his or her compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of his or her compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of his or her compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of his or her compensation paid after December 31, 1961 (exclusive of compensation in excess of \$300 for any month before July 1, 1954, and in excess of \$350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, and in excess of \$400 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963, and in excess of \$450 for any month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended), minus the sum of all benefits paid to him or her, and to others deriving from him or her, during his or her life, or to others by reason of his or her death, under this Act, and pursuant to subsection (k) of this section, under title II of the Social Security Act, as amended: *Provided, however,* That if the employee is survived by a widow, widower, or parent who may upon attaining age sixty be entitled to further benefits under this section, or pursuant to subsection (k) of this section, upon attaining retirement age (as defined in section 216(a) of the Social Security Act)

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

* * * * *

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

(1) * * *

* * * * *

(9) An employee's "average monthly remuneration" shall mean the quotient obtained by dividing (A) the sum of (i) the compensation paid to him after 1936 and before the employee's closing date eliminating any excess over \$300 for any calendar month before July 1, 1954, any excess over \$350 for any calendar month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, any excess over \$400 for any calendar month after the month in which this Act was so amended and before the calendar month next following the month in which this Act was amended in 1963 [and], any excess over \$450 for any calendar month after the month in which this Act was so amended and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended, and (ii) if such compensation for any calendar year before 1955 is less than \$3,600 or for any calendar year after 1954 and before 1959 is less than \$4,200, or for any calendar year after 1958 and before 1966 is less than \$4,800, or for any calendar year after 1965 is less than **[\$6,600]** an amount equal to the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, and the average monthly remuneration computed on compensation alone is less than **[\$450]** (i) \$450, or (ii) an amount

equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, and the employee has earned in such calendar year "wages" as defined in paragraph (6) hereof, such wages, in an amount not to exceed the difference between the compensation for such year and \$3,600 for years before 1955, \$4,200 for years after 1954 and before 1959, \$4,800 for years after 1958 and before 1966, and **[\$6,600]** an amount equal to the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954 for years after 1965, by (B) three times the number of quarters elapsing after 1936 and before the employee's closing date: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided, further*, That there shall be excluded from the divisor any calendar quarter which is not a quarter of coverage and during any part of which a retirement annuity will have been payable to him. An employee's "closing date" shall mean (A) the first day of the first calendar year in which such employee both had attained age 65 and was completely insured; or (B) the first day of the calendar year in which such employee died; or (C) the first day of the calendar year following the year in which such employee died, whichever would produce the highest "average monthly remuneration" as defined in the preceding sentence. If the amount of the "average monthly remuneration" as computed under this paragraph is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

With respect to an employee who will have been awarded a retirement annuity, the term "compensation" shall, for the purposes of this paragraph, mean the compensation on which such annuity will have been based;

(10) The term "basic amount" shall mean—

(i) for an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7) (i) or (7) (ii) or both: the sum of (A) 49 per centum of his average monthly remuneration, up to and including \$75; plus (B) 12 per centum of such average monthly remuneration exceeding \$75 and up to and including **[\$450]** (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, plus (C) 1 per centum of the sum of (A) plus (B) multiplied by the number of years after 1936 in each of which the compensation, wages, or both, paid to him will have been equal to \$200 or more; if the basic amount, thus computed, is less than \$16.95 it shall be increased to \$16.95;

(ii) for an employee who will have been completely insured solely by virtue of paragraph (7) (iii): the sum of 49 per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, 49 per centum of the average monthly earnings on which such pension was computed, up to and including \$75, plus 12 per centum of such compensation or earnings exceeding \$75 and up to and including \$300. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed

under this subdivision shall be \$40.33, except that if the pension payable to him was less than \$30.25, such amount shall be four-thirds of the amount of the pension or \$16.13, whichever is greater. The term "monthly compensation" shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

(iii) for an employee who will have been completely insured under paragraph (7)(iii) and either (7)(i) or (7)(ii): the higher of the two amounts computed in accordance with subdivisions (i) and (ii).

INTERNAL REVENUE CODE OF 1954

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CHAPTER 22—RAILROAD RETIREMENT TAX ACT

SUBCHAPTER A. Tax on employees.
 SUBCHAPTER B. Tax on employee representatives.
 SUBCHAPTER C. Tax on employers.
 SUBCHAPTER D. General provisions.

Subchapter A—Tax on Employees

Sec. 3201. Rate of tax.

Sec. 3203. Deduction of tax from compensation.

SEC. 3201. RATE OF TAX.

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

[(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

[(2) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1961,]

(1) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after September 30, 1965,

(2) 6½ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1965,

(3) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1966,

(4) 7 percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967,

(5) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968,

as is not in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended: Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for

services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101(a) plus the rate imposed by section 3101(b) at such time exceeds 2¼ percent (the rate provided by paragraph (2) of section 3101 as amended by the Social Security Amendments of 1956).

SEC. 3202. DEDUCTION OF TAX FROM COMPENSATION.

(a) **REQUIREMENT.**—The tax imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month after the month in which this provision was amended in 1959 and the aggregate of such compensation is in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month shall be that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended*, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month. *An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an*

amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

(b) INDEMNIFICATION OF EMPLOYER.—Every employer required under subsection (a) to deduct the tax shall be made liable for the payment of such tax and shall not be liable to any person for the amount of any such payment.

(c) SPECIAL RULE FOR TIPS.—

(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

Subchapter B—Tax on Employee Representatives

Sec. 3211. Rate of tax.

Sec. 3212. Determination of compensation.

SEC. 3211. RATE OF TAX.

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

[(1) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after the month in which this provision was amended in 1959, and before January 1, 1962, and

[(2) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1961,]

(1) 12½ percent of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1965,

(2) 13 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1965,

(3) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

(4) 14 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

(5) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968,

as is not in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended: Provided, That the rate of tax imposed by this section shall be increased, with respect to compensation paid for services rendered after December 31, 1964, by a number of percentage points (including fractional points) equal at any given time to twice the number of percentage points (including fractional points) by which the rate of the tax imposed with respect to wages by section 3101(a) plus the rate imposed by section 3101(b) at such time exceeds 2¾ percent (the rate provided by paragraph (2) of section 3101 as amended by the Social Security Amendments of 1956).

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Subchapter C—Tax on Employers

Sec. 3221. Rate of tax.

SEC. 3221. RATE OF TAX.

(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to—

[(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after the month in which this provision was amended in 1959, and before January 1, 1962, and

[(2) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1961,]

(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1965,

(2) 6½ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1965,

(3) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

(4) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

(5) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968,

as is, with respect to any employee for any calendar month, not in excess of \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended; except that if an employee is paid compensation after the month in which this provision was amended in 1959, by more than one employer for services rendered during any calendar month after the month in which this provision was amended in 1959, the tax imposed by this section shall apply to not more than \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended and before the calendar month next following the calendar month in which this provision was amended in 1965, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended of the aggregate compensation paid to such employee by all such employers after the month in which this provision was amended in 1959, for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after the month in which this provision was amended in 1959, to the employee for services rendered during such month bears to the total compensation

paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$400 for any calendar month before the calendar month next following the month in which this provision was amended in 1963, or \$450 for any calendar month after the month in which this provision was so amended *and before the calendar month next following the calendar month in which this provision was amended in 1965*, or (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer after the month in which this provision was amended in 1959, to such employee for services rendered during such month bears to the total compensation paid by all such employers after the month in which this provision was amended in 1959, to such employee for services rendered during such month.

* * * * *

Subchapter D—General Provisions

Sec. 3231. Definitions.
 Sec. 3232. Court jurisdiction.
 Sec. 3233. Short title.

SEC. 3231. DEFINITIONS.

* * * * *

(e) COMPENSATION.—For purposes of this chapter—

(1) The term "compensation" means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips (*except as is provided under paragraph (3)*), or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201. Compensation which is earned during the period for which the Secretary or his delegate shall require a return of taxes under this chapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. For the purpose of determining the amount of taxes under sections 3101 and 3221, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than \$3. Compensation for service as a delegate to a national or international convention of a railway labor organization defined as an "employer" in subsection (a) of this section shall be disregarded for purposes of determining the amount of taxes due pursuant to this chapter if the individual rendering such service has not previously rendered service, other than as such a delegate,

which may be included in his "years of service" for purposes of the Railroad Retirement Act.

(2) A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

(3) *Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term "compensation" also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.*

* * * * *

(h) *TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.*

* * * * *

CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE ON WAGES

Sec. 3401. Definitions.

Sec. 3402. Income tax collected at source.

Sec. 3403. Liability for tax.

Sec. 3404. Return and payment by governmental employer.

* * * * *

SEC. 3402. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(k) *TIPS.*—In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the

employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (16)(B) of section 3401(a) is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds (including funds turned over under section 3102(c)(2) or section 3202(c)(2)) minus any tax required by section 3102(a) or section 3202(a) to be collected from such wages and funds.

* * * * *

CHAPTER 61—INFORMATION AND RETURNS

* * * * *

SEC. 6053. REPORTING OF TIPS.

(a) **REPORTS BY EMPLOYEES.**—Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3221(a) or section 3401(a)) or which are compensation (as defined in section 3231(e)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary or his delegate.

(b) **STATEMENTS FURNISHED BY EMPLOYERS.**—If the tax imposed by section 3101 or section 3201 (as the case may be) with respect to tips reported by an employee pursuant to subsection (a) exceeds the tax which can be collected by the employer pursuant to section 3102 or section 3202 (as the case may be), the employer shall furnish to the employee a written statement showing the amount of such excess. The statement required to be furnished pursuant to this subsection shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary or his delegate.

* * * * *

**CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL
AMOUNTS, AND ASSESSABLE PENALTIES**

* * * * *

SEC. 6652. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

* * * * *

(c) **FAILURE TO REPORT TIPS.**—In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)) or which are compensation (as defined in section 3231(e)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 or section 3201 (as the case may be) with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

○

Union Calendar No. 421

89TH CONGRESS
1ST SESSION

H. R. 10874

[Report No. 976]

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 3, 1965

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

SEPTEMBER 10, 1965

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

A BILL

To amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce spouses' annuities by the amount of certain monthly benefits, to increase the base on which railroad retirement benefits and taxes are computed, and to change the rates of tax under the Railroad Retirement Tax Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SPOUSES' ANNUITIES

4 SECTION 1. Subsection (e) of section 2 of the Railroad
5 Retirement Act of 1937 (45 U.S.C. 228b (e)) is amended

1 by changing the colon before the last proviso to a period and
2 by striking out all that follows down through the period at
3 the end of such subsection.

4 *COVERAGE OF TIPS*

5 *SEC. 2. (a)(1) Subsection (a) of section 3202 of the*
6 *Internal Revenue Code of 1954 (relating to deduction of*
7 *tax from compensation) is amended by adding at the end*
8 *thereof the following new sentence: "An employer who is*
9 *furnished by an employee a written statement of tips (re-*
10 *ceived in a calendar month) pursuant to section 6053(a)*
11 *to which paragraph (3) of section 3231(e) is applicable*
12 *may deduct an amount equivalent to such tax with respect*
13 *to such tips from any compensation of the employee (ex-*
14 *clusive of tips) under his control, even though at the time*
15 *such statement is furnished the total amount of the tips in-*
16 *cluded in statements furnished to the employer as having*
17 *been received by the employee in such calendar month in the*
18 *course of his employment by such employer is less than \$20."*

19 *(2) Such section 3202 is amended by adding at the end*
20 *thereof the following new subsection:*

21 *"(c) SPECIAL RULE FOR TIPS.—*

22 *"(1) In the case of tips which constitute compensa-*
23 *tion, subsection (a) shall be applicable only to such tips*
24 *as are included in a written statement furnished to the*
25 *employer pursuant to section 6053(a), and only to the*

1 *extent that collection can be made by the employer, at*
2 *or after the time such statement is so furnished and*
3 *before the close of the 10th day following the calendar*
4 *month (or, if paragraph (3) applies, the 30th day*
5 *following the quarter) in which the tips were deemed*
6 *paid, by deducting the amount of the tax from such*
7 *compensation of the employee (excluding tips, but includ-*
8 *ing funds turned over by the employee to the employer*
9 *pursuant to paragraph (2)) as are under control of the*
10 *employer.*

11 “(2) *If the tax imposed by section 3201, with re-*
12 *spect to tips which are included in written statements*
13 *furnished in any month to the employer pursuant to*
14 *section 6053(a), exceeds the compensation of the em-*
15 *ployee (excluding tips) from which the employer is*
16 *required to collect the tax under paragraph (1), the*
17 *employee may furnish to the employer on or before the*
18 *10th day of the following month (or, if paragraph (3)*
19 *applies, on or before the 30th day of the following*
20 *quarter) an amount of money equal to the amount of the*
21 *excess.*

22 “(3) *The Secretary or his delegate may, under*
23 *regulations prescribed by him, authorize employers—*

24 “(A) *to estimate the amount of tips that will*

1 *be reported by the employee pursuant to section*
2 *6053(a) in any quarter of the calendar year,*

3 *“(B) to determine the amount to be deducted*
4 *upon each payment of compensation (exclusive of*
5 *tips) during such quarter as if the tips so estimated*
6 *constituted actual tips so reported, and*

7 *“(C) to deduct upon any payment of compen-*
8 *sation (other than tips, but including funds turned*
9 *over by the employee to the employer pursuant to*
10 *paragraph (2)) to such employee during such*
11 *quarter (and within 30 days thereafter) such*
12 *amount as may be necessary to adjust the amount*
13 *actually deducted upon such compensation of the*
14 *employee during the quarter to the amount required*
15 *to be deducted in respect of tips included in written*
16 *statements furnished to the employer during the*
17 *quarter.*

18 *“(4) If the tax imposed by section 3201 with re-*
19 *spect to tips which constitute compensation exceeds the*
20 *portion of such tax which can be collected by the em-*
21 *ployer from the compensation of the employee pursuant*
22 *to paragraph (1) or paragraph (3), such excess shall*
23 *be paid by the employee.”*

24 *(b)(1) The second sentence of subsection (e)(1) of*
25 *section 3231 of such Code (relating to definition of compen-*

1 sation for purposes of the Railroad Retirement Tax Act) is
2 amended by inserting “(except as is provided under para-
3 graph (3))” after “tips”.

4 (2) Subsection (e) of such section 3231 is further
5 amended by adding at the end thereof the following new
6 paragraph:

7 “(3) Solcly for purposes of the tax imposed by
8 section 3201 and other provisions of this chapter inso-
9 far as they relate to such tax, the term ‘compensation’
10 also includes cash tips received by an employee in any
11 calendar month in the course of his employment by an
12 employer unless the amount of such cash tips is less than
13 \$20.”

