time seeking a determination of just compensation in a court of competent jurisdiction. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States in parcels A, B, C, and D of this subsection, and for the removal of equipment, facilities, and personal property therefrom: *Provided*, That in no event shall the Secretary allow operations at the Marshall Hall Amusement Park to continue beyond January 1, 1980. The Secretary shall, on lands acquired for the purposes of this park, implement a development plan which will assure public access to, and public use and enjoyment of, such lands. To further the preservation objective of this Act, the Secretary of the Interior may accept donations of scenic easements in the land within the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section."

Development plan.

(d) In section 4, delete "$5,657,000" and insert "$10,557,000".

Appropriation. 75 Stat. 780; 86 Stat. 1063.

Approved October 15, 1974.

Public Law 93-445

AN ACT

October 16, 1974 [H. R. 15301]

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

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

Railroad Retirement Act of 1937, amendment.

TITLE I—THE RAILROAD RETIREMENT ACT OF 1974

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

45 USC 228a.

"DEFINITIONS

"SECTION 1. For the purposes of this Act—

45 USC 231.

"(a)(1) The term 'employer' shall include—

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

49 USC 1.

"(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad;

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

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"(iv) any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency, and any other association, bureau, agency, or organization which is controlled and maintained wholly or principally by two or more employers as defined in paragraph (i), (ii), or (iii) of this subdivision and which is engaged in the performance of services in connection with or incidental to railroad transportation; and

"(v) any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and its State and National legislative committees, general committees, insurance departments, and local lodges and divisions, established pursuant to the constitution or bylaws of such organization.

45 USC 151.

"(2) Notwithstanding the provisions of subdivision (1) of this subsection, the term 'employer' shall not include—

"(i) any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities; and

"(ii) any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general diesel-railroad system of transportation, but shall not exclude any part of the general diesel-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this paragraph.

"(b)(1) The term 'employee' means (i) any individual in the service of one or more employers for compensation, (ii) any individual who is in the employment relation to one or more employers, and (iii) an employee representative: *Provided, however*, That the term 'employee' shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to an employer as defined in paragraph (i) of subsection (a)(1) on or after August 29, 1935.

"(2) The term 'employee' shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

"(c) The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor organization included in the term 'employer' as defined in subsection (a) who before or after August 29, 1935, was in the service of an employer as defined in subsection (a) and who is duly authorized and

designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office. 45 USC 151.

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

"(i)(A) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or (B) he is rendering professional or technical services and is integrated into the staff of the employer, or (C) he is rendering, on the property used in the employer's operations, personal services the rendition of which is integrated into the employer's operations; and

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

"(2) Notwithstanding the provisions of subdivision (1) of this subsection—

"(i) an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States;

"(ii) an individual shall be deemed to be in the service of a local lodge or division of a railway-labor-organization employer not conducting the principal part of its business in the United States only if (A) all, or substantially all, the individuals constituting the membership of such local lodge or division are employees of an employer conducting the principal part of its business in the United States; or (B) the headquarters of such local lodge or division is located in the United States; and

"(iii) an individual shall be deemed to be in the service of a general committee of a railway-labor-organization employer not conducting the principal part of its business in the United States only if (A) he is representing a local lodge or division described in clause (A) or (B) of paragraph (ii); or (B) all, or substantially all, the individuals represented by such general committee are employees of an employer conducting the principal part of its business in the United States; or (C) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage

under its jurisdiction, unless such mileage formula is inapplicable, in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation.

"(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof. For purposes of this subdivision, the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

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

"(i) he was on that date on leave of absence from his employment, expressly granted to him by the employer by whom he was employed, or by a duly authorized representative of such employer, and the grant of such leave of absence will have been established to the satisfaction of the Board before July 1947;

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

"(iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last employer by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such employer and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (B) solely for such last stated reason an employer by whom he was employed before August 29, 1935, or an employer who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in paragraph (ii); or

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

"(2) Notwithstanding the provisions of subdivision (1) of this subsection, an individual shall not be deemed to have been in the employment relation to an employer on August 29, 1935, if before that date

he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last payroll period before August 29, 1935, in which he rendered service to an employer he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such payroll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a). 45 USC 228f.

"(f)(1) The term 'years of service' shall mean the number of years an individual as an employee shall have rendered service to one or more employers for compensation or received remuneration for time lost, and shall be computed in accordance with the provisions of section 3(i). Twelve calendar months, consecutive or otherwise, in each of which an employee has rendered such service or received such wages for time lost, shall constitute a year of service. Ultimate fractions shall be taken at their actual value, except that if the individual will have had not less than one hundred twenty-six months of service, an ultimate fraction of six months or more shall be taken as one year.

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

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

"(ii) service rendered to any express company, sleeping-car company, or carrier by railroad which was a predecessor of a company which, on August 29, 1935, was an employer as defined in paragraph (i) of subsection (a)(1), irrespective of whether such predecessor was an employer at the time such service was rendered; and

"(iii) service rendered to a person not an employer in the performance of operations involving the use of standard railroad equipment if such operations were performed by an employer on August 29, 1935.

"(g)(1) For purposes of section 3(i)(2) of this Act, an individual shall be deemed to have been in 'military service' when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

"(2) For purposes of section 3(i)(2) of this Act, a 'war service period' shall mean (A) any war period, or (B) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of a war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (C) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

"(3) For purposes of section 3(i)(2) of this Act, a 'war period' shall be deemed to have begun on whichever of the following dates is the earliest: (A) the date on which the Congress of the United States declared war; or (B) the date as of which the Congress of the United States declared that a state of war has existed; or (C) the date on

which war was declared by one or more foreign states against the United States; or (D) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states; or (E) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

"(4) For purposes of section 3(i)(2) of this Act, a 'war period' shall be deemed to have ended on the date on which hostilities ceased.

"(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. 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. 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 9, the period during which such compensation will have been earned.

"(2) 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 determining amounts to be included in the compensation of an employee, the term 'compensation' shall 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.

"(4) Tips included as compensation by reason of the provisions of subdivision (3) 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. Tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

26 USC 6053.

"(5) In determining compensation, there shall be attributable as compensation paid to an employee in calendar months in which he is in military service creditable under section 3(i)(2), in addition to any other compensation paid to him with respect to such months—

"(i) for each such calendar month prior to 1968, $160;

"(ii) for each such calendar month after 1967 and prior to 1975, $260; and

"(iii) for each such calendar month after 1974, the amount which is creditable as such individual's 'wages' under the third paragraph of section 209 of the Social Security Act. 42 USC 409.

"(6) Notwithstanding the provisions of the preceding subdivisions of this subsection, the term 'compensation' shall not include—

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

"(ii) 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;

"(iii) remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be; 8 USC 1101.

"(iv) remuneration earned in the service of a local lodge or division of a railway-labor-organization employer with respect to any calendar month in which the amount of such remuneration is less than $25; and

"(v) remuneration for service as a delegate to a national or international convention of a railway-labor-organization employer 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'.

"(i) The term 'Board' means the Railroad Retirement Board.