14 (3) Such section 3231 is further amended by adding at
15 the end thereof the following new subsection:

16 “(h) TIPS CONSTITUTING COMPENSATION, TIME
17 DEEMED PAID.—For purposes of this chapter, tips which
18 constitute compensation for purposes of the tax imposed
19 under section 3201 shall be deemed to be paid at the time
20 a written statement including such tips is furnished to the
21 employer pursuant to section 6053(a) or (if no statement
22 including such tips is so furnished) at the time received;
23 and tips so deemed to be paid in any month shall be deemed
24 paid for services rendered in such month.”

25 (c) Section 3402(k) of such Code (relating to income

1 *tax collected at source on tips) is amended (1) by inserting*
2 *“or section 3202(c)(2)” after “section 3102(c)(2)” and*
3 *(2) by inserting “or section 3202(a)” after “section*
4 *3102(a)”.*

5 *(d)(1) Section 6053(a) of such Code (relating to re-*
6 *ports of tips by employees) is amended by inserting “or*
7 *which are compensation (as defined in section 3231(e))”*
8 *after “or section 3401(a)”.*

9 *(2) Section 6053(b) of such Code (relating to state-*
10 *ments furnished by employers) is amended (A) by inserting*
11 *“or section 3201 (as the case may be)” after “section 3101”,*
12 *and (B) by inserting “or section 3202 (as the case may*
13 *be)” after “section 3102”.*

14 *(e) Section 6652(c) of such Code (relating to failure*
15 *to report tips) is amended (1) by inserting “or which are*
16 *compensation (as defined in section 3231(e))” after “which*
17 *are wages (as defined in section 3121(a))”, and (2) by*
18 *inserting “or section 3201 (as the case may be)” after*
19 *“section 3101”.*

20 *(f)(1) Subsection (h) of section 1 of the Railroad Re-*
21 *tirement Act of 1937 is amended (A) by inserting “(1)”*
22 *after “(h)”, (B) by inserting in the second sentence thereof*
23 *“(except as is provided under paragraph (2))” after*
24 *“tips”, and (C) by adding at the end thereof the following*
25 *new paragraphs:*

1 “(2) Solely for purposes of determining amounts to be
2 included in the compensation of an individual who is an
3 employee (as defined in subsection (b)) the term ‘compensa-
4 tion’ shall (subject to section 3(c)) also include cash tips
5 received by an employee in any calendar month in the course
6 of his employment by an employer unless the amount of
7 such cash tips is less than \$20.

8 “(3) Tips included as compensation by reason of the
9 provisions of paragraph (2) shall be deemed to be paid at
10 the time a written statement including such tips is furnished
11 to the employer pursuant to section 6053(a) of the Internal
12 Revenue Code of 1954 or (if no statement including such
13 tips is so furnished) at the time received; and tips so deemed
14 to be paid in any month shall be deemed paid for services
15 rendered in such month.”

16 INCREASE IN BASE FOR BENEFIT COMPUTATION PURPOSES

17 ~~SEC. 2.~~ SEC. 3. (a) Subsection (a) of section 3 of
18 the Railroad Retirement Act of 1937 is amended by strik-
19 ing out “the next \$300” and inserting in lieu thereof the
20 following: “the remainder up to a total of (i) \$450, or
21 (ii) an amount equal to one-twelfth of the current maximum
22 annual taxable ‘wages’ as defined in section 3121 of the
23 Internal Revenue Code of 1954, whichever is greater”.

24 (b) The second sentence of subsection (c) of such sec-
25 tion 3 is amended by inserting before “, shall be recognized”

1 the following: “and before the calendar month next following
2 the calendar month in which this Act was amended in 1965,
3 or in excess of (i) \$450, or (ii) an amount equal to one-
4 twelfth of the current maximum annual taxable ‘wages’ as
5 defined in section 3121 of the Internal Revenue Code of
6 1954, whichever is greater, for any calendar month after
7 the month in which this Act was so amended”.

8 (c) Subsection (f) (2) of section 5 of such Act is
9 amended by inserting after “so amended” where it appears
10 the second time in the first parenthetical phrase after clause
11 (vi) the following: “and before the calendar month next
12 following the month in which this Act was amended in 1965,
13 and in excess of (i) \$450, or (ii) an amount equal to one-
14 twelfth of the current maximum annual taxable ‘wages’ as
15 defined in section 3121 of the Internal Revenue Code of
16 1954, whichever is greater, for any month after the month
17 in which this Act was so amended”.

18 (d) Subsection (1) (9) of section 5 of such Act is
19 amended—

20 (1) by striking out “and” where it appears the
21 fourth time and inserting in lieu thereof a comma;

22 (2) by inserting after “so amended” where it ap-
23 pears the second time the following: “and before the
24 calendar month next following the calendar month in

1 which this Act was amended in 1965, and any excess
2 over (i) \$450, or (ii) an amount equal to one-twelfth
3 of the current maximum annual taxable 'wages' as de-
4 fined in section 3121 of the Internal Revenue Code of
5 1954, whichever is greater, for any calendar month after
6 the month in which this Act was so amended";

7 (3) by striking out "\$6,600" both times it appears
8 in such subsection and inserting in lieu thereof "an
9 amount equal to the current maximum annual taxable
10 'wages' as defined in section 3121 of the Internal Reve-
11 nue Code of 1954"; and

12 (4) by striking out "\$450" where it appears the
13 second time and inserting in lieu thereof "(i) \$450, or
14 (ii) an amount equal to one-twelfth of the current
15 maximum annual taxable 'wages' as defined in section
16 3121 of the Internal Revenue Code of 1954, whichever
17 is greater,".

18 (e) Subsection (l) (10) of section 5 of such Act is
19 amended by striking out "\$450" and inserting in lieu thereof
20 "(i) \$450, or (ii) an amount equal to one-twelfth of the
21 current maximum annual taxable 'wages' as defined in sec-
22 tion 3121 of the Internal Revenue Code of 1954, whichever
23 is greater".

1 INCREASE IN BASE FOR TAX PURPOSES

2 ~~SEC. 3.~~ SEC. 4. Sections 3201, 3202, 3211, and 3221
3 of the Internal Revenue Code of 1954 (relating to taxes
4 under the Railroad Retirement Tax Act) are each amended
5 by inserting after the phrase "or \$450 for any calendar
6 month after the month in which this provision was so
7 amended", wherever such phrase appears in such sections,
8 the following: "and before the calendar month next follow-
9 ing the calendar month in which this provision was amended
10 in 1965, or (i) \$450, or (ii) an amount equal to one-
11 twelfth of the current maximum annual taxable 'wages' as
12 defined in section 3121 of the Internal Revenue Code of
13 1954, whichever is greater, for any month after the month
14 in which this provision was so amended".

15 CHANGES IN TAX RATES

16 ~~SEC. 4.~~ SEC. 5. (a) Section 3201 of the Internal Reve-
17 nue Code of 1954 (relating to rate of tax on employees
18 under the Railroad Retirement Tax Act) is amended by
19 striking out paragraphs (1) and (2) and inserting in lieu
20 thereof the following:

21 " (1) $6\frac{1}{4}$ percent of so much of the compensation
22 paid to such employee for services rendered by him after
23 September 30, 1965,

24 " (2) $6\frac{1}{2}$ percent of so much of the compensation

1 paid to such employee for services rendered by him after
2 December 31, 1965,

3 “(3) $6\frac{3}{4}$ percent of so much of the compensation
4 paid to such employee for services rendered by him after
5 December 31, 1966,

6 “(4) 7 percent of so much of the compensation
7 paid to such employee for services rendered by him
8 after December 31, 1967, and

9 “(5) $7\frac{1}{4}$ percent of so much of the compensation
10 paid to such employee for services rendered by him
11 after December 31, 1968,”.

12 (b) Section 3211 of such Code (relating to rate of tax
13 on employee representatives under the Railroad Retirement
14 Tax Act) is amended by striking out paragraphs (1) and
15 (2) and inserting in lieu thereof the following:

16 “(1) $12\frac{1}{2}$ percent of so much of the compensation
17 paid to such employee representative for services ren-
18 dered by him after September 30, 1965,

19 “(2) 13 percent of so much of the compensation
20 paid to such employee representative for services ren-
21 dered by him after December 31, 1965,

22 “(3) $13\frac{1}{2}$ percent of so much of the compensation
23 paid to such employee representative for services ren-
24 dered by him after December 31, 1966,

1 “(4) 14 percent of so much of the compensation
2 paid to such employee representative for services ren-
3 dered by him after December 31, 1967, and

4 “(5) $14\frac{1}{2}$ percent of so much of the compensation
5 paid to such employee representative for services ren-
6 dered by him after December 31, 1968,”.

7 (c) Section ~~3221~~ 3221(a) of such Code (relating to
8 rate of tax on employers under the Railroad Retirement Tax
9 Act) is amended by striking out paragraphs (1) and (2)
10 and inserting in lieu thereof the following:

11 “(1) $6\frac{1}{4}$ percent of so much of the compensation
12 paid by such employer for services rendered to him
13 after September 30, 1965,

14 “(2) $6\frac{1}{2}$ percent of so much of the compensation
15 paid by such employer for services rendered to him
16 after December 31, 1965,

17 “(3) $6\frac{3}{4}$ percent of so much of the compensation
18 paid by such employer for services rendered to him
19 after December 31, 1966,

20 “(4) 7 percent of so much of the compensation
21 paid by such employer for services rendered to him
22 after December 31, 1967, and

23 “(5) $7\frac{1}{4}$ percent of so much of the compensation
24 paid by such employer for services rendered to him
25 after December 31, 1968,”.

EFFECTIVE DATES

1
2 ~~SEC. 5.~~ *SEC. 6.* The amendments made by ~~the first~~
3 ~~two sections~~ *sections 1 and 3* of this Act shall take effect
4 with respect to annuities accruing and deaths occurring
5 in months after the month in which this Act is enacted,
6 and shall apply also to annuities paid in lump sums equal
7 to their commuted value because of a reduction in such
8 annuities under section 2 (e) of the Railroad Retirement Act
9 of 1937, as in effect before the amendments made by this
10 Act, as if such annuities had not been paid in such
11 lump sums: *Provided, however,* That the amounts of
12 such annuities which were paid in lump sums equal
13 to their commuted value shall not be included in the
14 amount of annuities which become payable by reason of
15 section 1 of this Act. ~~The amendments made by section 3~~
16 ~~of this Act shall take effect with respect to calendar months~~
17 ~~after the month in which this Act is enacted.~~ The amend-
18 ments made by section 4 of this Act shall take effect with
19 respect to compensation paid for services rendered after
20 ~~September 30, 1965.~~ *The amendments made by section 2*
21 *of this Act shall apply only with respect to tips received*
22 *after 1965. The amendments made by section 4 of this*
23 *Act shall apply only with respect to calendar months after*
24 *the month in which this Act is enacted. The amendments*

1 *made by section 5 of this Act shall apply only with respect*
2 *to compensation paid for services rendered after September*
3 *30, 1965.*

Amend the title so as to read: "A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to eliminate certain provisions which reduce spouses' annuities, to provide coverage for tips, to increase the base on which railroad retirement benefits and taxes are computed, and to change the railroad retirement tax rates."

Union Calendar No. 421

89TH CONGRESS
1ST SESSION

H. R. 10874

[Report No. 976]

A BILL

To amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce spouses' annuities by the amount of certain monthly benefits, to increase the base on which railroad retirement benefits and taxes are computed, and to change the rates of tax under the Railroad Retirement Tax Act.

By Mr. HARRIS

SEPTEMBER 3, 1965

Referred to the Committee on Interstate and Foreign
Commerce

SEPTEMBER 10, 1965

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1937 AND RAILROAD RETIREMENT TAX ACT

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee of the Whole House on the State of the Union be discharged from further consideration of the bill, H.R. 10874, to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce spouses' annuities by the amount of certain monthly benefits, to increase the base on which railroad retirement benefits and taxes are computed, and to change the rates of tax under the Railroad Retirement Tax Act, and ask for its immediate consideration.

The Clerk read the title of the bill.

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

Mr. SPRINGER. Mr. Speaker, reserving the right to object, will the chairman please explain the bill?

Mr. HARRIS. Very briefly, Mr. Speaker, this is an emergency.

It may be recalled that some time ago the committee reported and the House approved a bill to do away with the so-called dual provisions applicable to a spouse of a railroad employee.

The bill went to the other body. The social security and medicare bill came along, and made modifications which drastically changed some of the provisions of the Railroad Retirement Act. As a result thereof, the Senate committee conducted hearings and reported what has been commonly referred to as the Pell amendment. That amendment provided an additional tax, which originated in the other body.

It is well known that under the rules of the House any provision for a tax should initiate in the House of Representatives.

That created somewhat of a controversy. In addition, the provision in the Pell amendment seemed to be displeasing to a great many people.

Under the circumstances, and because October 1 is the deadline for action to be taken, or the administration of this phase of the medicare program affecting railroad retirees will go to the Social Security Administration, our committee conducted hearings on this bill and has reported a bill which has for its purpose a reduction of taxes beginning October 1 for a period of 3 months, of 1 percent on each side, and one-fourth of 1 percent for each year for the following 4 years, to get back to what would be the case under the Pell amendment.

At the same time, this would increase the requirement under the social security medicare program on the taxable base from the present \$5,400 to \$6,600.

This will equalize the tax impact on both the employees and the employers, and ultimately, over a period of 4 years, will graduate it to the point that the benefits will remain the same and thereby meet the requirements of the social security medicare program. It will give us a program which will be satisfactory both to railroad employers and employees.

Because of the emergency phase we have asked that it be considered under this procedure.

GENERAL LEAVE

Mr. SPRINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the RECORD with reference to this bill.

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

There was no objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 10874

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

SPOUSES' ANNUITIES

SECTION 1. Subsection (e) of section 2 of the Railroad Retirement Act of 1937 (45 U.S.C. 228b(e)) is amended by changing the colon before the last proviso to a period and by striking out all that follows down through the period at the end of such subsection.

INCREASE IN BASE FOR BENEFIT COMPUTATION PURPOSES

SEC. 2. (a) Subsection (a) of section 3 of the Railroad Retirement Act of 1937 is amended by striking out "the next \$300" and inserting in lieu thereof the following: "the remainder up to a total of (1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater".

(b) The second sentence of subsection (c) of such section 3 is amended by inserting before "shall be recognized" the following: "and before the calendar month next following the calendar month in which this Act was amended in 1965, or in excess of (1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended".

(c) Subsection (f) (2) of section 5 of such Act is amended by inserting after "so amended" where it appears the second time in the first parenthetical phrase after clause (vi) the following: "and before the calendar month next following the month in which this Act was amended in 1965, and in excess of (1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this Act was so amended".

(d) Subsection (1) (9) of section 5 of such Act is amended—

(1) by striking out "and" where it appears the fourth time and inserting in lieu thereof a comma;

(2) by inserting after "so amended" where it appears the second time the following: "and before the calendar month next following the calendar month in which this Act was amended in 1965, and any excess over (1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any calendar month after the month in which this Act was so amended";

(3) by striking out "\$6,600" both times it appears in such subsection and inserting in lieu thereof "an amount equal to the current maximum annual taxable 'wages' as

defined in section 3121 of the Internal Revenue Code of 1954"; and

(4) by striking out "\$450" where it appears the second time and inserting in lieu thereof "(1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater";

(e) Subsection (1) (10) of section 5 of such Act is amended by striking out "\$450" and inserting in lieu thereof "(1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater".

INCREASE IN BASE FOR TAX PURPOSES

SEC. 3. Sections 3201, 3202, 3211, and 3221 of the Internal Revenue Code of 1954 (relating to taxes under the Railroad Retirement Tax Act) are each amended by inserting after the phrase "or \$450 for any calendar month after the month in which this provision was so amended", wherever such phrase appears in such sections, the following: "and before the calendar month next following the calendar month in which this provision was amended in 1965, or (1) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after the month in which this provision was so amended".

CHANGES IN TAX RATES

SEC. 4. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to rate of tax on employees under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) 6½ percent of so much of the compensation paid to such employee for services rendered by him after September 30, 1965,

"(2) 6½ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1965.

"(3) 6¾ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1965,

"(4) 7 percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1967, and

"(5) 7¼ percent of so much of the compensation paid to such employee for services rendered by him after December 31, 1968."

(b) Section 3211 of such Code (relating to rate of tax on employee representatives under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) 12½ percent of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1965,

"(2) 13 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1965,

"(3) 13½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1966,

"(4) 14 percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1967, and

"(5) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968."

(c) Section 3221 of such Code (relating to rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) 6¾ percent of so much of the compensation paid by such employer for serv-

ices rendered to him after September 30, 1965,

"(2) 6½ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1965,

"(3) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

"(4) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

"(5) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968."

EFFECTIVE DATES

SEC. 5. The amendments made by the first two sections of this Act shall take effect with respect to annuities accruing and deaths occurring in months after the month in which this Act is enacted, and shall apply also to annuities paid in lump sums equal to their commuted value because of a reduction in such annuities under section 2(e) of the Railroad Retirement Act of 1937, as in effect before the amendments made by this Act, as if such annuities had not been paid in such lump sums: *Provided, however,* That the amounts of such annuities which were paid in lump sums equal to their commuted value shall not be included in the amount of annuities which become payable by reason of section 1 of this Act. The amendments made by section 3 of this Act shall take effect with respect to calendar months after the month in which this Act is enacted. The amendments made by section 4 of this Act shall take effect with respect to compensation paid for services rendered after September 30, 1965.

Amend the title so as to read: "A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to eliminate certain provisions which reduce spouses' annuities, to provide coverage for tips, to increase the base on which railroad retirement benefits and taxes are computed, and to change the railroad retirement tax rates."

With the following committee amendments:

Page 2, after line 2, insert the following new section:

"COVERAGE OF TIPS

"Sec. 2. (a) (1) Subsection (a) of section 3202 of the Internal Revenue Code of 1954 (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new sentence: 'An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.'

"(2) Such section 3202 is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR TIPS.—

"(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th

day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

"(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

"(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

"(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

"(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

"(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

"(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee."

"(b) (1) The second sentence of subsection (e) (1) of section 3231 of such Code (relating to definition of compensation for purposes of the Railroad Retirement Tax Act) is amended by inserting '(except as is provided in paragraph (3))' after 'tips'.

"(2) Subsection (e) of such section 3231 is further amended by adding at the end thereof the following new paragraph:

"(3) Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term 'compensation' also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20."

"(3) Such section 3231 is further amended by adding at the end thereof the following new subsection:

"(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month."

"(c) Section 3402(k) of such Code (relating to income tax collected at source on tips) is amended (1) by inserting 'for section 3202(c) (2)' after 'section 3102(c) (2)' and (2) by inserting 'or section 3202(a)' after 'section 3102(a)'."

"(d) (1) Section 6053(a) of such Code (relating to reports of tips by employees) is

amended by inserting 'or which are compensation (as defined in section 3231(e))' after 'or section 3401(a)'."

"(2) Section 6053(b) of such Code (relating to statements furnished by employers) is amended (A) by inserting 'or section 3201 (as the case may be)' after 'section 3101', and (B) by inserting 'or section 3202 (as the case may be)' after 'section 3102'."

"(e) Section 6652(c) of such Code (relating to failure to report tips) is amended (1) by inserting 'or which are compensation (as defined in section 3231(e))' after 'which are wages (as defined in section 3121(a))', and (2) by inserting 'or section 3201 (as the case may be)' after 'section 3101'."

"(f) (1) Subsection (h) of section 1 of the Railroad Retirement Act of 1937 is amended (A) by inserting '(1)' after '(h)', (B) by inserting in the second sentence thereof '(except as is provided under paragraph (2))' after 'tips', and (C) by adding at the end thereof the following new paragraphs:

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term 'compensation' shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20."

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month."

"Page 2, line 4, strike out 'Sec. 2.' and insert in lieu thereof 'Sec. 3.'"

"Page 4, line 12, strike out 'Sec. 3.' and insert in lieu thereof 'Sec. 4.'"

"Page 5, line 2, strike out 'Sec. 4.' and insert in lieu thereof 'Sec. 5.'"

"Page 6, line 18, strike out '3221' and insert in lieu thereof '3221(a)'."

"Page 7, line 13, strike out 'Sec. 5.' and insert in lieu thereof 'Sec. 6.'"

"Page 7, line 13, strike out 'the first two sections' and insert in lieu thereof 'sections 1 and 3'."

"Page 7, strike out 'The amendments' in line 25 and all that follows through page 8, line 5, and insert in lieu thereof the following:

"The amendments made by section 2 of this act shall apply only with respect to tips received after 1965. The amendments made by section 4 of this act shall apply only with respect to calendar months after the month in which this act is enacted. The amendments made by section 5 of this act shall apply only with respect to compensation paid for services rendered after September 30, 1965."

Mr. HARRIS (interrupting the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendments be dispensed with and that they be printed in the Record at this point.

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

There was no objection.

The committee amendment was agreed to.

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

The title was amended so as to read: "A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement

Tax Act to eliminate certain provisions which reduce spouses' annuities, to provide coverage for tips, to increase the base on which railroad retirement benefits and taxes are computed, and to change the railroad retirement tax rates."

A motion to reconsider was laid on the table.

SENATE AMENDMENT TO H.R. 3157, TO AMEND THE RAILROAD RETIREMENT ACT OF 1937

Mr. HARRIS. Mr. Speaker, I rise to a question of the privilege of the House and offer a resolution.

The Clerk read the resolution, as follows:

H. RES. 578

Resolved, That the amendment in the nature of a substitute added by the Senate to the House bill (H.R. 3157) to amend the Railroad Retirement Act of 1937 in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House, and that the said bill, with the amendments, be respectfully returned to the Senate with a message communicating this resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, returned to the Senate the amendment of the Senate, in the nature of a substitute, to the bill (H.R. 3157) to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits, and transmitted the resolution of the House thereon.

AMENDMENT TO THE RAILROAD RETIREMENT ACT OF 1937

Mr. PELL. Mr. President, I ask unanimous consent that House bill 10874, an amendment to the Railroad Retirement Act of 1937, be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate a bill (H.R. 10874) to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce spouses' annuities by the amount of certain monthly benefits, to increase the base on which railroad retirement benefits and taxes are computed, and to change the rates of tax under the Railroad Retirement Tax Act, which, without objection, will be read twice by title.

The bill was read twice by its title.

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

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

Mr. PELL. Mr. President, the House passed a bill, H.R. 3157, on June 7, 1965, which would have eliminated the restriction placed on railroad retiree's spouses denying them the right to collect their full spouse's benefits under the Railroad Retirement Act in addition to any benefits under social security due them in their own right.

In light of a provision in the recently enacted Social Security Amendments of 1965 relating to the administration of the hospital insurance program, it was necessary to amend H.R. 3157 to increase the taxable wage base under railroad retirement from \$5,400 to \$6,600 per year. The Senate debated this proposal fully and passed the bill as amended by a vote of 88 to 0, on September 1, 1965.

During the course of the Senate debate, the Senator from Louisiana [Mr. Long] raised a point of order with regard to the constitutionality of the amendment to H.R. 3157. His view was that the amendment was a revenue raising measure originating in the Senate and thus violative of article I, section 7 of the U.S. Constitution which delegates such authority to the House.

It was pointed out by myself and the Senator from Oregon [Mr. Morse] that the Senate clearly has the constitutional authority to initiate measures which may incidentally raise revenue in pursuit of some broader objective. There is ample precedent for such action by the Senate, and the U.S. Supreme Court has upheld this authority in two cases which I cited during the course of that debate—*Twin City Bank v. Nebeker*, 167 U.S. 196, and *Millard v. Roberts*, 202 U.S. 429.

The Senate sustained our position by rejecting the point of order, 41 to 44.

Now we have before us H.R. 10874, a clean bill introduced after the Senate's action on H.R. 3157, which embodies all of the provisions of the latter plus provisions to reduce the tax rate assessed against railroad employers and employees. This would reduce the financial impact on both parties of raising the taxable wage base. In fact, reducing the tax rate by the amount this new bill does, will save both parties \$10.7 million in the last quarter of 1965—before the wage

base raise becomes effective. This is a sound compromise which will benefit all concerned, and as such, I urge its adoption in this body. I am particularly concerned, because of the time factor, that we act quickly so as to meet the statutory deadline of October 1 in order to allow the Railroad Retirement Board to administer the hospital insurance program with regard to railroad retirees.

Mr. President, my desire to act favorably on H.R. 10874 at this time, should in no way be construed as a change in my position respecting the authority in the Senate to initiate measures which may incidentally raise revenue in the furtherance of their main purpose. We do have that authority, and any action that we may take on H.R. 10874, does not have any bearing upon that issue. As the then majority leader, Mr. Johnson, of Texas, stated with regard to a similar measure on May 5, 1959:

In my mind there is no doubt about the constitutional power of the Senate to initiate such a measure. The Supreme Court has long held that the Senate can initiate and can pass general legislation which contains, as an incidental feature, a revenue provision.

I am in complete accord with that view.

Mr. President, I urge passage of this measure.

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

Mr. PELL. I yield.

Mr. DOMINICK. Mr. President, I shall be very brief. I took the position during the process of debate on the point of order about whether a point of order was legitimate, that the bill itself was dead unless that point of order was sustained.

Having served in the House, I know how jealous Representatives are of their prerogative on these tax-raising and tax-lowering measures. At least to that effect, I am proved right.

The point as to whether it is constitutional or unconstitutional because it originated in the Senate has not yet been decided. The bill was rejected by the House and the House sent back to the Senate a new bill.

I am delighted that the bill will pass shortly.

I introduced a companion bill in the Senate originally. I have worked on it and fought for it. The measure is designed to try to take care of the particular needs and deficits in the law regarding spouses of railroad employees.

The measure will cure the defect. It will also do, as I understand it, what the railway labor association wants, which is to raise the taxable base sufficiently so that the administration of the medicare provisions will be under its jurisdiction.

We have a rather reasonable compromise, even though the tax rate over a period of 4 years will go back to where it is now and the burden on the employee and the employer will be much higher at that point.

During the interim period, there will be opportunity for adjustment. I am happy that the bill will pass in this manner. I thank the Senator.

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

Mr. PELL. I yield.

Mr. MORSE. Mr. President, I extend once more to the Senator from Rhode Island [Mr. PELL] my compliments for the manner in which he has carried this legislation through to the point of final enactment tonight. He has done an exceptionally fine job.

As a result of his perseverance, we are now about to pass a bill that will greatly improve the retirement benefits for railroad workers and for their spouses.

Mr. President, what we are doing tonight is, in effect, somewhat similar to what we did back in 1959 when I was chairman of the Subcommittee on Railroad Retirement. We then passed a bill in the Senate. Some question was raised as to whether we had the constitutional power to pass the bill. Some of us pointed out then that the so-called revenue features were incidental and subsidiary, and we made our constitutional argument then.

The Senator from Rhode Island has already pointed out that the now President of the United States, who has been the majority leader of the Senate of the United States, took the position that there was no transgression on the constitutional prerogative of the House of Representatives so far as the revenue-raising legislative features in article I, section 7, of the Constitution are concerned.

A few days ago the constitutional issue was raised again in the Senate in connection with the bill that was passed by the Senate. I joined the Senator from Rhode Island [Mr. PELL] and others in taking the position that we had the constitutional authority to pass the legislation in the form in which we passed it. That question was put to the Senate for a vote by the Presiding Officer of the Senate. The Senate sustained the position that those of us took who held that we had the constitutional authority to pass the bill.

The House has now done pretty much what it did back in 1959, analogously, and now it sends to us a new bill, in effect, with some modifications of the Senate bill. However, the modifications do not in any way detract from the objectives of the original Pell bill.

I believe that it is a fair adjustment of the differences between the two bodies in regard to the substantive legislative features of the two bills.

I am very much in support of our agreeing, as the Senator from Rhode Island now proposes, to accept the substance of the House bill.

Mr. President, the pages of the CONGRESSIONAL RECORD that we are now making in this debate will be read for some years to come. They will be read whenever there is raised again the question as to whether a bill that is passed by the Senate has, as an incidental characteristic or provision thereof, some revenue feature that might conceivably be in violation of the Constitution of the United States and an encroachment upon the prerogatives of the House of Representatives.

The Supreme Court in the cases that I cited the other day made perfectly clear what the answer to the constitutional question really is. Neither the

Morse bill of 1959 nor the Pell bill of 1965 violates that section of the Constitution. Therefore, I would have the legislative history on this bill tonight be crystal clear that, when we adopt the bill now offered to the Senate by the House and recommended by the chairman of our Subcommittee on Railroad Retirement, we establish no precedent that would estop the Senate from passing similar bills in the future, as the Morse bill of 1959 or the Pell bill of 1965. I believe that this is very important from the standpoint of legislative history.