"(j) The term 'company' includes corporations, associations, and joint-stock companies.

"(k) The term 'employee' includes an officer of an employer.

"(l) The term 'person' means an individual, a partnership, an association, a joint-stock company, a corporation, or the United States or any other governmental body.

"(m) The term 'United States,' when used in a geographical sense, means the States and the District of Columbia.

"(n) The term 'Social Security Act' means the Social Security Act as amended from time to time. 42 USC 1305.

"(o) An individual shall be deemed to have 'a current connection with the railroad industry' at the time an annuity begins to accrue to him and at death if, in any thirty consecutive calendar months before the month in which an annuity under this Act begins to accrue to him, or the month in which he dies if that first occurs, he will have been in service as an employee in not less than twelve calendar months and, if such thirty calendar months do not immediately precede such month, he will not have been engaged in any regular employment other than employment for an employer or employment with the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, or the Railroad Retirement Board in the period before such month and after the end of such thirty months. For the purposes of section 2(d) only, an individual shall be deemed also to have a 'current connection with the railroad industry' if he will have completed ten years of service and (A) he would be neither fully nor currently insured under the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act, or (B) he has no quarters of coverage under the Social Security Act.

"(p) The term 'annuity' means a monthly sum which is payable on the first day of each calendar month for the accrual during the preceding calendar month.

"(q) The terms 'quarter' and 'calendar quarter' shall mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.

42 USC 1305.

"(r) For purposes of this Act, a person shall be considered to be permanently insured under the Social Security Act on December 31, 1974, if he or she would be fully insured within the meaning of section 214(a) of that Act when he or she attains age 62 solely on the basis of his or her quarters of coverage under that Act acquired prior to January 1, 1975.

42 USC 414.

"ANNUITY ELIGIBILITY REQUIREMENTS

45 USC 231a.

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

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

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

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

"(iv) individuals who have a current connection with the railroad industry, whose permanent physical or mental condition is such as to be disabling for work in their regular occupation, and who (A) have completed twenty years of service or (B) have attained the age of sixty; and

"(v) individuals whose permanent physical or mental condition is such that they are unable to engage in any regular employment.

"(2) For the purposes of paragraph (iv) of subdivision (1), the Board, with the cooperation of employers and employees, shall secure the establishment of standards determining the physical and mental conditions which permanently disqualify employees for work in the several occupations in the railroad industry, and the Board, employers, and employees shall cooperate in the promotion of the greatest practicable degree of uniformity in the standards applied by the several employers. An individual's condition shall be deemed to be disabling for work in his regular occupation if he will have been disqualified by his employer for service in his regular occupation in accordance with the applicable standards so established; if the employee will not have been so disqualified by his employer, the Board shall determine whether his condition is disabling for work in his regular occupation in accordance with the standards generally established; and, if the employee's regular occupation is not one with respect to which standards will have been established, the standards relating to a reasonably comparable occupation shall be used. If there is no such comparable occupation, the Board shall determine whether the employee's condition is disabling for work in his regular occupation by determining whether under the practices generally prevailing in industries in which such occupation exists such condition is a permanent disqualification for work in such occupation. For purposes of this subdivision and paragraph (iv) of subdivision (1), an employee's 'regular occupation' shall be deemed to be the occupation in which he will have been engaged in more calendar months than the calendar months in which he will have been engaged in any other occupation during the last

preceding five calendar years, whether or not consecutive, in each of which years he will have earned wages or salary, except that, if an employee establishes that during the last fifteen consecutive calendar years he will have been engaged in another occupation in one-half or more of all the months in which he will have earned wages or salary, he may claim such other occupation as his regular occupation.

"(3) Such satisfactory proof shall be made from time to time as prescribed by the Board, of the disability provided for in paragraph (iv) or (v) of subdivision (1) and of the continuance of such disability (according to the standards applied in the establishment of such disability) until the employee attains the age of sixty-five. If the individual fails to comply with the requirements prescribed by the Board as to proof of the continuance of the disability until he attains the age of sixty-five years, his right to an annuity by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights to any subsequent annuity to which he may be entitled.

"(b) (1) An individual who—

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

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

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

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

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

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

45 USC 228c.

42 USC 402.

"(3) The provisions of subdivision (2) shall not supersede the provisions of any agreement reached through collective bargaining which provides for mandatory retirement at an age less than the applicable supplemental annuity closing date determined under such subdivision.

"(c) (1) The spouse of an individual, if—

"(i) such individual (A) is entitled to an annuity under subsection (a) (1) and (B) has attained the age of 60 and has com-

pleted thirty years of service or has attained the age of 62, and

"(ii) such spouse (A) has attained the age of 65, or (B) has attained the age of 60 and such individual has completed thirty years of service, or (C), in the case of a wife, has in her care (individually or jointly with her husband) a child who meets the qualifications prescribed in paragraph (iii) of subsection (d)(1) (without regard to the provisions of clause (B) of such paragraph),

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

"(2) A spouse who would be entitled to an annuity under subdivision (1) if he or she had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by 1/180 for each calendar month that the spouse is under age 65 when the annuity begins to accrue.

"(3) For the purposes of this Act, the term 'spouse' shall mean the wife or husband of an annuitant under subsection (a)(1) who (i) was married to such annuitant for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed, or in the month prior to his or her marriage to such annuitant was eligible for an annuity under paragraph (i) or (iv) of subsection (d)(1) or, on the basis of disability, under paragraph (iii) thereof, or is the parent of such annuitant's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant were members of the same household, or such wife or husband was receiving regular contributions from such annuitant toward her or his support, or such annuitant has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's annuity under subsection (a)(1) began.

"(d)(1) The following described survivors of a deceased employee who will have completed ten years of service and will have had a current connection with the railroad industry at the time of his death shall, subject to the conditions set forth in subsections (g) and (h), be entitled to annuities, if they have filed application therefor, in the amounts provided under section 4 of this Act—

42 USC 416.

"(i) a widow (as defined in section 216 (c) and (k) of the Social Security Act) or widower (as defined in section 216 (g) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) will have attained the age of sixty or (B) will have attained the age of fifty but will not have attained age sixty and is under a disability which began before the end of the period prescribed in subdivision (2), and who, in the case of a widower, was receiving at least one-half of his support from the deceased employee at the time of her death or at the time her annuity under subsection (a)(1) began;

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

"(iii) a child (as defined in section 216 (e) and (k) of the Social Security Act) of such a deceased employee who (A) will be less than eighteen years of age, or (B) will be less than twenty-

two years of age and a full-time student at an educational institution, or (C) will, without regard to his age, be under a disability which began before he attained age twenty-two or before the close of the eighty-fourth month following the month in which his most recent entitlement to an annuity under this paragraph terminated because he ceased to be under a disability, and who is unmarried and was dependent upon the employee at the time of the employee's death; and

"(iv) a parent (as defined in section 202(h)(3) of the Social Security Act) of such a deceased employee who (A) will have attained the age of sixty and (B) will have received at least one-half of his or her support from such deceased employee at the time of the employees' death and (C) will not have remarried after the employee's death: *Provided, however*, That no parent will be entitled to an annuity under this paragraph on the basis of the deceased employee's compensation and years of service in any case where such employee died leaving a widow or widower or a child who is, or who might in the future become, entitled to an annuity under this subsection. 42 USC 402.