All we are voting on tonight is the substantive features of the House bill as it compares with the substantive features of the Senate bill, which has come to be known as the Pell bill. Our vote does not represent, to any degree whatsoever any concession on the part of the Senate as to its jurisdictional right to pass such legislation as the Morse bill of 1959 and the Pell bill of 1965, insofar as the constitutional provisions are concerned in respect to the requirement that revenue raising bills shall originate in the House of Representatives.

When we have a bill of which the major characteristic is not revenue raising, but the so-called revenue aspects are subsidiary, incidental, and subordinate thereto, there is no violation of the constitutional prerogatives of the House. I wish that made crystal clear so far as the senior Senator from Oregon is concerned, who is a member of the subcommittee that is so ably presided over by the Senator from Rhode Island [Mr. PELL].

I have made this argument before, citing the precedents and the cases in support of the position which I have now again enunciated. In order to save the time of the Senate, I ask unanimous consent that the debate of the other day on the Pell bill, prior to the vote of the Senate on the constitutional question, be printed in the RECORD at this point.

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

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1937 AND RAILROAD RETIREMENT TAX ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate that unfinished business.

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business, which is H.R. 3157.

The Senate resumed the consideration of the bill (H.R. 3157) amending the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act.

Mr. PELL. Mr. President—

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. MANSFIELD. Mr. President, if the Senator will yield without losing his right to the floor, I suggest the absence of a quorum.

Mr. PELL. I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG of Louisiana. Mr. President, I feel it necessary to make the point of order that the pending Senate amendment is a tax amendment on a nonrevenue bill. Since the Constitution requires that all revenue meas-

ures must originate in the House of Representatives, and since Senators by their oaths are sworn to uphold the Constitution, the Senate is clearly forbidden to originate a tax measure.

As the ranking majority member of the Committee on Finance, I am well aware—and it has been the experience of the committee—that the House of Representatives has consistently refused even to consider a tax measure that originated in this body, so much so that I do not recall an instance, during the period of my membership, when the Senate has even made an effort to originate a tax bill.

The pending measure is a House bill, but is not a revenue bill.

Mr. PELL. The bill is not yet before the Senate.

Mr. LONG of Louisiana. I am sorry; I thought the bill was before the Senate.

Mr. President, I ask that the bill be laid before the Senate.

The PRESIDING OFFICER. The bill is before the Senate.

Mr. PELL. The bill is before the Senate? I misspoke.

Mr. LONG of Louisiana. Then, Mr. President, I wish to make the point of order that the bill came to the Senate as a bill which was not a tax bill. The pending Senate amendment to the bill is a major tax amendment, and it is clearly unconstitutional for the Senate to attach a tax provision to a bill which is not a tax bill. To do so would be in violation of our oaths.

Mr. President, this question has been considered before in both the House of Representatives and the Senate. From my study of the precedents, it is clear—and I have discussed the question with the Parliamentarians of both the House of Representatives and the Senate—that inasmuch as revenue bills must originate in the House of Representatives, a bill providing for a tax must be a revenue bill when it comes to the Senate, and the Senate cannot convert a nonrevenue bill to a revenue bill. For the Senate to attach a tax provision to simple legislation that has nothing to do with revenue when it comes from the House of Representatives is not condoned.

Therefore, I am constrained to make the point of order that this amendment is unconstitutional.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Is the point of order subject to discussion?

The PRESIDING OFFICER. Under the uniform practices of the Senate for more than 100 years, the Chair has no authority to pass upon points of order as to the constitutionality of a proposal. Those are questions for the Senate to determine. Therefore, the Chair submits to the Senate the question whether or not, under the Constitution, the Senate has a right to consider this amendment, or whether the point of order is well taken. The question, of course, is debatable.

Mr. PELL. Mr. President, first I ask unanimous consent that during the consideration of H.R. 3157, Mr. David Schreiber and Mr. Charles McLaughlin, of the office of the General Counsel of the Railroad Retirement Board, be granted the privilege of the floor, as has been the custom in previous years.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PELL. Mr. President, I recognize, as the Senator from Louisiana [Mr. LONG] has pointed out, that article I, section 7, of the Constitution of the United States provides:

"All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."

First, I submit that the amendment to H.R. 3157, which would raise the taxable wage base under the Railroad Retirement

Act from \$450 to \$550 a month, is incidental to the main purpose of the bill, which is to grant benefits to the spouses of railroad retirees.

In fact, in the annotated copy of the Constitution, which all Senators have, and which was prepared by the legislative reference service, I note the statement that only bills to levy taxes in the strict sense of the word are comprehended by the phrase "all bills raising revenue." Bills for other purposes which incidentally create revenues are not included. As an example, a case is cited wherein a bill which provided that the District of Columbia should raise by taxation and pay to designated railroad companies a specific sum for the elimination of grade crossings and the construction of the union railroad station did not have to originate in the House of Representatives.

Other cases decided by the Supreme Court are in point: In *Twin City Bank v. Nebeker*, a case dealing with a tax on bonds used to secure the national currency, the Court held that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue.

The purpose of this amendment is corollary to the purpose of the bill, and my principle objective is to provide some method for maintaining the deficit in the Railroad Retirement Fund at a tolerable level. Without this amendment, the deficit will rise to approximately \$62 million per year; with it, we can reduce the deficit to about \$24 million.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a brief concerning the case I have already cited, *Twin City Bank v. Nebeker*. Another case, too, is cited; that of *Millard v. Roberts*.

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

"EXCERPT FROM THE DECISION OF THE U.S. SUPREME COURT IN THE CASE OF TWIN CITY BANK V. NEBEKER, 167 U.S. 196.

"The contention in this case is that the section of the act of June 3, 1864, providing a national currency secured by a pledge of U.S. bonds, and for the circulation and redemption thereof, so far as it imposed a tax upon the average amount of the notes of a national banking association in circulation, was a revenue bill within the clause of the Constitution declaring that 'all bills for raising revenues shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills' (art. 1, sec. 7); that it appeared from the official Journals of the two Houses of Congress that while the act of 1864 originated in the House of Representatives, the provision imposing this tax was not in the bill as it passed that body, but originated in the Senate by amendment, and, being accepted by the House, became a part of the statute; that such tax was, therefore, unconstitutional and void, and that, consequently, the statute did not justify the action of the defendant.

"The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, 'bills for raising revenue.' What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the

House of Representatives. Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word and are not bills for other purposes which may incidentally create revenue. (P. 202.)"

"EXCERPT FROM THE DECISION OF THE U.S. SUPREME COURT IN THE CASE OF MILLARD V. ROBERTS, 202 U.S. 429

"The first contention of appellant is that the acts of Congress are revenue measures, and therefore, should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention the case of *Twin City Bank v. Nebeker*, 167 U.S. 196, need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bill shall be said to be 'bills for raising revenue' within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, 'that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue.' (1 Story on Constitution, sec. 880.) And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this Court saying:

"The tax was a means of effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

"This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act (pp. 436-437)."

Mr. PELL. Mr. President, a further point I wish to raise is that any money raised by this amendment does not go into the General Treasury, but rather goes to a special railroad retirement fund. Revenue is defined in Webster's New International Dictionary as:

"The annual or periodical yield of taxes, excise, customs, duties, rents, etc., which a nation, State, or municipality collects and receives into the treasury for public use; public income of whatever kind."

Insofar as the funds that would be raised by this amendment are for a private pension fund, I do not see any constitutional prohibition against its origination in the Senate.

Finally, I submit that from the viewpoint of precedent, we have already passed legislation similar to this; that in 1959 the Senate originated a raise in the base of the taxable income, passed it, and sent it to the House, which changed it to a House number but passed a bill in identical form, including a misplaced comma, and sent it back to the Senate.

At that point, various Senators rose to deplore the action of the House, and to defend the constitutionality of the original action of the Senate, including the then majority leader, Senator Johnson, of Texas, and including the present majority whip, the Senator from Louisiana [Mr. LONG] and other Senators.

For these reasons, Mr. President, I submit that we are within our rights in passing this amendment as a method to keep the system

fiscally sound, which it certainly is not at this time.

Mr. President, I yield the floor.

Mr. MORSE. Mr. President—

The PRESIDING OFFICER (Mr. JORDAN of Idaho in the chair). The Senator from Oregon is recognized.

Mr. MORSE. Mr. President, in view of the fact that the chairman of the Subcommittee on Railroad Retirement—on which I am privileged to be a member—has made reference to the action in this body of May 5, 1959, in regard to the railroad retirement bill of that year, S. 226, I wish to discuss that precedent briefly.

Enactment by the Senate on May 5, 1959, of S. 226, provided for increases in tax rates under the Railroad Retirement Tax Act to cover the additional benefits provided by the bill. A House companion bill had been reported to, but not enacted by the House. The House reported bill was approved by the House Committee on Interstate and Foreign Commerce, but was unacceptable to railroad labor because the House approved bill failed to provide sufficient revenue and contained other unacceptable provisions. When the satisfactory Senate bill S. 226 reached the House floor, it was adopted by the House in substitution for the House reported bill. No constitutional question was raised by the House, at that time.

It was known, however, that President Eisenhower would veto the bill; and it was also known that if the bill were vetoed on its merits, the veto would be overridden by both Houses of Congress—at least, that was the belief.

It was feared, however, that if the President were to veto the bill because it had a Senate number, some Members of the House might be inclined into following the position of accepting the veto. To avoid this, a Member of the House moved, a few days later, to vacate the previous House action, and then moved to strike from the House-reported bill all after the enacting clause and insert in lieu thereof the Senate provision. This was done, and the enacted bill with a House number was reenacted by the Senate on May 5, 1959.

At that time I was chairman of the subcommittee of the Senate on railroad retirement occupying the same position which the Senator from Rhode Island [Mr. PELL] occupies today.

The majority leader was the Senator from Texas, Mr. Johnson. The majority leader and I thought that the whole procedure was unnecessary from the standpoint of parliamentary requirement. Nevertheless, we agreed to go along with it, because our objective was to get the bill passed.

I believe it is important that there be read into the RECORD at this time—because I believe it is of controlling and precedential value—the discussion which took place at that time, because in my judgment, if S. 226 on May 5, 1959, was not unconstitutional, the bill before us today is not unconstitutional.

For all intents and purposes, the substantive objectives are the same.

I read from the RECORD of May 5, 1959, starting on page 7472:

"AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1937

"Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of House bill 5610, to amend the Railroad Retirement Act.

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

"The LEGISLATIVE CLERK. A bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes.

"The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

"The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 5610) to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, which was read the first time by title and the second time at length.

"Mr. JOHNSON of Texas. Mr. President, if I may have the attention of the Senator from Oregon [Mr. MORSE], let me say that the House passed, on May 4, H.R. 5610, which amends the Railroad Retirement Act. H.R. 5610 is identical with Senate bill 226, which was passed by the Senate on April 29, and which had been reported by the Senator from Oregon [Mr. MORSE].

"The House adopted every line, every word, every punctuation mark in the Senate bill—including a misplaced quotation mark.

"I am informed that the House took that action because the bill contained a revenue feature, inasmuch as the bill increases the rate of tax on employers and employees under the railroad retirement system. However, the tax-increase provision is only one of many changes effected by the bill in the railroad retirement law.

"Senate bill 226, as passed by the Senate, is not primarily a tax measure. The increase in tax is only part of a bill which is designed to provide much-needed increases in the benefits under the act. In my mind, there is no doubt about the constitutional power of the Senate to initiate such a measure. The Supreme Court has long held that the Senate can initiate and can pass general legislation which contains, as an incidental feature, a revenue provision. The case of *Millard v. Roberts*, decided in 1908, is specific on this point. The annotated constitution, compiled by Professor Corwin, contains numerous citations in support of this view.

"I have conferred with the distinguished chairman of the subcommittee who handled the bill, the Senator from Oregon [Mr. MORSE]. It is our conclusion that we do not wish to quibble over the matter; we are primarily concerned with sending this proposed legislation to the President at an early date. In our judgment, the power of the Senate to initiate and to dispose of proposed legislation such as Senate bill 226 is clear and beyond any doubt; and we do not intend to delay the taking of final action on this matter by arguing the procedural question. It is far more important to the railroad workers that such a bill be passed and go to the President and be signed by him into law, rather than that there be long argument over the question of whether the bill bear a House bill number or a Senate bill number.

"So, Mr. President, after conferring with the Senator from Oregon and other members of the committee, I urge immediate Senate consideration of House bill 5610, which is identical in every respect with Senate bill 226, which was passed by the Senate on April 29, I believe, by unanimous vote.

"Mr. President, I yield now to the Senator from Oregon, so that he may make whatever comments he desires to make, and that then the Senate may perhaps take action on the bill.

"Mr. MORSE. Mr. President, the majority leader has explained the reason why there has been some confusion in regard to railroad retirement legislation. In my judgment, he has stated the law accurately. There is no question about the fact that it was within the province of the Senate to initiate such proposed legislation and to pass it. I quite agree with the Senator from Texas that we should proceed to re-pass the bill, this time in the form of House bill 5610.

"In making legislative history on the bill, our obligation is to make sure that no ques-

tion at all in regard to the legislative process can be raised successfully by anyone in any future litigation.

"Mr. President, until yesterday we had thought a conference would be necessary in order to resolve a difference between the bill which was passed by the Senate—Senate bill 226, the Morse bill—and the bill which was passed last Wednesday by the House—House bill 5610.

"Yesterday, however, the House passed a new bill, numbered H.R. 5610, with language identical to that of the Morse bill, Senate bill 226, as passed by the Senate.

"It is much to be desired that the Senate now pass House bill 5610, and thus permit a railroad retirement bill to reach the White House as soon as possible. In urging that the Senate take this action, I assure this body that such action by it will merely reaffirm the action the Senate took last week in passing Senate bill 226.

"Mr. JOHNSON of Texas. Mr. President, I yield to the minority leader first. Then I shall yield to the Senator from Louisiana [Mr. LONG].

"Mr. DIRKSEN. Mr. President, I think we had some discussion of this matter when the bill first came up in the Committee on Labor and Public Welfare. I did not feel there was any doubt whatsoever that the Senate had authority to consider this bill originally and send it to the House. I do indeed concur in the opinion expressed by the majority leader; but, in the interest of felicity as between the two Houses, if this is what it takes in order to expedite action, certainly I have no objection.

"Mr. LONG. Mr. President—

"Mr. JOHNSON of Texas. I yield now to my friend from Louisiana.

"Mr. LONG. Mr. President, as one of those who greatly admire the majority leader, I hope he is not going to permit the House, in matters of this sort, continually to downgrade the Senate. This type of procedure can hardly be more than an excuse for the House to claim to be the author of legislation by acting first. If the House had proceeded expeditiously, it could have acted first on this measure, rather than second, as it has. Then the Senate might properly be denied credit for being the body of Congress to act first on this bill. The Senate is already bound in a number of ways when the House insists, unreasonably in some instances, on having its way. For example, the Senator from Louisiana has several times sponsored legislation involving veterans insurance, which the House has failed to consider because of objection on the part of a single Member of the House.

"I urge the majority leader to see that the responsibilities, duties, and powers of the Senate are maintained. I hope he will try to do something about it, as time goes on, so that the House will act reasonably in such matters.

"Mr. JOHNSON of Texas. I appreciate the remarks of the Senator from Louisiana. I shall do all I can, in a constructive manner, to see that the responsibilities of the Senate are recognized. In this instance I do not agree with the way the House has acted, but I do not see that there is any good purpose to be served by further quibbling and delay, and I certainly do not want to emulate the action of the House in this instance.

"Mr. President, if we can get action on this bill—

"The PRESIDING OFFICER. The bill is open to amendment.

"If there be no amendment to be offered the question is on the third reading of the bill.

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

"The PRESIDING OFFICER. The question is, Shall the bill pass?

"The bill was passed.

"Mr. MORSE. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

"Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

"The motion to lay on the table was agreed to."

That is chapter No. 1 in my argument, Mr. President. I now turn to chapter No. 2.

We now deal directly with the constitutional question raised in 1959 and raised today, in 1965. The chairman of the subcommittee has already referred to the short legal brief that has been prepared in support of the position that the bill before the Senate is constitutional, and that it does not violate the Constitution in the sense that it violates the provision that requires that revenue-raising measures must originate in the House.

The chairman of the subcommittee, in citing this brief, calls attention to the U.S. Supreme Court case of *Twin City Bank v. Nebeker*, 167 U.S. 196. I read these excerpts from the decision of the Supreme Court. The Court said:

"The contention in this case is that the section of the act of June 3, 1864, providing a national currency secured by a pledge of U.S. bonds, and for the circulation, and redemption thereof, so far as it imposed a tax upon the average amount of the notes of a national banking association in circulation, was a revenue bill within the clause of the Constitution declaring that 'all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills,' (art. 1, sec. 7); that it appeared from the official Journals of the two Houses of Congress that while the act of 1864 originated in the House of Representatives, the provision imposing this tax was not in the bill as it passed that body, but originated in the Senate by amendment, and, being accepted by the House, became a part of the statute; that such tax was, therefore, unconstitutional and void, and that, consequently, the statute did not justify the action of the defendant.

"The case is not one that requires either an extended examination of precedents, or a full discussion as to the meaning of the words in the Constitution, 'bills for raising revenue.' What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives. Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue."

Continuing, Mr. President, I call the attention of the Senate to an excerpt from the decision of the U.S. Supreme Court in the case of *Millard v. Roberts*, 202 U.S. 429. It is a case that the majority leader of the Senate in 1959, Mr. Johnson, alluded to. The Court said:

"The first contention of appellant is that the acts of Congress are revenue measures, and therefore, should have originated in the House of Representatives and not in the Senate, and to sustain the contention appellant submits an elaborate argument. In answer to the contention, the case of *Twin City Bank v. Nebeker*, 167 U.S. 196, need only be cited. It was observed there that it was a part of wisdom not to attempt to cover by a general statement what bills shall be said to 'bills

for raising revenue' within the meaning of those words in the Constitution, but it was said, quoting Mr. Justice Story, 'that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes, which may incidentally create revenue' (1 Story on Constitution, sec. 880). And the act of Congress which was there passed on illustrates the meaning of the language used. The act involved was one providing a national currency, and imposed a tax upon the average amount of the notes of a national banking association in circulation. The provision was assailed for unconstitutionality because it originated in the Senate. The provision was sustained, this Court saying:

"The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest, primarily, upon the honor of the United States and be available in every part of the country. There was no purpose, by the act or by any of its provisions, to raise revenue to be applied in meeting the expenses or obligations of the Government."

"This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act."

Without taking the time to read the memorandum, I ask unanimous consent that another memorandum be inserted in the RECORD which discusses this constitutional question, citing additional cases, not only the *Nebeker* case and the *Roberts* case, but citing also the House of Representatives in regard to this matter.

There is a series of precedents, even from the House, which recognize that in a situation such as this, it is not a revenue bill, because the so-called tax or revenue features are not controlling, but incidental thereto.

I have no doubt that the Senator from Rhode Island is right when, as chairman of the subcommittee, he asks the Senate to sustain the bill on constitutional grounds.

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

"MEMORANDUM: THE SENATE COMMITTEE'S AMENDMENT TO H.R. 3157 DOES NOT INFRINGE ON THE PREROGATIVE OF THE HOUSE TO ORIGINATE REVENUE MEASURES

"It is well established by both judicial and legislative precedents that measures originating in the Senate whose general purpose is within the jurisdiction of the Senate do not violate the prerogative of the House if they incidentally raise revenue, especially if the revenue raised is not for the general support of the Government but for a specific purpose related to the general purpose of the measure.

"Article 1, section 7 of the Constitution provides: 'All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.'

"Justice Story, in his 'Commentaries on the Constitution,' traced the origin of article 1, section 7 to the British Parliamentary system where tax revenue measures, there known as 'money bills,' could originate only in the House of Commons. The House of Lords could only oppose or concur with tax legislation initiated in the House of Commons.

"In defining the term 'bills for raising revenue,' Justice Story states: '* * * the practical construction of the Constitution * * * [a]nd, indeed the history of the origin of the power already suggested abundantly proves that it has been confined to bills to levy taxes in the strict sense of the words, and has not been understood to extend to bills for other purposes, which may incidentally create revenue' (1 Story on the Constitution, sec. 880).

"Precedents of the Supreme Court"

"Justice Story's definition of a 'bill for raising revenue' under article 1, section 7 of the Constitution has been adopted by the Supreme Court and has been used by it as the measuring stick in each of the cases coming before the Court involving an interpretation of that constitutional provision.

"For example, in *United States v. Norton*, 91 U.S. 569, 23 L. ed. 454 (1876), the issue arose as to whether the act creating the postal money order system was a bill to raise revenue, under article 1, section 7. The contention was made that it was a bill to raise revenue since it provided that the Postmaster General was authorized to use a part of the moneys collected to pay post office employees.

"The Supreme Court, however, applying Justice Story's definition of what constituted a bill for raising revenue, rejected the contention. The Court reasoned that since the primary purpose of the act was not to raise revenue, indeed Congress showed a willingness to sink money, if necessary, to accomplish that purpose, the act was not 'made for the direct and avowed purpose of creating revenue or public funds for the service of the Government,' and was, therefore, not a bill to raise revenue within the meaning of article 1, section 7.

"In *Twin City National Bank v. Nebeker*, 167 U.S. 196, 42 L. ed. 134 (1897), a contention was made that the act providing for a national currency was unconstitutional since that part of the act which imposed a tax upon the amount of notes held by a national banking association was originated in the Senate and the tax amounted to a bill to raise revenue under article 1, section 7.

"The Court, however, after setting forth Justice Story's definition of a revenue bill, found that the act in question was not a bill to raise revenue despite the provision for the levying of a tax. The Court stated (167 U.S. at 202):

"The main purpose that Congress had in view was to provide a national currency based upon U.S. bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means of effectually accomplishing the great object of giving the people a currency that would rest, primarily, upon the honor of the United States, and be available to every part of the country. There was no purpose by the act or by any part of its provisions to raise revenue to be applied in meeting expenses or obligations of the Government."

"In *Millard v. Roberts*, 202 U.S. 429, 50 L. ed. 1090 (1906), the Senate initiated an act which required certain railroads to eliminate grade crossings and to construct a railroad depot. A sum of money was to be paid to the railroads to be raised by the levy of a tax on the property of area residents. The Court, relying on its decision in *Twin City National Bank v. Nebeker*, *supra*, held that the tax did not convert the act into a bill to raise revenue. The Court concluded, "Whatever taxes are imposed are but means to the purposes provided by the act" (202 U.S. at 437).

"Precedents of the House of Representatives"

"1. On March 29, 1922, a motion was made on the floor of the House that a bill authorizing the extension of time for payment of a debt incurred by Austria be sent to the Ways and Means Committee on the ground that it was a bill to raise revenue.

"The Speaker decided that the bill was not one to raise revenue as defined in article 1, section 7, and stated:

"The best definition the Chair has seen is in the 13th of Blatchford, where the court says:

"Certain legislative measures are unmistakably bills for raising revenue. These impose taxes upon the people either directly or indirectly, or lay duties, imports, or excise

for the use of the Government, and to give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment in common with the rest of the citizens of the benefit of good government." (8 Cannon's Precedents of the House of Representatives, sec. 2278 (1936)).

"2. On May 4, 1922, the Speaker was called upon to decide whether a bill banning the importation of narcotics was a revenue bill since it also had provision for the raising of revenue. The Speaker decided that the bill was not a revenue bill stating:

"The Chair concludes that it is not privileged; that while [the bill] relates to revenues, yet that that is incidental; that the main purpose of the bill is not to raise revenue; and that therefore it is not privileged' (8 Cannon's Precedents of the House of Representatives, sec. 2279 (1936)).

"3. On December 18, 1920, the Speaker was called upon to decide whether a Senate resolution reviving the activities of the War Finance Corporation constituted a revenue bill. During the ensuing debate a Member of the House stated:

"[Article 1, section 7 of the Constitution] provides that bills for the purpose of raising revenue shall originate in the House of Representatives. It does not provide that laws which take the effect and which will have the effect either of raising revenue or producing a deficit shall originate in the House * * * No one can tell whether the passage of this resolution, if it shall be carried out in the spirit of the resolution, will produce revenue or produce a deficit. But everyone knows that the purpose of the law is not to produce revenue' (6 Cannon's Precedents of the House of Representatives, sec. 315 (1936)).

"The Speaker decided that such questions were for the House rather than the Speaker, and the House voted that the bill was one which the Senate could originate.

"Applying these precedents specifically to the Senate committee's amendment to H.R. 3157, it would appear that no serious question arises concerning the infringement of the House prerogative to originate revenue measures.

"Although the Railroad Retirement Tax Act is a part of the Internal Revenue Code, the proceeds derived from it are devoted exclusively to the payment of benefits under and the expenses of administering the Railroad Retirement Act; no part of the proceeds is devoted to general revenue purposes.

"In the early years of the railroad retirement system it was the practice to appropriate annually to the railroad retirement account the estimated proceeds of the Railroad Retirement Tax Act, and to make adjustments in subsequent appropriations to correct any inaccuracy in the estimates.

"However, by title V of Public Law 452, 82d Congress, 2d session, 1952, it was provided that there is appropriated:

"For annual premiums after June 30, 1952, to provide for the payment of all annuities, pensions, and death benefits, in accordance with the provisions of the Railroad Retirement Acts of 1935 and 1937, as amended (45 U.S.C. 228-228e), and for expenses necessary for the Railroad Retirement Board in the administration of said acts as may be specifically authorized annually in appropriation acts, for crediting to the railroad retirement account, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act (28 U.S.C. 1500-1538)."

"This is a standing appropriation to the railroad retirement account that operates in each subsequent fiscal year; annual appropriations are then made from the account (not from general funds) for administrative expenses.

"Thus it has been established by law that the Railroad Retirement Act and the Railroad Retirement Tax Act are integral parts

of a single insurance system. They are as closely related as the premium clauses and the benefit clauses of an insurance policy. When the House passes a bill that enlarges the insurance protection it necessarily opens up for consideration the question of the adequacy of the premium to cover the insurance benefits as so enlarged. In this instance the House chose to enlarge the deficit by enlarging the benefits without enlarging the premium. It would be indefensibly restrictive of the jurisdiction of the Senate to say that it is foreclosed from giving consideration to and possibly making amendments of the premium provisions to deal with the deficit in a different way.

"The indefensibility of such a restriction upon the Senate is well illustrated by the facts before the Senate Committee on Labor and Public Welfare in its consideration of H.R. 3157. That these facts motivated the amendment adopted by the committee appears clearly from the committee report (S. Rept. 645, 89th Cong., 1st sess.). These facts are:

"1. The enlargement of benefits provided by the bill introduced an additional cost estimated at \$14 million per year without any premium to cover these costs;

"2. The railroad retirement system was already currently incurring an actuarial deficit equivalent to a level of about \$20 million per year.

"3. After the passage of H.R. 3157 by the House and before its consideration by the Senate committee, Congress had enacted the social security amendments of 1965 (Public Law 89-97). The social security amendments had a far-reaching effect on the financing of the railroad retirement system:

"a. By reason of certain minimum and maximum provisions in the Railroad Retirement Act that are contingent upon the provisions of the Social Security Act, many railroad retirement benefits were automatically increased;

"b. By reason of the railroad retirement tax rates being contingent upon the social security tax rates the scheduled railroad retirement tax rates prior to 1973 were reduced with a consequent reduction in income;

"c. By reason of the increase in the social security maximum taxable wage base to \$6,600 per year the railroad retirement account would be adversely affected in the interchange of funds between the two systems so long as the railroad retirement maximum taxable wage base remained at \$450 per month (\$5,400 per year);

"d. Congress made provision for the administration of the medicare program so far as railroad employees are concerned by the Railroad Retirement Board, but to become effective only if and when the railroad retirement monthly tax base should be the equivalent of one-twelfth of the social security annual tax base.

"Financially, the effect of the social security amendments was to enlarge the pre-existing deficit and the additional deficit to be created by H.R. 3157 by an additional \$28 million per year.

"To deny to the Senate the jurisdiction to consider and legislate in light of these events, largely supervening House passage of the bill, is to deny to the Senate jurisdiction to legislate intelligently.

"Under any such restrictive jurisdiction the only courses open to the Senate in its consideration of H.R. 3157 would be to accept the enlargement of the deficit, even though it might consider the enlargement of the deficit unwise, or to reject the enlargement of benefits because it was unwilling to enlarge the deficit.