"(2) The period referred to in clause (B) of subdivision (1)(i) is the period (i) beginning with the latest of (A) the month of the employee's death, (B) in the case of a widow, the last month for which she was entitled to an annuity under paragraph (ii) of subdivision (1) as the widow of the deceased employee, or (C) the month in which the widow's or widower's previous entitlement to an annuity as the widow or widower of the deceased employee terminated because her or his disability had ceased and (ii) ending with the month before the month in which she or he attains age sixty, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

"(3) For purposes of paragraph (i) or (iii) of subdivision (1), a widow, widower, or child shall be under a disability if her or his permanent physical or mental condition is such that she or he is unable to engage in any regular employment. The provisions of subsection (a)(3) of this section as to the proof of disability shall apply with regard to determinations with respect to disability under subdivision (1).

"(4) In determining for purposes of this subsection and subdivision (3) of subsection (c) whether an applicant is the wife, husband, widow, widower, child, or parent of a deceased employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied deeming, for this purpose, individuals entitled to an annuity under subsection (c) to be entitled to benefits under subsection (b) or (c) of section 202 of the Social Security Act and individuals entitled to an annuity under paragraph (i) or (ii) of subsection (d)(1) to be entitled to a benefit under subsection (e), (f), or (g) of section 202 of the Social Security Act. For purposes of paragraph (iii) of subdivision (1), a child shall be deemed to have been dependent upon his parent employee if the conditions set forth in section 202(d) (3), (4), or (9) of the Social Security Act are fulfilled. The provisions of paragraph (7) of section 202(d) of the Social Security Act (defining the terms 'full-time student' and 'educational institution') shall be applied by the Board in the administration of this subsection as if the references therein to the Secretary were references to the Board. A child who attains age twenty-two at a time when he is a full-time student (as defined in subparagraph (A) of paragraph (7) of section 202(d) of the Social Security Act and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year 42 USC 416. 42 USC 402.

college or university shall be deemed (for purposes of determining his continuing or initial entitlement to an annuity under this subsection) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever first occurs).

"(e)(1) No individual shall be entitled to an annuity under subsection (a)(1) until he shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1(a) (but with the right to engage in other employment to the extent not prohibited by subdivision (3) or (4) of this subsection or by subsection (f)). As used in this subsection, the term 'compensated service' shall not include any service as an elected public official of the United States, a State, or any political subdivision of a State.

"Compensated service."

"(2) An annuity under subsection (a)(1) shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person, or persons, by whom he was last employed: *Provided, however,* That this requirement shall not apply to individuals mentioned in paragraphs (iv) and (v) of subsection (a)(1) prior to attaining age sixty-five: *Provided further,* That, notwithstanding the provisions of the preceding proviso and of clause (i) of subsection (c)(1) of this section, an annuity shall be paid to the spouse of an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the preceding proviso: *And provided further,* That, notwithstanding the provisions of the first proviso of this subdivision and of clause (iii) of subsection (b)(1) of this section, a supplemental annuity shall be paid to an individual only if such individual shall have satisfied the requirements of this subdivision without regard to the first proviso thereof.

"(3) No annuity under subsection (a)(1) or supplemental annuity under subsection (b)(1) shall be paid with respect to any month in which an individual in receipt of an annuity or supplemental annuity thereunder shall render compensated service to an employer or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue. Individuals receiving annuities under subsection (a)(1) shall report to the Board immediately all such compensated service.

"(4) No annuity under paragraph (iv) or (v) of subsection (a)(1) shall be paid to an individual with respect to any month in which the individual is under age sixty-five and is paid more than $200 in earnings from employment or self-employment of any form: *Provided, however,* That for purposes of this subdivision, if a payment in any one calendar month is for accruals in more than one calendar month, such payment shall be deemed to have been paid in each of the months in which accrued to the extent accrued in such month. Any such individual under the age of sixty-five shall report to the Board any such payment of earnings for such employment or self-employment before receipt and acceptance of an annuity for the second month following the month of such payment. A deduction shall be imposed, with respect to any such individual who fails to make such report, in the annuity or annuities otherwise due the individual, in an amount equal to the amount of the annuity for each month in which he is paid such earnings in such employment or self-employment, except that the first deduction imposed pursuant to this sentence shall in no case exceed an amount equal to the amount of the annuity otherwise due for the first

month with respect to which the deduction is imposed. If pursuant to the first sentence of this subdivision an annuity was not paid to an individual with respect to one or more months in any calendar year, and it is subsequently established that the total amount of such individual's earnings during such year as determined in accordance with that sentence (but exclusive of earnings for services described in subdivision (3)) did not exceed $2,400, the annuity with respect to such month or months, and any deduction imposed by reason of the failure to report earnings for such month or months under the third sentence of this subdivision, shall then be payable. If the total amount of such individual's earnings during such year (exclusive of earnings for services described in subdivision (3)) is in excess of $2,400, the number of months in such year with respect to which an annuity is not payable by reason of such first and third sentences shall not exceed one month for each $200 of such excess, treating the last $100 or more of such excess as $200; and if the amount of the annuity has changed during such year, any payments of annuities which become payable solely by reason of the limitations contained in this sentence shall be made first with respect to the month or months for which the annuity is larger.

"(5) The annuity of a spouse under subsection (c) shall, with respect to any month, be subject to the same provisions of this subsection as the individual's annuity. In addition, the annuity of a spouse under subsection (c) shall not be payable for any month if the individual's annuity under subsection (a)(1) is not payable for such month by reason of the provisions of this subsection.

"(f)(1) That portion of the individual's annuity as is computed under section 3(a) of this Act on the basis of (A) his compensation and years of service subsequent to December 31, 1974, and (B) his wages and self-employment income derived from employment and self-employment under the Social Security Act and that portion of the individual's annuity as is computed under section 3(h) of this Act shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act in the same manner as if such portion of such annuity were a monthly insurance benefit under that Act: *Provided, however*, That the provisions of this subdivision shall be applicable to the annuity of an individual only if such individual would be fully insured under the Social Security Act on the basis of wages and self-employment income derived from employment and self-employment under that Act and on the basis of compensation derived from service as an employee after December 31, 1974, if such service as an employee had been included in the term 'employment' as defined in that Act. Any person in receipt of an annuity subject to deduction under this subsection shall report to the Board the receipt of excess earnings as defined in paragraph (3) of section 203(f) of the Social Security Act.

42 USC 1305.

42 USC 403.

"(2) That portion of the spouse's annuity under subsection (c) which is derived from the portion of the individual's annuity subject to deductions under subdivision (1) and that portion of the spouse's annuity as is computed under section 4(e) of this Act shall be subject to deductions on account of work pursuant to the provisions of section 203 of the Social Security Act in the same manner as if such portion of such spouse's annuity were a monthly insurance benefit under that Act. In addition, such portion of the spouse's annuity shall be subject to deductions if the individual's annuity is subject to deductions under subdivision (1) in the same manner as if such portion of such spouse's annuity were a monthly insurance benefit under the Social Security Act.