"Furthermore, it is inherent in the structure of the railroad retirement system that the maximum limit of taxable compensation is also the maximum limit of creditable compensation for benefit purposes. Certainly no one can deny that the Senate has juris-

diction to originate increases in the maximum compensation creditable for benefit purposes. But that jurisdiction would as a practical matter be also effectively negated if it lacked jurisdiction to increase the corresponding base in the Railroad Retirement Tax Act."

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the Record another memorandum dealing with the facts of the bill itself.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

"MEMORANDUM: COMPARISON OF CARRIERS' INCREASED RAILROAD RETIREMENT TAX LIABILITIES UNDER H.R. 3157, AS AMENDED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, WITH SCHEDULED INCREASES IN TAX LIABILITY PRIOR TO 1965 LEGISLATION

"Under the present maximum taxable and creditable compensation base of \$450 per month (\$5,400 per year) in the railroad retirement system the level projected taxable payroll is \$4.3 billion per year. If the monthly maximum base is increased to \$550 (\$6,600 per year), as proposed in H.R. 3157 as amended by the Senate committee, the level projected taxable payroll becomes \$4.775 billion per year, an increase of \$475 million.

"Under present provisions of the Railroad Retirement Taxing Act scheduled increases in the tax rate are contingent upon increases in the social security tax rate. By reason of scheduled increases in the social security tax rate in effect prior to the 1965 amendments of the Social Security Act (Public Law 89-97) the railroad retirement tax rate was scheduled to increase by one-half of 1 percent each on carriers and employees on January 1, 1966, and by another one-half of 1 percent on each beginning January 1, 1968. These scheduled increases in tax rates would have increased the carrier tax obligations, based on a \$4.3 billion taxable payroll, by \$21.5 million per year in 1966 and another \$21.5 million in 1968, or a total of \$43 million.

"However, the Social Security Amendments of 1965 have reduced the 1966 and 1968 scheduled increases in the social security tax rate, and thereby automatically reduced the increases in the scheduled railroad retirement tax rate, with the consequence that the railroad retirement tax rate in 1966 will be 8.35 percent each on carriers and employees as compared with the previously scheduled 8.625 percent, and in 1967 and 1968 will be 8.4 percent as compared with the previously scheduled 9.125 percent in 1968.

"If the tax rate increases scheduled under the law as it stood at the beginning of this year had not been changed by the social security amendments, and the present \$450 monthly base were also retained the carrier tax liability for 1968 would be \$392.375 million. The carriers, by seeking to retain the present base despite the reduction in scheduled rates are trying to reduce that liability to \$361.2 million, and thus pay \$31.175 million less than they had been scheduled to pay.

"By contrast, if the new reduced rate is applied to the increased taxable payroll that would result from increasing the base to \$550 per month their liability in 1968 would be \$401.1 million, i.e., only \$8.725 million over the \$392.375 million they were already scheduled to pay.

"The decrease in scheduled social security tax rates, and the consequent decrease in scheduled railroad retirement tax rates, was made possible only by the fact that the social security tax base was increased to \$6,600 per year. In objecting to an increase in the railroad retirement tax base to the same level as the social security base, the

carriers are seeking to avail themselves of the lower rate made possible by an increased base without paying on the increased base.

"The foregoing figures are exclusive of the cost of medicare. In this connection it should be observed that during the last preceding Congress, and without change of position during the present Congress, the railroad managements agreed with the railway labor organizations that railroad employees should participate equally with other employees in the benefits of whatever medicare program might be enacted. At the time of this agreement it was generally believed that the medicare program would cost employers and employees each one-half to three-quarters of 1 percent of taxable payroll. The actual scheduled cost under Public Law 89-97 is 0.35 percent of payroll in 1966 and will not exceed three-quarters of 1 percent until 1987. This reduction below anticipated rates is likewise made possible by increasing the taxable wage base to \$6,600 per year."

Mr. MORSE. Mr. President, one who has those memoranda, he has all that is needed to support my argument that we are dealing with a matter which, under the precedents of the Supreme Court and the precedents of the House itself, raises no constitutional question.

Mr. LONG of Louisiana. Mr. President, the Senator from Oregon made reference to arguments I made myself involving this general problem. I made that argument after hearing the statement by the then majority leader, Mr. Johnson, in the very case the Senator from Oregon is citing as a precedent, but said that where the Senate originated a bill inserting a tax, the House declined to send the bill back to the Senate, but, instead, passed its own bill, sent that bill to the Senate, and the Senate passed that bill. The very case the Senator from Oregon cites, including my statement, shows that the House should act first.

If the Senator from Oregon is right in what he says, the Finance Committee would have had a right to originate the social security bill and the medicare bill. The Senate Finance Committee agreed so strongly to the contrary that our chairman and the committee declined to hold hearings on that bill until the House acted and sent the Senate a bill.

This year, in this session, the Senate sent to the House a bill, S. 1734, to conserve and protect domestic fisheries. In connection with that bill the Senate imposed a 50 percent tax to protect fisheries.

The House sent the Senate back a blue sheet, which in polite language stated that the bill "in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States, and is an infringement of the privileges of this House, and that the said bill be respectfully returned to the Senate." That is what happened.

The Senate sent back a polite message to the effect that this was not correct procedure and "here is your bill back." The House returned the bill, which it had a perfect right to do.

This particular measure imposes a tax of about \$90 million. In my opinion, that involves much more than incidental revenue.

I am not arguing about the necessity of the tax. It may well be necessary to have it, and that we will do it in due course.

When revenues are to be raised, those measures should originate in the House. The Senate Committee on Finance sometimes has to wait 3 months for the House to send to the Senate revenue bills so the Senate may act on them. Religiously and respectfully, the Finance Committee respects the House of Representatives in respect to the Constitution; and circumspect as we are, we feel we should show the same consideration and

insist on the same consideration for others who have the same responsibility we have.

Mr. President, this matter was discussed with the policy committee. After we discussed it, it was agreed that a point of order would be made by the policy committee on this side of the aisle.

This Senator, as a ranking member of the Finance Committee, as well as being a member of the policy committee, believes it to be his responsibility and duty to do so, but I do not stand alone.

I hope the Senate will stand with those of us who take this view on revenue bills, in connection with a bill which is not a revenue bill, both in connection with the precedents laid down, which have already been mentioned—and even the Senator's case which he cites as a precedent sustains that position—and will consider the House's point of view that this is a tax on a nonrevenue bill.

Mr. MORSE. Mr. President, I wish to reply briefly to the point made by my friend the Senator from Louisiana. I am completely lost in his maze of comments concerning the action taken on May 5, 1959, as being a precedent for his present position. I read every word spoken on the floor of the Senate on May 5, 1959. It was perfectly obvious that the Senate did not take the position that the House had a constitutional right to originate this particular measure. The language of the Senator from Louisiana makes it crystal clear that that was not the position he took on May 5, 1959. On the contrary, the Senator was for leaving the Senate bill. He suggested to the majority leader that we should not go along with the objections because, in the view of the Senator from Louisiana, that would be downgrading the Senate.

In May 5, 1959, the Senator from Louisiana thought the railroad retirement bill was set out in the proper framework of a Senate bill and he was for passing the Senate bill, not the House bill.

The point was raised in that debate very clearly that the Senate did not recognize any constitutional right of the House to originate all those bills in the first instance. It was perfectly clear from the statements of the then majority leader, Mr. Johnson, the chairman of the subcommittee which handled the railroad retirement bill, the senior Senator from Oregon, and the minority leader, that we were not going to take the House bill on any constitutional right of the House, but because we recognized the parliamentary realities that confronted the Senate, and that we had a better chance of getting the bill on the books. But there is no precedent, by the slightest stretch of the imagination, in the May 5, 1959, case, that there was any admission on the part of the Senate that the House had the constitutional right to originate the bill. This was what we call accommodation between the two Houses. There was no waiver of the right of the Senate to originate the legislation. That is perfectly clear.

Let me say if that action is a precedent—it does not have the slightest relevancy, but if the Senate did agree in May 1959, to do that—it does not rewrite the Constitution of the United States.

We cannot amend the Constitution of the United States by decreeing on the floor of the Senate that a bill is a revenue bill. That is a question of law.

All the Senate did was to parliamentarily accommodate the House of Representatives on May 5, 1959, in order to have a railroad retirement bill passed. The chairman of the Railroad Retirement Committee and Mr. Johnson, the then-majority leader of the Senate, and Mr. DRISKEN, as the minority leader of the Senate agreed among themselves that that would be an appropriate parliamentary procedure to follow.

Let the senior Senator from Oregon state again for the RECORD, because it will be read 10, 15, 20 years from now, that not a word can be found in the May 5, 1959, RECORD of any admission on the part of the Senate that it had encroached upon the power of the House of Representatives in that it had initiated a revenue bill.

To the contrary, it was our position that it was not a revenue bill within the meaning of article I, section 7 of the Constitution of the United States, referred to by Justice Story in the *Nebeker* case, from which I have already quoted at length.

There is before the Senate the clear issue of whether or not the Senate is going to send the bill back to committee, or to some other committee, or refuse to take action on it because of a point of order, because we have said once again, acting as "Justices of the U.S. Supreme Court" that article I, section 7 of the Constitution of the United States would be violated thereby.

Let us face up to the issue. If there is any real question about the constitutionality of the bill, let us pass it and let the Supreme Court decide it. I tell Senators, in my judgment, the decision that will be rendered. There will be an even briefer decision than Justice Story rendered in the *Nebeker* case. The Court will dismiss it in a paragraph or two, unless it recites the *Nebeker* case and also the *Roberts* case, at the time the leader of the Senate referred to when the position was taken on May 5, 1955, that a constitutional question was not involved.

It is my opinion—and every Senator is entitled to his opinion—that this adds up to a parliamentary maneuver to avoid a decision on the substantive merits of the amendment. I am ready to vote on the substantive merits of the amendment. I am perfectly willing to vote on the substantive merits because I am satisfied the bill is constitutional.

I have great respect for my colleagues in the Senate, but I prefer to walk a few steps from the Senate of the United States to that great cathedral of justice, the U.S. Supreme Court building, for constitutional rulings.

I am satisfied that that ruling would be if the bill were passed, and whether or not the Senate, in passing it, acted constitutionally.

The Supreme Court will render a decision that the so-called tax features of the bill are incidental thereto and do not constitute a revenue measure in the sense that a revenue measure must originate in the House.

Mr. LONG of Louisiana. I do not quarrel with the Senator on this matter.

If he had a different interpretation of the Constitution than I hold, when it says revenue bills shall originate in the House, so far as I am concerned, that applies to the \$90 million tax. He is entitled to his opinion, and I am entitled to my opinion. A Senator should vote to uphold the Constitution of the United States. I do not have to vote for something I think is unconstitutional and rely upon the Supreme Court to tell me I did an unconstitutional act and save me from my own mischief.

If I believe it is wrong I should abide by my oath. That is my judgment.

The Senator said that it did not create a precedent for what we are doing here. I heard the majority leader say that we had not done an unconstitutional act. The House took the attitude that we had. Having proceeded to say that we had not done anything unconstitutional, we then proceeded to act as though we had. We passed the House bill. The House bill was enacted into law and signed by the President. We went along with the argument of the House on the House contention that we had done something unconstitutional. We said, in

effect, that we had not done something unconstitutional, but said to the House, in effect, "Even so, we will do it your way."

So far as the merits of the amendment are concerned, what we are talking about here is a matter of increasing the tax base and increasing the tax on the working people and on the railroads. It means that the average workingman would have to pay \$10 a month more to get the benefits of the medicare proposal that we added to the social security bill, which was passed recently. Am I stating the situation correctly?

Mr. PELL. That is not completely correct. The tax would be paid half and half by the railroad industry and by those workers who earn more than \$450 a month. It would not cover hospital care through railroad retirement or social security. There would be, however, other benefits.

Mr. LONG of Louisiana. Would it cover medical benefits?

Mr. PELL. It would not.

Mr. LONG of Louisiana. In any event, this is a major tax increase. It is something that we can take care of later in the session or next year. It ought to be considered in connection with a revenue bill. The bill before us is not a revenue bill. I hold in my hand another bill, which the House in all propriety, in my judgment, based on the precedents that have been in effect in the time that I have been a Senator, declined to consider. The bill concerns fisheries. We imposed a tax, and the House politely sent the bill back to us.

I am sure the Senator would not say that the House took the wrong attitude. The House of Representatives has consistently acted in this fashion, at least while I have been a Member of the Senate. There is that precedent even in the 1959 debate, to which reference has been made. The House sent S. 1734 back to us with a polite note, rejecting it.

Mr. PELL. In this connection there should be printed in the RECORD a letter from the Executive Office of the President, Bureau of the Budget, addressed to the committee which says:

"We are opposed to this measure, as is the Railroad Retirement Board. However, we understand that you have introduced an amendment to this bill which would equate the wage base of the railroad retirement system to that of the social security system. We believe this provision is desirable not only because it will assist in keeping the railroad retirement and social security systems in step but because it will assist in maintaining the financial soundness of the railroad retirement system. We hope that this provision will receive favorable consideration by your committee."

I ask unanimous consent to have printed in the RECORD at this point the entire letter from the Bureau of the Budget.

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

EXECUTIVE OFFICE OF
THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 31, 1965.

HON. CLAIBORNE PELL,
Chairman, Subcommittee on Railroad Retirement, Committee on Labor and Public Welfare, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Your committee has under consideration H.R. 3157, a bill "To amend the Railroad Retirement Act of 1937, to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits."

We are opposed to this measure, as is the Railroad Retirement Board. However, we understand that you have introduced an amendment to this bill which would equate the wage base of the railroad retirement sys-

tem to that of the social security system. We believe this provision is desirable not only because it will assist in keeping the railroad retirement and social security systems in step but because it will assist in maintaining the financial soundness of the railroad retirement system. We hope that this provision will receive favorable consideration by your committee.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for
Legislative Reference.

Mr. PELL. That is the administration's views on the merits. Why would it not be appropriate to let the bill be passed, without our being the judge of its constitutionality, and let the House politely decide the question?

Mr. LONG of Louisiana. We ought to pass on the question ourselves. We ought to exercise our own best judgment. We have a responsibility, just as the House has its responsibility. We should discharge our own responsibility.

The PRESIDING OFFICER. The Chair submits the question to the Senate as to whether the Senate, under the Constitution, has the right to consider this amendment, or whether the point of order is well taken on H.R. 3157, an act to amend the Railroad Retirement Act.

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

The yeas and nays were not ordered.

Mr. MORSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LONG of Louisiana. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORSE. The pending question, as I understand, is the point of order raised by the Senator from Louisiana [Mr. LONG], that the pending legislation is unconstitutional because of the allegation that it violates article I, section 7 of the Constitution, which prescribes that revenue measures shall originate in the House.

The PRESIDING OFFICER. The Senator is correct.

Mr. MORSE. Therefore, a vote of "nay" against the point of order will be a vote to sustain the constitutionality of the pending proposal offered by the Senator from Rhode Island [Mr. PELL]. Is that correct?

The PRESIDING OFFICER. A vote of "nay" would dispose of the point of order, and the amendment would continue to be before the Senate for action. A vote of "yea" would sustain the point of order, and the proposal would be removed from the Senate.

Mr. MORSE. I respect the Chair's language, but I respectfully say it means the same thing that I said.

Mr. MILLER. I point out that in the committee report on page 2, the committee states:

"There is now an actuarial deficit in the financing of the railroad retirement system of about \$20 million a year, and Public Law 89-97 (approved July 30, 1965) will add about \$28 million to the deficit, bringing it to a total of about \$48 million a year on a level basis. The enactment of the bill H.R. 3157 would add to this deficit about \$14 million a year, bringing the total deficit to about \$62 million a year on a level basis."

On page 3 of the committee report this statement appears:

"By reason of such increase in the taxable compensation base, the railroad retirement taxable payroll would be about \$4.8 billion a year, and the additional tax income to the system would be about \$87 million a year. About \$39 million of this amount would be applied to reducing the \$62 million deficit to about \$23 million."

Mr. President, in view of that language, it seems to me that to say the financing features or the tax features of the bill are incidental is not being realistic at all. They are very substantial. I shall support the point of order made by the distinguished Senator from Louisiana [Mr. LONG].

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Idaho [Mr. CHURCH], the Senator from Ohio [Mr. LAUSCHE], the Senator from Wyoming [Mr. MCGEE], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Minnesota [Mr. MCCARTHY], the Senator from Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], and the Senator from New York [Mr. KENNEDY] are necessarily absent.

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Nebraska [Mr. HRUSKA]. If present and voting, the Senator from Maryland would vote "nay," and the Senator from Nebraska would vote "yea."

On this vote, the Senator from Virginia [Mr. BYRD] is paired with the Senator from Ohio [Mr. YOUNG]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Ohio would vote "nay."

On this vote, the Senator from Ohio [Mr. LAUSCHE] is paired with the Senator from New York [Mr. KENNEDY]. If present and voting, the Senator from Ohio would vote "yea," and the Senator from New York would vote "nay."

On this vote, the Senator from Virginia [Mr. ROBERTSON] is paired with the Senator from Wyoming [Mr. MCGEE]. If present and voting, the Senator from Virginia would vote "yea," and the Senator from Wyoming would vote "nay."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. MORTON] and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

The Senator from Utah [Mr. BENNETT] and the Senator from Nebraska [Mr. HRUSKA] are detained on official business.

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Maryland [Mr. BREWSTER]. If present and voting, the Senator from Nebraska would vote "yea," and the Senator from Maryland would vote "nay."

On this vote, the Senator from Utah [Mr. BENNETT] is paired with the Senator from Kentucky [Mr. MORTON]. If present and voting, the Senator from Utah would vote "yea," and the Senator from Kentucky would vote "nay."

The yeas and nays resulted—yeas 41, nays 44, as follows:

[No. 246 Leg.]

YEAS—41

Allott, Bartlett, Bass, Byrd of West Virginia, Carlson, Cotton, Curtis, Dirksen, DOMINICK, Eastland, Ellender, Ervin, FANNIN, Fong, Hickenlooper, Hill, Holland, Inouye, Jordan of North Carolina, Jordan of Idaho, Long, of Louisiana, Mansfield, McClellan, Miller, Mundt, Murphy, Pearson, Prouty, Randolph, Russell of South Carolina, Russell of Georgia, Scott, Simpson, Smathers, Smith, Sparkman, Stennis, Symington, Talmadge, Tower, Williams, of Delaware.

NAYS—44

Aiken, Anderson, Bayh, Bible, Boggs, Burdick, Cannon, Case, Clark, Cooper, Dodd, Douglas, Gruening, Harris, Hart, Hartke, Hayden, Jackson, Javits, Kennedy of Massachusetts, Kuchel, Long of Missouri, Magnuson, McGovern, McIntyre, McNamara, Metcalf, Mondale, Monroney, Montoya, Morse, Moss, Muskie, Nelson, Neuberger, Pastore, Pell, Proxmire, Ribicoff, Thurmond, Tydings, Williams of New Jersey, Yarborough, Young of North Dakota.

NOT VOTING—15

Bennett, Brewster, Byrd of Virginia, Church, Fulbright, Gore, Hruska, Kennedy of New York, Lausche, McCarthy, McGee, Morton, Robertson, Saltonstall, Young of Ohio.

The PRESIDING OFFICER (Mr. MOSS in the chair). The point of order is not well taken and is dismissed.

Mr. PELL. Mr. President, I move that the vote by which the point of order was not well taken and was dismissed be reconsidered.

Mr. PASTORE and Mr. MANSFIELD moved that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President—

The PRESIDING OFFICER (Mr. TYDINGS in the chair). The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, the bill H.R. 3157, now under consideration by this body, would change the Railroad Retirement Act so that payment of an annuity to a spouse of a retired railroad employee could be made in the full amount even though she is at the same time entitled to monthly benefits under the Railroad Retirement Act or Social Security Act derived from her own employment. The present law requires a reduction in the the spouse's annuity by the amount of benefits derived from her own employment, as well as by the amount of certain other benefits to which she may be entitled. The spouses' annuity is the only benefit under the Railroad Retirement Act which cannot now be paid in full concurrently with other benefits under the Social Security and Railroad Retirement Acts, although in the past there were others. The discriminatory provisions against spouses should be removed.

The change in the law as to spouse's annuities would, of course, increase the costs of the railroad retirement system. It is estimated that the added costs of this change would be about \$14 million a year on a level basis. When H.R. 3157 passed the House in June of this year, there was a deficit on a long-range actuarial basis in the financing of the system of about \$20 million a year. A deficit in this amount is considered to be within the range of actuarial tolerance, and the system was regarded as being in a satisfactory financial condition. Since that time, Public Law 89-97, the Social Security Amendments of 1966, has been enacted. The changes in the Social Security Act will have the effect of increasing certain direct financial benefits under the Railroad Retirement Act and will add an estimated \$28 million a year to the costs of the system, increasing the deficit to about \$48 million a year.

With a deficit of this amount, the railroad retirement system is now in an unsatisfactory financial condition and the additional costs of the effect of this bill on spouse's annuities would cause the financial conditions to be considerably worse. The deficit would then be approximately \$62 million a year. The system cannot, of course, endure in an unsatisfactory financial condition.

The committee is cognizant of the fact the situation cannot be corrected unless additional revenue is obtained. It, therefore, amended the bill to change the limit on

creditable and taxable compensation for the railroad retirement system from the present flat \$450 a month to an amount equal to one-twelfth of the limit on annual taxable wages for the social security system. As we know, the annual taxable wage base for social security has been raised to \$6,600 from \$4,800, an increase of \$1,800 a year. The effect of the amendment would be to raise the base for the railroad retirement system to \$550 a month from the present \$450, an increase of the equivalent of only \$1,200 a year.

The increase in the base will provide additional benefits for those railroad employees whose earnings exceed \$450 a month and who will have to pay additional tax amounts. Those employees, who do not earn over \$450 a month, will pay no additional taxes and will gain no credits toward higher benefits.

The increase in the compensation base will reduce the deficit from the projected \$62 million a year to approximately \$24 million a year. The railroad retirement system would then be in a satisfactory financial condition. It is estimated that the change in base would produce an additional \$87 million a year in the tax income. Over one-half of this amount, \$48 million, would be required to pay the additional benefit amounts and the remainder, \$39 million, would apply to the reduction of the deficit.

As I have indicated, the problem cannot be solved without legislative action. Tax revenue to the system can be increased only by increasing the taxable wage base, or by raising tax rates. A rate increase would have a harsh impact, particularly on employees with low earnings. Their tax amounts would be increased and they would get no additional benefits; Congress, to my knowledge, has never increased social insurance taxes without an accompanying increase in benefit amounts.

In the financing of the recent improvement of social security benefits, the Congress has relied principally on an increase in the wage base for the increase in tax rates was relatively slight.

Tax rates for the railroad retirement system are, under existing law, automatically geared to the tax rates for the social security system, although the railroad rates are approximately twice as large. Therefore, the increases in the social security tax rates will be reflected in the railroad retirement rates. There is not now a coordination as to the earnings base. Historically, the railroad retirement base has always, except for a few months in the late 1950's, equaled or exceeded the social security base. It is also significant that even with the change, a substantially lower percentage of gross railroad earnings would be taxable than was the case when the system was first established, and the monthly base was only \$300.

The increase in the railroad retirement tax base will, of course, add to the taxes of railroad companies, but the larger increase in the social security tax base will also add to the taxes for companies in industry covered by the social security system.

Finally, it is to be noted that if there is a difference in the taxable wage law, those under railroad retirement or compared with those under social security, then the hospital insurance program would be administered by the Social Security Administration rather than by the Railroad Retirement Board as would be the case if this amendment were adopted.

In reporting this bill, it is recognized that benefits will accrue to those workers who pay the additional tax. Under the heading of "Conclusion," on page 5 of the report, it is stated:

"It is further recognized, because of the matching contribution of industry and labor, that those workers earning more than \$450 per month and living more than 5 years after retirement will receive more than they have

paid into the railroad retirement fund. This will naturally be a factor bearing on any future decisions in labor-management negotiations."

Mr. DOMINICK. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I am happy to yield to the Senator from Colorado.

Mr. DOMINICK. I appreciate the courtesy of the Senator from Rhode Island in yielding to me. As he well knows, the original bill on this proposal was introduced by me, so far as the Senate is concerned. It was a companion bill to one introduced by Representative HARRIS, of Arkansas, in the House of Representatives, which passed without this amendment.

My interest, at the time I introduced the bill, was to try to do something about the existing inequities so far as a specific class of railroad employees' spouses are concerned, in that they have their railroad retirement reduced by social security while their spouse is still alive, and yet they get both amounts when one of them has died.

It seems to me that this is wrong. This is the reason we included it in the bill. The bill passed the House, as I recall, almost unanimously, in a form without any taxation being added to it at all.

Mr. President, I suggest that the action which has just been taken by the Senate may easily result in the defeat of the entire bill, because I am positive that the House will not absorb this degree of autonomy by the Senate over what the House considers to be its private reserve.

Therefore, I believe that serious trouble lies ahead, so far as the future of the bill is concerned.

I intend to vote for it, because this was my original bill. I voted against the Pell amendment in subcommittee. I voted against it again on the floor. I am still going to vote for the bill, in the hope that we can get something out of conference. Perhaps, if the House remains adamant, we can show the Senate that if it is going to do anything for the spouses, it had better take the bill in the original draft as it was first introduced.

Mr. President, we are dealing with economic benefits which will accrue to 41,000 persons. Many of them will disappear as time goes on, which is inevitable to all of life, so that the drain on the retirement fund, which has been mentioned over and over again, will progressively decrease as time goes on.

It has already been stated that it would be 4 years before we really had to worry about retirement funds in any way whatsoever. Therefore, it seems to me, for us to take the position that we must move now, so far as railroad retirement funds are concerned is quite premature.

This assumes that Congress would not do anything after full hearings before the proper committee, in order to take care of the problem, if we presented it to them.

Thus, we are taking an action with the wrong committee, insofar as revenues are concerned, even within the Senate, not speaking of the fact that it comes from the wrong House.

I appreciate the Senator from Rhode Island yielding to me so that I may make these points, which I believe are important. They should be included in the RECORD. All Senators should know that the action taken in the Senate today may easily result in the inevitable defeat of the bill, if the Senate is refusing to move, and if the House will refuse to move—as I am sure it will.

AMENDMENT NO. 388

Mr. HARTKE. Mr. President, I call up my amendment No. 388, and ask unanimous consent that the reading of the amendment be dispensed with, but that it be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment is as follows:

"On page 1, line 8, strike out 'Sec. 2. This Act' and insert '(b) This section'.

"At the end of the bill, add the following:

"TITLE III COVERAGE OF TIPS

"SEC. 301. (a) (1) Subsection (a) of section 3202 of the Internal Revenue Code of 1954 (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new sentence: "An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3)(B) of section 3231 (e) is applicable may deduct an amount equivalent to such tax with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20."

"(2) Such section 3202 is amended by adding at the end thereof the following new subsection:

"SPECIAL RULE FOR TIPS.—

"(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2) as are under control of the employer.

"(2) If the tax imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the compensation of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter (an amount of money equal to the amount of the excess.

"(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

"(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

"(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

"(C) to deduct upon any payment of compensation (other than tips), but including funds turned over by the employee to the employer pursuant to paragraph (2) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

"(4) If the tax imposed by section 3201 with respect to tips which constitute compensation exceeds the portion of such tax

which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee."

"(b) (1) The second sentence of subsection (e) (1) of section 3231 of the Internal Revenue Code of 1954 (relating to definition of compensation for purposes of the Railroad Retirement Tax Act) is amended by inserting "(except as is provided under paragraph (3))" after "tips".

"(2) Subsection (e) of such section 3231 is further amended by adding at the end thereof the following new paragraph:

"(3) Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term 'compensation' also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20."

"(3) Such section 3231 is further amended by adding at the end thereof the following new subsection:

"(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received."

"(c) Section 3402(k) of such Code is amended (A) by inserting "or section 3202(c) (2)" after "section 3102(c) (2)" wherever it appears therein and (B) by inserting "or section 3202(a)" after "section 3102(a)" wherever it appears therein.

"(d) Section 6053(b) of such Code (relating to reporting of tips) is amended (1) by inserting "or section 3201 (as the case may be)" after "section 3101", and (2) by inserting "or section 3202 (as the case may be)" after "section 3102".

"(e) Section 6052(c) of such Code (relating to failure to report tips) is amended (1) by inserting "or which are compensation (as defined in section 3231(e))" after "which are wages (as defined in section 3121(a))", and (2) by inserting "or section 3201 (as the case may be)" after "section 3101".