"(g) (1) No annuity shall be paid to a survivor under subsection (d) with respect to any month in which such survivor renders service for compensation as an employee of an employer. Survivors receiving annuities under subsection (d) shall report to the Board immediately all such service for compensation.

"(2) Deductions, in amounts and at such time or times as the Board shall determine, shall be made from any payments to which a survivor is entitled under subsection (d) until the total of such deductions equals such survivor's annuity under that subsection for any month, if for such month such survivor is under the age of seventy-two and is charged with excess earnings under section 203(f) of the Social Security Act or, having engaged in any activity outside the United States, would be charged under such section 203(f) with any excess earnings derived from such activity if it had been an activity within the United States. For purposes of this subdivision the Board shall have the authority to take such actions and to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to take or to make under section 203(h)(3) of the Social Security Act if the survivors were receiving the annuities to which this subdivision applies under section 202 of such Act: *Provided, however*, That in determining a survivor's excess earnings for a year for the purposes of this subdivision there shall not be included his income from employment or self-employment during months beginning with the month with respect to which he ceases to be qualified for an annuity. Survivors receiving annuities under subsection (d) shall report to the Board the receipt of excess earnings described in this subdivision.

42 USC 403.

42 USC 402.

"(h) (1) In the event military service credited under section 3(i)(2) of this Act is or has been used as the basis or as a partial basis for a pension, disability compensation, or any other gratuitous benefits payable on a periodic basis under any other Act of Congress, any annuity of an individual under subsection (a)(1) which is based in part on such military service shall be reduced, with respect to a calendar month for all or part of which such other benefit is also payable, by (i) the proportion which the number of years of service by which such military service increases the years of service bears to the total years of service, or (ii) the aggregate amount of such pension or other benefit with respect to that month, whichever would result in the smaller reduction: *Provided, however*, That in no case shall the reduction under this subdivision operate to reduce the annuity of an individual under subsection (a)(1) below the amount it would have been if military service had not been included in the individual's years of service. If the annuity of an individual under subsection (a)(1) is reduced for any month by reason of this subdivision, any annuity payable to the spouse of such individual for such month under subsection (c) shall be reduced proportionately.

"(2) The supplemental annuity provided an individual by subsection (b) shall, with respect to any month, be reduced by the amount of the supplemental pension, attributable to the employer's contribution, that such individual is entitled to receive for that month under any other supplemental pension plan: *Provided, however*, That the maximum of such reduction shall be equal to the amount of the supplemental annuity less any amount by which the supplemental pension is reduced by reason of the supplemental annuity.

"(3) If a spouse entitled to an annuity under subsection (c) or a survivor entitled to an annuity under subsection (d) for any month is also entitled to annuity under subsection (a)(1) for such month, the annuity under subsection (c) or (d) shall be reduced, but not below

zero, by an amount equal to the annuity under subsection (a)(1): *Provided, however*, That the provisions of this subdivision shall not apply if either the spouse or survivor or the individual upon whose earnings record the spouse's or survivor's annuity under subsection (c) or (d) is based rendered service as an employee to an employer, or as an employee representative, prior to January 1, 1975.

"(4) If an annuitant is entitled to more than one annuity under subsections (c) and (d) for a month, such annuitant shall be entitled to only the larger of such annuities for such month, except that, if such annuitant so elects, he shall instead be entitled to only the smaller of such annuities for such month.

"COMPUTATION OF EMPLOYEE ANNUITIES

"SEC. 3. (a)(1) The annuity of an individual under section 2(a)(1) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the old-age insurance benefit or disability insurance benefit to which such individual would have been entitled under the Social Security Act if all of his or her service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. 45 USC 231b. 42 USC 1305.

"(2) For purposes of this subsection, individuals entitled to an annuity under paragraph (ii) of section 2(a)(1) of this Act shall, except for purposes of recomputations in accordance with the provisions of section 215(f) of the Social Security Act, be deemed to have attained age 65, and individuals entitled to an annuity under paragraph (iv) or (v) of such section 2(a)(1) shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act. 42 USC 415. 42 USC 423.

"(b)(1) The amount of the annuity of an individual provided under subsection (a) of this section shall be increased by an amount equal to (A) the amount of the annuity to which such individual would have been entitled (without regard to the requirement that an individual's years of service be ten or more) under section 2(a)(1) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, on the basis of his compensation and years of service prior to January 1, 1975, deeming such individual (i) to be eligible for such an annuity and (ii) to be entitled to no other benefit under either that Act or the Social Security Act except a benefit under the Social Security Act in the amount computed in accordance with the provisions of subclause (ii) of clause (C) of subsection (h)(1) or (h)(2) of this section, minus (B) the amount of the old-age insurance benefit to which such individual would have been entitled (before any deductions on account of work and subject to the last sentence of this subdivision) under the Social Security Act as in effect on December 31, 1974, if all his service as an employee after December 31, 1936, and before January 1, 1975, were included in the term 'employment' as defined in that Act, and if such individual (i) were age 65 and otherwise eligible for such a benefit and (ii) had no wages or self-employment income under that Act other than wages derived from service as an employee after December 31, 1936, and before January 1, 1975. For purposes of computing amounts under clause (A) of this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937 in cases where the individual is entitled to a benefit under subsection (h)(1) or (h)(2) of this section. For purposes of this subdivision, 18 'benefit computation years' shall be used in calculating an individual's 'average monthly wage', 45 USC 228b. 45 USC 228c.

except in computing increases in amounts determined under clause (A) of this subdivision pursuant to section 3(a)(6) of the Railroad Retirement Act of 1937.

45 USC 228c.

"(2) The amount computed under subdivision (1) of this subsection shall be increased by 65 per centum of the percentage increase obtained by comparing the unadjusted Consumer Price Index for the month of September 1976 with the unadjusted Consumer Price Index for the September immediately preceding the earlier of (A) the calendar year in which the individual's annuity under section 2(a)(1) of this Act begins to accrue or (B) the calendar year 1981.

"(c) If an individual entitled to an annuity under section 2(a)(1) of this Act will have rendered service as an employee to an employer, or as an employee representative, subsequent to December 31, 1974, the amount of the annuity of such individual provided under the preceding subsections of this section shall be increased by $1.50 for each of the first ten years of service that the individual has prior to January 1, 1975, and by $1.00 for each year of service prior to January 1, 1975, that the individual has in excess of ten years.

"(d)(1) The amount of the annuity of an individual provided under the preceding subsections of this section shall be increased according to the following formula:

$$I = Y\ (.005A + 4)$$

"(2) The amount computed under subdivision (1) of this subsection shall be increased according to the following formula:

$$I = 2.6YC$$

"(3) The amount computed under subdivisions (1) and (2) of this subsection shall be further increased according to the following formula:

$$I = .005Y[.65BC - (B - D)]$$

In no event shall this subdivision result in a decrease in the amounts computed under subdivisions (1) and (2).

"(4) For purposes of the formulae set forth in this subsection:

"'I' represents the amount of increase in dollars;

"'A' represents the employee's average monthly compensation for service after 1974;

"'Y' represents the number of years of service of the employee after 1974;

"'C' represents the percentage increase (converted to a decimal fraction) obtained by comparing the unadjusted Consumer Price Index for the month of September 1976 with the unadjusted Consumer Price Index for the September immediately preceding the earlier of the calendar year in which the individual's annuity under section 2(a)(1) of this Act begins to accrue, or the calendar year 1981;

"'B' represents the employee's average monthly compensation for his years of service after 1974 (disregarding, for this purpose, compensation for any month after 1980 in excess of one-twelfth of the maximum taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for the calendar year 1980);

26 USC 3121.

"'D' represents the employee's average monthly compensation for his years of service after 1974 (disregarding, for this purpose, compensation for any month after 1976 in excess of one-twelfth of the maximum taxable 'wages' as defined in section 3121 of the Internal Revenue Code for the calendar year 1976).

"(e) The supplemental annuity of an individual under section 2(b) of this Act shall be $23 plus an additional amount of $4 for each year

of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed $43.

"(f)(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act, and disregarding any increases in such total amount which become effective after the date on which such begins to accrue, exceed an amount equal to the sum of individual's annuity under section 2(a)(1) of this Act (A) 100 per centum of his 'final average monthly compensation' up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, plus (B) 80 per centum of so much of his 'final average monthly compensation' as exceeds 50 per centum of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsections (b), (c), and (d) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsections (b), (c), and (d) of this section are reduced to zero, whichever occurs first: *Provided, however*, That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the 'final average monthly compensation' of an individual shall be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue by 24. For purposes of this subdivision, the term 'compensation' shall include 'compensation' as defined in section 1(h) of this Act, 'wages' as defined in section 209 of the Social Security Act, 'self-employment income' as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided, however*, That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income.

42 USC 1305.

26 USC 3121.

42 USC 409.

42 USC 411.

42 USC 417, 429.

"(2) If, in the case of an individual whose annuity under section 2(a)(1) of this Act began to accrue prior to January 1, 1983, the annuity (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act and disregarding any amount provided by subsection (h) of this section) plus the supplemental annuity to which such individual is entitled for any month under this Act, together with the annuity, if any, of the spouse of such individual (before any reduction due to such

spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act and disregarding any amount provided by section 4(e) of this Act), before any reductions under the provisions of section 2(f) of this Act, is less than the total amount which would have been payable to such individual and his spouse for such month, on the basis of the individual's compensation and years of service, under the provisions of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, disregarding, for purposes of the computations under such Railroad Retirement Act of 1937, compensation for any month after December 31, 1974, in excess of one-twelfth of the maximum annual taxable 'wages' (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year 1974, the annuity of such individual and the annuity of such spouse, if any, shall be increased, without regard to the provisions of subdivision (1) of this subsection, proportionately so as to equal such total amount. For the purpose of computing amounts under this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937. For purposes of computing amounts payable under the Railroad Retirement Act of 1937, any increases in the amounts determined under the first proviso of section 3(e) of such Act which would have become effective after December 31, 1974, shall be disregarded.

42 USC 1305.

45 USC 228a.

26 USC 3121.

45 USC 228c.

"(3) If for any month in which an annuity accrues and is payable under this Act the annuity to which an individual is entitled under this Act (or would have been entitled except for a reduction pursuant to a joint and survivor election), together with the annuity, if any, of the spouse of such individual, is less than the total amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act if such individual's service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act, such annuity or annuities shall be increased proportionately to such total amount, or such additional amount: *Provided, however*, That if an annuity accrues to an individual or a spouse for a part of a month, the amount payable for such part of a month under this subdivision shall be one-thirtieth of the amount payable under this subdivision for an entire month, multiplied by the number of days in such part of a month. For purposes of this subdivision, (i) persons not entitled to an annuity under section 2 of this Act shall not be included in the computation under this subdivision except a spouse who could qualify for an annuity under section 2(c) of this Act if the individual from whom the spouse's annuity under this Act would derive had attained age 60 or 62, as the case may be, and such individual's children who meet the definition as such contained in section 216 (e) of the Social Security Act; (ii) after an annuity has been certified for payment and this subdivision was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under this subdivision, or was then applicable but later became inapplicable, any recertification in such annuity under this subdivision shall not take into account persons not entitled to an annuity under section 2 of this Act except a spouse who could qualify for an annuity under section 2(c) of this Act when she attains age 60 or 62, as the case may be, if the individual from whom the spouse's annuity would derive had attained age 60 or 62, as the case may be, and who was married to such individual at the time he applied for his annuity; and (iii) in computing the amount to be paid under this subdivision the only benefits under title II of the Social

42 USC 416.

42 USC 423.

Security Act which shall be considered shall be those to which the persons included in the computation are entitled. 42 USC 401.

"(g) Those portions of the annuity of an individual as are computed under subsections (b) and (d) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before the date on which the applicable increase under this subsection becomes effective, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 percent), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1977, with such index for the calendar quarter ending March 31, 1976, (B) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1978, with the higher of (i) such index for the calendar quarter ending March 31, 1977, or (ii) such index for the calendar quarter ending March 31, 1976, (C) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1979, with the highest of (i) such index for the calendar quarter ending March 31, 1978, (ii) such index for the calendar quarter ending March 31, 1977, or (iii) such index for the calendar quarter ending March 31, 1976, and (D) the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1980, with the highest of (i) such index for the calendar quarter ending March 31, 1979, (ii) such index for the calendar quarter ending March 31, 1978, (iii) such index for the calendar quarter ending March 31, 1977, or (iv) such index for the calendar quarter ending March 31, 1976. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter. The increases provided under clauses (A), (B), (C), and (D) of this subsection shall be effective on June 1, 1977, June 1, 1978, June 1, 1979, and June 1, 1980, respectively.

"(h)(1) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an 42 USC 1305.

employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

"(2) The amount of the annuity provided under subsections (a) through (d) of this section to an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act as of December 31 of the calendar year prior to 1975 in which he last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which he last performed service as an employee under this Act, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which he last performed service as an employee under this Act and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

42 USC 1305.

"(3) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment

under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

"(4) The amount of the annuity provided under subsections (a) through (d) of this section of an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (3) of this subsection, but (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act as of December 31 of the calendar year prior to 1975 in which such individual last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last performed service as an employee under this Act or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last performed service as an employee under this Act and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term 'employment' as defined in that Act.

42 USC 1305.

"(5) The amount computed under subdivision (1), (2), (3), or (4) of this subsection shall be increased by the same percentage, or percentages, as benefits under the Social Security Act are increased, or would have been increased had there been no general benefit increases under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

42 USC 415.

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

Years of service.