"(f) (1) Subsection (h) of section 1 of the Railroad Retirement Act of 1937 is amended (A) by inserting "(1)" after "(h)", (B) by inserting in the second sentence thereof "(except as is provided under paragraph (2))" after "tips", and (C) by adding at the end thereof the following new paragraphs:

"(2) Solely for purposes of determining amounts to be included in the compensation of an individual who is an employee (as defined in subsection (b)) the term 'compensation' shall (subject to section 3(c)) also include cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than \$20.

"(3) Tips included as compensation by reason of the provisions of paragraph (2) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or (if no statement including such tips is so furnished) at the time received."

"302. The amendments made by this title shall apply only with respect to tips received by employees after 1965."

Mr. HARTKE. Mr. President, this amendment is one which came to my attention as a need in order to maintain the parallels between social security and railroad retirement. It came to my attention too late for consideration by the committee in connection with H.R. 3157, but I believe it is a worthy change and one which is needed in the light

of action taken in the Social Security Amendments Act. It does just one thing; namely, secures for tip employees of the railroads the same treatment of their tips for retirement purposes as that which is now accorded tip employees in the social security law. That is, it allows dining car employees, porters, and those relatively few employees of the railroads who receive tips to furnish the employer with a statement of those sums thus received in a calendar month. The employer then deducts the tax required, and the employee receives credit in his payments for the additional earnings represented by the tips. As in the case of the social security law, there is no payment made by the employer.

The numbers of persons thus affected is small in relation to total railroad employment, but for each of them the opportunity to count tips as wages for retirement purposes should be extended just as we have done to hotel and restaurant workers and others under social security.

I have talked with the Associate General Counsel of the Railroad Retirement Board, and he informs me that the Board has no objections. Neither do the railroad unions as represented by the Railway Labor Executives Association, and since the employers do not under this bill acquire additional financial obligations, I do not believe they have objections.

Consequently, Mr. President, I would like to ask that the committee accept this amendment, so that equity may be maintained in this small area of employment where tips are received.

Mr. PELL. Mr. President, I congratulate the Senator from Indiana on his amendment. It is excellent. I accept the amendment.

The amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment as amended.

Mr. MORSE. Mr. President, I ask for the yeas and nays on passage of the bill.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on the engrossment of the amendment and the third reading of the bill.

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

The VICE PRESIDENT. The bill having been read the third time the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll. The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Ohio [Mr. LAUSCHE], the Senator from Wyoming [Mr. MCGEE], the Senator from Virginia [Mr. ROBERTSON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. KENNEDY], and the Senator from Minnesota [Mr. MCCARTHY] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from New York [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from Virginia [Mr. ROBERTSON], the Senator from Mississippi [Mr. STENNIS], and the Senator from Ohio [Mr. YOUNG] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Kentucky [Mr. MORRON] and the Senator from Massachusetts [Mr. SALTONSTALL] are necessarily absent.

If present and voting, the Senator from Kentucky [Mr. MORRON] and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 247 Leg.]

YEAS—88

Alken, Allott, Anderson, Bartlett, Bass, Bayh, Bennett, Bible, Boggs, Brewster, Burdick, Byrd of Virginia, Byrd of West Virginia, Cannon, Carlson, Case, Clark, Cooper, Cotton, Curtis, Dirksen, Dodd, Dominick, Douglas, Eastland, Ellender, Ervin, Fannin, Fong, Gruening, Harris, Hart, Hartke, Hayden, Hickenlooper, Hill, Holland, Hruska, Inouye, Jackson, Javits, Jordan of North Carolina, Jordan of Idaho, Kennedy of Massachusetts, Kuchel, Long of Missouri, Long of Louisiana, Magnuson, Mansfield, McClellan, McGovern, McIntyre, McNamara, Metcalf, Miller, Mondale, Monroney, Montoya, Morse, Moss, Mundt, Murphy, Muskie, Nelson, Neuberger, Pastore, Pearson, Pell, Prouty, Proxmire, Randolph, Ribicoff, Russell of South Carolina, Russell of Georgia, Scott, Simpson, Smathers, Smith, Sparkman, Symington, Talmadge, Thurmond, Tower, Tydings, Williams of New Jersey, Williams of Delaware, Yarborough, and Young of North Dakota.

NAYS—0

NOT VOTING—12

Church, Fulbright, Gore, Kennedy of New York, Lausche, McCarthy, McGee, Morton, Robertson, Saltonstall, Stennis, and Young of Ohio.

So the bill (H.R. 3157) was passed.

The title was amended, so as to read: "An act to amend the Railroad Retirement Act of 1937 to eliminate the provisions which reduce the annuities of the spouses of retired employees by the amount of certain monthly benefits, to amend the Railroad Retirement Tax Act and for other purposes."

Mr. PELL. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I voted for the bill which was just passed because, in common with all Senators, I believe it should have been passed, and I am in sympathy with the humanitarian objectives of the bill; but I want to make it very clear that if the amendment which was attached to this bill that would tend to make the Railroad Retirement Fund solvent is eliminated from the bill by the House and it comes back in that form without the revenue provisions which would allow the Railroad Retirement Fund to remain solvent, I shall vote against it.

Mr. PELL. I quite understand. I sympathize with the view of the Senator.

Mr. MANSFIELD. Mr. President, we have just completed action on H.R. 8469, a bill to amend the Railroad Retirement Act of 1937. The main and most spirited issue involved was the constitutional question raised by the junior Senator from Louisiana [Mr. LONG] by his point of order. I want to commend him and the junior Senator from Rhode Island [Mr. PELL] and the senior Senator from Oregon [Mr. MORSE] for the articulate presentations of their respective points of view. The junior Senator from Rhode Island [Mr. PELL] demonstrated not only his persuasiveness, but also his mastery of the constitutional questions involved and the parliamentary precedents as was evidenced by the vote sustaining his position.

Again the Senate has demonstrated that a thorough presentation of legislation can be accomplished in a relatively short period of time when a genuine spirit of cooperation exists.

For this I thank every Member of the Senate.

Mr. MORSE. I thank the Senator from Rhode Island again for his leadership in the passage of a piece of legislation that I think is highly desirable.

We have in the House bill a good bill. I believe that it is in the interests of the railroad companies and in the interests of the railroad brotherhoods, and also in the interests of the Railway Retirement Board and its jurisdiction, and the continuation of its prerogatives, that this bill be passed. Therefore I shall vote for it.

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

Mr. PELL. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I wish to join the other Senators who have risen to speak about the measure and about its able manager. I commend the distinguished Senator from Rhode Island [Mr. PELL] for the skill he has shown in handling the measure, not only here in the Senate, where it passed originally, but also in the acceptance of the House measure. Mr. President, this skillful management of the bill demonstrate the Senator's understanding of the problem. He has amply evidenced that he is a veteran of this body.

I also wish to commend and compliment the distinguished Senator from Colorado [Mr. DOMINICK], who has shown his interest and his desire to be helpful in this particular bill, and who has indicated his support of it, now that some of the questions which he previously had in mind have been eradicated or overcome. This is proof of the constructive and bipartisan effort which has made this session of Congress a success. I commend and thank the Senator from Colorado.

In closing, let me add that I think this is another illustration of the humane-ness of the distinguished Senator from Rhode Island, who has done much for the railroad industry. They need the type of help which the distinguished Senator from Rhode Island has so willingly offered.

The Senator from Rhode Island has recognized, through this legislation, the needs of labor. To me it is another indication of the warmheartedness, the tolerance, and the understanding he has for the various segments that make up our population, which we are honored to represent in this body. I commend the distinguished Senator from Rhode Island.

Mr. PELL. I thank the majority leader very much indeed for those kind remarks.

I gladly underscore the remarks of the senior Senator from Oregon, because the action I am suggesting in voting on this bill now in no way indicates agreement with the view that the basic bill the Senate passed was unconstitutional.

What we are voting on now is a bill which seeks a compromise between the

various views that have been advanced, and we are voting on it on its merits. I continue to believe that the Senate was correct in its view and its wisdom in voting the original measure to be constitutional. The Senator from Oregon knows how grateful I am to him for his help and support the other day, and for the good advice and counsel he gave me at that time.

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

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

"(5) 14½ percent of so much of the compensation paid to such employee representative for services rendered by him after December 31, 1968,"

(c) Section 3221(a) of such Code (relating to rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following: 73 Stat. 29.
26 USC 3221.

"(1) 6¼ percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1965,

"(2) 6½ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1965,

"(3) 6¾ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1966,

"(4) 7 percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1967, and

"(5) 7¼ percent of so much of the compensation paid by such employer for services rendered to him after December 31, 1968,".

EFFECTIVE DATES

SEC. 6. The amendments made by sections 1 and 3 of this Act shall take effect with respect to annuities accruing and deaths occurring in months after the month in which this Act is enacted, and shall apply also to annuities paid in lump sums equal to their commuted value because of a reduction in such annuities under section 2(e) of the Railroad Retirement Act of 1937, as in effect before the amendments made by this Act, as if such annuities had not been paid in such lump sums: *Provided, however,* That the amounts of such annuities which were paid in lump sums equal to their commuted value shall not be included in the amount of annuities which become payable by reason of section 1 of this Act. The amendments made by section 2 of this Act shall apply only with respect to tips received after 1965. The amendments made by section 4 of this Act shall apply only with respect to calendar months after the month in which this Act is enacted. The amendments made by section 5 of this Act shall apply only with respect to compensation paid for services rendered after September 30, 1965.

65 Stat. 683.
45 USC 228b.

Approved September 29, 1965.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 976 (Comm. on Interstate & Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 111 (1965):

Sept. 14: Considered and passed House.

Sept. 15: Considered and passed Senate.

Commissioner's Bulletin

SOCIAL SECURITY ADMINISTRATION

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October 4, 1965

AMENDMENTS TO THE RAILROAD RETIREMENT ACT

To Administrative, Supervisory,
and Technical Employees

On September 29 the President signed H. R. 10874, a bill amending the railroad retirement law. Several of the changes made by the new legislation (P. L. 89-212) are related to the Social Security Amendments of 1965. Of particular importance in this respect is the change in the railroad retirement monthly earnings and tax base from \$450 to \$550.

Earnings and tax base increase

P. L. 89-212 specifies that the maximum creditable and taxable monthly compensation under the Railroad Retirement Act and the Railroad Retirement Tax Act for months after the month of enactment shall be one-twelfth of the social security annual wage base or \$450 a month, whichever is greater. The effect of this amendment, under present social security law, is to increase the monthly railroad retirement earnings and tax base from \$450 to \$550 beginning with January 1966. Should there be future increases in the social security earnings base the railroad retirement earnings and tax base will automatically be increased.

This change brings into play hospital insurance provisions of the Social Security Amendments of 1965 which are applicable for years in which the earnings and tax bases of the railroad retirement and social security programs are equal. For such years, hospital insurance taxes on railroad retirement employment will be levied under the railroad retirement taxing provisions of the law, and transferred to the Federal Hospital Insurance Trust Fund under provisions similar to the financial interchange provisions which apply to cash benefits under the two programs. Also, in such years the Railroad Retirement Board will make determinations as to the rights of railroad retirement beneficiaries to hospital insurance benefits, but payment (except to Canadian hospitals) will be made from the Federal Hospital Insurance Trust Fund. Hospital insurance benefits, financed from the Railroad Retirement Account, will be provided for railroad retirement beneficiaries in Canadian hospitals. (If the provision increasing

the railroad retirement earnings and tax base had not been enacted, hospital insurance taxes on railroad employment would have been levied under the social security taxing provisions of the law, and hospital insurance benefits for railroad retirement beneficiaries would have been provided under social security on the same basis as for social security beneficiaries.)

Tax rate decrease

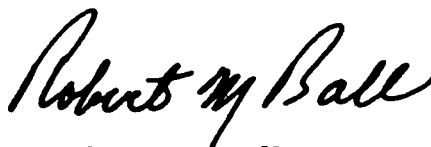
P. L. 89-212 reduces employee-employer contributions under the railroad retirement system by 1 percent of payroll (from 8.125 percent to 7.125 percent), effective October 1, 1965. The decrease would be a temporary one. One-fourth of the decrease, in terms of the contributions scheduled in prior law, will be wiped out each January 1 for the next 4 years, so that the decrease will be eliminated by January 1, 1969. (On that date railroad retirement employee and employer taxes--including hospital insurance taxes--will become 9.40 percent; they will rise to a maximum of 10.15 percent each on January 1, 1987.) On introducing H. R. 10874 in the House, Congressman Oren Harris (D., Ark.) Chairman of the Interstate and Foreign Commerce Committee, explained that the reduction in the railroad retirement contribution rates was designed to "equalize the tax impact on both the employees and the employers" of the change in the railroad retirement earnings and tax base.

Elimination of spouses' reduction provision

P. L. 89-212 deletes the provision of the Railroad Retirement Act which required that a spouse's annuity under the railroad program be reduced by the amount of any retirement or parent's insurance annuity which the spouse is eligible to receive under the railroad retirement program, or by the amount of any social security benefit, other than a wife's or husband's insurance benefit. This change is effective with annuities payable for October 1965. The provision now deleted was included in the Railroad Retirement Act in 1951 along with various other provisions (added to the railroad retirement law either in 1951, or in 1946) for the reduction of railroad retirement annuities; all of the other provisions reducing railroad retirement annuities because of the payment of a social security benefit, or of another railroad retirement annuity, had been deleted prior to the enactment of P. L. 89-212 except the provision specifying that where a person is eligible for more than one survivor annuity under the railroad retirement program, only the largest is to be paid.

Tips

The same treatment is given under the railroad retirement system to railroad employees who get tips as that provided under social security by the 1965 amendments for employees who get tips. As in the case of tips covered by social security, tips covered under the railroad retirement system would not be subject to the employer tax. Coverage for tips is effective for tips received after 1965.

A handwritten signature in black ink, reading "Robert M. Ball". The signature is written in a cursive style with a large, prominent initial "R".

Robert M. Ball
Commissioner

LISTING OF REFERENCE MATERIALS

U.S. Congress. House. Committee on Interstate and Foreign Commerce. *Railroad Retirement (Dual Benefits for Spouses). Hearings on H.R. 651, H.R. 1646, H.R. 1501, H.R. 3157 and H.R. 6296, 89th Congress, 1st session.*

U.S. Congress. Senate. Committee on Labor and Public Welfare. *Amending the Railroad Retirement Act of 1937. Hearings on H.R. 3157, 89th Congress, 1st session.*

U.S. Congress. House. Committee on Interstate and Foreign Commerce. *Railroad Retirement Act Amendments--Spouse Benefits, Wage Base, Tax Rates. Hearings on H.R. 10874, 89th Congress, 1st session.*