"(2) The 'years of service' of an individual shall also include his voluntary or involuntary military service, within or without the United States, during any war service period: *Provided, however*, That such military service shall be included only if, prior to the beginning of his military service and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under this Act, or lost time as an employee for which he received remuneration, or was serving as an employee representative: *Provided further*, That such military service shall be included only subject to and in accordance with the provisions of subdivisions (1) and (3) of this subsection in the same manner as though military service were service rendered as an employee: *And provided further*, That such military service rendered after December 1956 shall not be included with respect to any month if (A) any benefits are payable for that month under the Social Security Act on the basis of such individual's wages and self-employ-

ment income, (B) such military service was included in the computation of such benefits, and (C) the inclusion of such military service in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable: *And provided further*, That an individual who entered military service prior to a war service period shall not be regarded as having been in military service in a war service period with respect to any part of the period for which he entered such military service.

"(3) The 'years of service' of an individual who was an employee on August 29, 1935, shall, if the total number of his 'years of service' as determined under subdivisions (1) and (2) is less than thirty, also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however*, That with respect to any such individual who rendered service to any employer subsequent to December 31, 1936, and who on August 29, 1935, was not an employee of an employer conducting the principal part of its business in the United States, no greater proportion of his service rendered prior to January 1, 1937, shall be included in his 'years of service' than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service subsequent to December 31, 1936, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this Act) for service rendered anywhere to an employer subsequent to December 31, 1936. 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.

Average monthly compensation.

"(j) The 'average 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 through August 1941: *Provided, however*, That where service in the period 1924 through 1931 in the one case, or in the period September 1940 through August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determing the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before June 1, 1959, or in excess of $400 for any month after May 31, 1959, and before November 1, 1963, or in excess of $450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) $450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as

defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965, shall be recognized. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the average monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity. If the 'average monthly compensation' computed under this subsection is not a multiple of $1, it shall be rounded to the next lower multiple of $1. Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 9 of this Act has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.

26 USC 3121.

Post, p. 1343.

"(k) The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

"(l) In cases where an annuity awarded under paragraph (iii) of section 2(a)(1) or under section 2(c)(2) of this Act is increased either by a change in the law or by a recomputation, the reduction for the increase in the anunity shall be determined separately and the period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after the first month for which such increase is effective.

"(m) The annuity of any individual under subsection (a) of this section for any month shall be reduced, but not below zero, by the amount of any monthly benefit payable to that individual for that month under title II of the Social Security Act.

42 USC 401.

"COMPUTATION OF SPOUSE AND SURVIVOR ANNUITIES

"SEC. 4. (a)(1) The annuity of a spouse of an individual under section 2(c) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act.

45 USC 231c.

42 USC 1305.

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

"(b) The amount of the annuity of a spouse of an individual provided under subsection (a) of this section shall be increased by an amount equal to 50 per centum of that portion of the individual's annuity as is computed under subsections (b), (c), and (d) of section 3 of this Act: *Provided, however*, That if the spouse is entitled to an annuity amount provided by subsection (e)(1) or (e)(2) of this section, the amount of such spouse's annuity provided by the preceding provisions of this subsection shall be reduced by the amount by which the amount computed in accordance with the

provisions of clause (C) of subsection (e)(1) or (e)(2) of this section was increased by the Social Security Amendments of 1965, 1967, and 1969, disregarding (A) the amount of any such increase resulting from the Social Security Amendments of 1967 equal to, or less than, the excess of $5 over 5.8 per centum of the lesser of (i) the amount computed under clause (C) of subsection (e)(1) or (e)(2) of this section before any increases derived from legislation enacted after the Social Security Amendments of 1967 or (ii) the amount of the spouse's annuity to which such spouse would have been entitled under section 2(e) of the Railroad Retirement Act of 1937, without regard to section 3(a)(2) of that Act or to increases derived from legislation enacted after 1968 and before any reduction on account of age, on the basis of the individual's compensation and years of service prior to January 1, 1975, and (B) the amount of any such increase resulting from the Social Security Amendments of 1969 equal to, or less than, $5: *Provided further*, That if the spouse is entitled to an annuity under section 2(a)(1) of this Act, the amount of the annuity of such spouse under this subsection shall, subject to the third proviso of this subsection, be increased by an amount equal to the amount by which the amount of the annuity of such spouse provided under subsection (a) of this section was reduced by reason of the provisions of subsection (i)(2) of this section: *And provided further*, That if the total of (A) the amount of the spouse's annuity provided under subsection (a) of this section (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act), or, in the case of a spouse entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act, the amount to which such spouse would be entitled under subsection (a) if she or he were not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act, plus (B) the amount of her or his annuity under this subsection would, with respect to any month, before any reductions on account of age, exceed 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, the amount of the annuity of such spouse under this subsection shall be reduced until the total of such annuity amounts equals 110 per centum of such amount. The Board shall have the authority to approximate the amount of any reduction prescribed by the first proviso of this subsection.

42 USC 302 notes, 401 note.

45 USC 228b.

45 USC 228c.

42 USC 401 note.

Ante, p. 1312.

42 USC 1305.

42 USC 401, 423.

"(c) If (A) the total amount of the annuity of a spouse of an individual as computed under the preceding subsections of this section as of the date on which the annuity of such individual under section 2(a)(1) of this Act began to accrue (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act) plus (B) the total amount of the annuity and supplemental annuity of the individual (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) subject to the provisions of section 3(f)(1) of this Act would, before any reductions in the amounts specified in clauses (A) and (B) on account of age and disregarding any increases in such amounts which become effective after the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue, exceed the amount determined under clauses (A) and (B) of section 3(f)(1) of this Act, the portion of the annuity of such spouse determined under subsection (b) of this section as of the date on which the individual's annuity under section 2(a)(1) began to accrue

Ante, p. 1319.

shall be reduced until the sum of the amounts specified in clauses (A) and (B) of this subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such amount under subsection (b) is reduced to zero, whichever occurs first. If, after such amount under subsection (b) is reduced to zero, the sum of the remaining amounts specified in clauses (A) and (B) of this subsection still exceeds the amount determined under clauses (A) and (B) of section 3(f)(1), the supplemental annuity of the individual first, and then, if necessary, the annuity amount of the individual computed under subsections (b), (c), and (d) of section 3 as of the date on which the individual's annuity under section 2(a)(1) began to accrue, shall be reduced until the amounts specified in clauses (A) and (B) of this subsection equals the amount determined under clauses (A) and (B) of section 3(f)(1) or until such supplemental annuity and such annuity amount are reduced to zero, whichever occurs first. Notwithstanding the preceding provisions of this subsection, the provisions of this subsection shall not operate to reduce the total of the amounts specified in clauses (A) and (B) of this subsection below $1,200.

"(d) That portion of the annuity of the spouse of an individual as is determined under subsections (b) and (c) of this section shall be increased by the same percentage, or percentages, as the individual's annuity is, or has been, increased pursuant to the provisions of section 3(g) of this Act.

"(e)(1) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 2(a)(1) of this Act began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) such individual will have completed ten years of service prior to January 1, 1975, and such spouse will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the smaller of (C) the primary insurance amount to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the wife's or husband's insurance benefit to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, if such individual's service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act, if such individual had no wages or self-employment income under the Act other than wages derived from such service as an employee, and if such spouse were entitled to no other benefit under that Act: *Provided, however*, That the increase under the provisions of this subdivision shall not be less than 50 per centum of the portion of the annuity, if any, of such individual determined under the provisions of section 3(h)(1) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

42 USC 1305.

"(2) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) such individual will have completed ten years of service prior to January 1, 1975, and such spouse will have been permanently insured under the Social Security Act as of December 31 of the calendar

year prior to 1975 in which such individual last rendered service as an employee, shall be increased by an amount equal to the smaller of (C) the primary insurance amount to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his or her wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last rendered service as an employee or (D) the wife's or husband's insurance benefit to which such spouse would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, if such individual's service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term 'employment' as defined in that Act, if such individual had no wages or self-employment income under that Act other than wages derived from such service as an employee, and if such spouse were entitled to no other benefit under that Act: *Provided, however*, That the increase under the provisions of this subdivision shall not be less than 50 per centum of the portion of the annuity, if any, of such individual determined under the provisions of section 3(h)(2) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

42 USC 1305.

"(3) The amount of the annuity of the spouse of an individual determined under subsections (a) and (b) of this section, if (A) such individual is entitled to an amount determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act and (B) such spouse is not entitled to an amount determined under the provisions of subdivision (1) or (2) of this subsection, shall be increased by an amount equal to 50 per centum of the portion of the annuity of such individual determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act prior to any increases under the provisions of section 3(h)(5) of this Act.

"(4) The amount determined under the provisions of subdivision (1), (2), or (3) of this subsection shall be increased by the same percentage or percentages, as wife's and husband's insurance benefits under section 202 of the Social Security Act are increased, or would have been increased had there been no general benefit increases under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, during the period from January 1, 1975, to the date on which the individual's annuity under section 2(a)(1) of this Act began to accrue.

42 USC 402.

42 USC 415.

"(f)(1) The annuity of a survivor of a deceased employee under section 2(d) of this Act shall be in an amount equal to the amount (before any deductions on account of work) of the widow's insurance benefit, widower's insurance benefit, mother's insurance benefit, parent's insurance benefit, or child's insurance benefit, whichever is applicable, to which he or she would have been entitled under the Social Security Act if such deceased employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act.

Survivor benefits.

"(2) For purposes of this subsection—

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

"(ii) a widow or widower or a child who is entitled to an annuity under section 2(d)(1) of this Act on the basis of disability shall be deemed to be entitled to a widow's insurance

benefit, a widower's insurance benefit, or a child's insurance benefit under the Social Security Act on the basis of disability.

42 USC 1305.

"(g) The annuity of a survivor of a deceased employee determined under subsection (f) of this section shall, with respect to any month, be increased by an amount equal to 30 per centum of the amount of the annuity (before any deductions on account of work) to which such survivor is entitled for such month under the provisions of subsection (f) of this section, or to which such survivor would have been entitled for such month under such subsection if such survivor were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act: *Provided, however*, That, if a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a) and (b) of this section (after any reduction on account of age) in the month preceding the employee's death: *Provided further*, That, if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B)(i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a) and (b) of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not entitled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

Ante, p. 1312.

42 USC 402.

"(h)(1) The amount of the annuity of the widow or widower of a deceased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the sum of (i) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement

45 USC 228e.
45 USC 228c.
42 USC 1305.

Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, and (ii) the primary insurance amount to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (B) 130 per centum of the amount of the widow's or widower's insurance benefit to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of the deceased employee's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and before January 1, 1975, if the deceased employees' service as an employee after December 31, 1936, and before January 1, 1975, had been included in such employment and if such widow or widower were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act.

Ante, p. 1312.

"(2) The amount determined under the provisions of subdivision (1) of this subsection shall be increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased, or would have been increased had there been no general benefit increase under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, during the period from January 1, 1975, to the earlier of the date of the deceased employee's death or the date on which the deceased employee's annuity under section 2(a)(1) of this Act began to accrue.

42 USC 402.
42 USC 415.

"(i)(1) The annuity of any spouse under subsection (a) of this section for any month shall be reduced, but not below zero, by the amount of any wife's or husband's insurance benefit payable to such spouse for that month under title II of the Social Security Act.

42 USC 401.

"(2) If a spouse entitled to an annuity under section 2(c) of this Act or a survivor entitled to an annuity under section 2(d) of this Act for any month is also entitled to an annuity under section 2(a)(1) of this Act for such month, the annuity amount of such spouse determined under subsection (a) of this section or of such survivor under subsection (f) of this section shall, after any reduction pursuant to subdivision (1) of this subsection, be reduced by the amount of the annuity of such spouse or such survivor determined under section 3(a) of this Act.

"ANNUITY BEGINNING AND ENDING DATES

45 USC 231d.

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

"(i) not earlier than the date specified in the application therefor;

"(ii) not earlier than the first day of the twelfth month before the month in which the application therefor was filed; and

"(iii) in the case of an applicant otherwise eligible for an annuity under section 2(a)(1) or 2(c) not earlier than the date following the last day of compensated service of the applicant.

"(b) An application for any payment under this Act shall be made and filed in such manner and form as the Board may prescribe. An application filed with the Board for an annuity under this Act shall, unless the applicant specifies otherwise, be deemed to be an application

for any benefit to which such applicant may be entitled under this Act or the Social Security Act. An individual who was entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act for the month preceding the month in which he attained the age of 65, shall be deemed to have filed an application for an annuity under paragraph (i) of section 2(a)(1) on the date on which he attained age 65, and a widow or widower who was entitled to an annuity under section 2(d)(1) of this Act on the basis of disability for the month preceding the month in which she or he attained age 60, shall be deemed to have filed an application for an annuity under such section 2(d)(1) on the basis of age on the date on which she or he attained age 60.

42 USC 1305.
Ante, p. 1312.

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

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

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

"(4) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 2(d)(1) on the basis of age shall end on (A) the last day of the month preceding the month in which she or he dies or (B) the last day of the month preceding the month in which she or he remarries after the employee's death, whichever first occurs.

"(5) The entitlement of a widow or widower of a deceased employee to an annuity under paragraph (i) of section 2(d)(1) on the basis of disability shall end on (A) the last day of the month preceding the month in which she or he dies, (B) the last day of the month preceding the month in which she or he remarries after the employee's death, (C) the last day of the second month following the month in which she or he ceases to be disabled as provided for purposes of such paragraph, or (D) the last day of the month preceding the month in which she or he attains age 60, whichever first occurs.

"(6) The entitlement of a widow of a deceased employee to an annuity under paragraph (ii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which she dies, (B) the last day of the month preceding the month in which she remarries after the employee's death, or (C) the last day of the month preceding the month in which she no longer has in her care a child described in clause (B) of such paragraph (ii), whichever first occurs.

"(7) The entitlement of a child of a deceased employee to an annuity under paragraph (iii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which he or she dies, (B) the last day of the month preceding the month in which he or she marries, (C) the last day of the month preceding the month in which he or she attains age 18 and does not meet the qualifications set forth

in clause (B) or (C) of such paragraph (iii), (D) the last day of the month preceding (i) the month during no part of which he or she is a full-time student or (ii) the month in which he or she attains age 22, and does not meet the qualifications set forth in clause (A) or (C) of such paragraph (iii), or (E) the last day of the second month following the month in which he or she ceases to be disabled for purposes of such paragraph (iii) and does not meet the qualifications set forth in clause (A) or (B) of such paragraph (iii), whichever first occurs. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated by reason of clause (E) of this subdivision because he or she ceased to be disabled and who again becomes disabled as provided in clause (C) of such paragraph (iii), may become reentitled to an annuity on the basis of such disability upon his or her application for such reentitlement. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated with the month preceding the month in which he or she attained age 18, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he or she meets the qualifications set forth in clause (B) or (C) of such paragraph (iii), if he or she has filed an application for such reentitlement.

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

"LUMP-SUM PAYMENTS

45 USC 231e.

"SEC. 6. (a)(1) Annuities under section 2(a)(1) and supplemental annuities under section 2(b) which will have become due an individual but will not have been paid at the time of such individual's death shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and to have been living with such individual at the time of such individual's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of such individual, and to the extent that he or they will not have been reimbursed under subsection (b) of this section for having paid such expenses. If there be no person or persons so entitled, or if the total of such annuities exceeds the amount payable under this subdivision to such person or persons, such total, or the remainder thereof, as the case may be, shall be paid to the children, grandchildren, parents, or brothers and sisters of the deceased individual in the same manner as if such annuities were a lump sum payable under subsection (c)(1) of this section.

"(2) Annuities under section 2(d) which will have become due a survivor of an employee but will not have been paid at the time of such survivor's death shall be payable to the person, if any, who is determined by the Board to be such employee's widow or widower and to have been living with such employee at the time of the employee's death and who will not have died before receiving payment of such annuities. If there be no such widow or widower, such annuities shall be payable to the children, grandchildren, parents, or brothers and sisters of the deceased employee in the same manner as if such unpaid annuities were a lump sum payable under subsection (c)(1) of this section.

"(3) Annuities under section 2(c) which will have become due a spouse of an individual but which will not have been paid at the time

of such spouse's death shall be payable to the individual from whose employment such annuities derived and who will not have died before receiving payment of such annuities. If there be no such individual, such annuities shall be paid as provided in the last two sentences of subdivision (1) of this subsection as if such annuities were annuities due to an individual but unpaid at the time of such individual's death.

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

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

"(6) For the purposes of this subsection and subsection (c) of this section, a widow or widower of an individual shall be deemed to have been living with the individual at the time of the individual's death if the applicable conditions set forth in section 216(h) (2) or (3) of the Social Security Act, as in effect before 1957, are fulfilled. 42 USC 416.

"(7) In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the widow, widower, child, or parent of an employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied. In determining for purposes of this subsection and subsections (c) and (d) of this section whether an applicant is the grandchild, brother, or sister of an employee as claimed, the Board shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such employee was domiciled at the time of his death, or if such employee was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking personal property as a grandchild, brother, or sister shall be deemed such.

"(b)(1) Upon the death of an individual who will have completed ten years of service prior to January 1, 1975, and will have had a current connection with the railroad industry at the time of his death, a lump-sum payment shall be made in accordance with the provisions of section 5(f)(1) of the Railroad Retirement Act of 1937 as in effect on 45 USC 228e. December 31, 1974, in an amount, if any, which would have been payable under such section 5(f)(1) on the basis of (A) the individual's compensation after December 31, 1936, and prior to January 1, 1975, and (B) the individual's wages (as defined in section 209 of the Social Security Act) prior to January 1, 1975. Any lump sum payable under 42 USC 409. this subdivision shall be in an amount computed as if the individual had died on January 1, 1975.

"(2) Upon the death of an individual who will not have completed ten years of service prior to January 1, 1975, but who (i) will have completed ten years of service at the time of his death, (ii) will have had a current connection with the railroad industry at the time of his death, and (iii) will have died leaving no widow, widower, child, or parent who would on proper application therefor be entitled to receive an annuity under section 2(d) of this Act for the month in *Ante*, p. 1312. which such death occurred, a lump-sum death payment shall be made in accordance with the provisions of section 202(i) of the Social Security Act in an amount equal to the amount which would have 42 USC 402. been payable under such section 202(i) if such individual's service as an employee after December 31, 1936, were included in the term 'employment' as defined in that Act. If a lump sum would be payable to a widow or widower under this subdivision except for the fact that a survivor will have been entitled to receive an annuity for the month

in which the individual will have died, but within one year after the individual's death there will not have accrued to survivors of the individual, by reason of his death, annuities which, after all deductions pursuant to sections 2(g) and 2(h) of this Act, 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 subdivision to the widow or widower to whom a lump sum would have been payable under this subdivision except for the fact that a monthly benefit under section 2(d) of this Act was payable for the month in which the individual died, if such widow or widower will not have died before receiving payment of such lump sum.

Ante, p. 1312.

"(c)(1) Whenever it shall appear, with respect to the death of an employee, that no benefits, or no further benefits (other than benefits payable to a widow, widower, or parent under either this Act or the Social Security Act upon attaining the age of eligibility therefor at a future date) will be payable under this Act or under the Social Security Act, a lump sum in an amount computed under subdivision (2) of this subsection 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 subdivision—

42 USC 1305.

"(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:

Provided, however, That if the employee is survived by a widow, widower, or parent who may upon attaining the age of eligibility be entitled to benefits under this Act or under the Social Security Act, 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 be paid in lieu of all benefits to which such widow, widower, or parent might otherwise become entitled under this Act on the basis of the deceased employee's compensation and years of service or under the Social Security Act on the basis of the deceased employee's wages from (A) employment with an employer as defined in section 1(a) of this Act or (B) service as an employee representative as defined in section 1(c) of this Act. Any election made and filed by a widow, widower, or parent pursuant to this subdivision shall be legally effective according to its terms.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to (A) the sum of 4 per centum of the deceased employee's compensation paid after December 31, 1936, and prior to January 1, 1947, plus 7 per centum of such employee's compensation paid after December 31, 1946, and before January 1, 1959, plus 7½ per centum of such employee's compensation paid after December 31, 1958, and before January 1, 1962, plus 8 per centum of

such employee's compensation paid after December 31, 1961, and before January 1, 1966, plus an amount equal to the total of all employee taxes payable by such employee after December 31, 1965, and before January 1, 1975, under the provisions of section 3201 of the Railroad Retirement Tax Act (excluding, for this purpose, the amount of the employee tax attributable to that portion of the tax rate derived from section 3101(b) of the Internal Revenue Code of 1954), plus one-half of 1 per centum of the compensation on which such taxes were payable, deeming the compensation attributable to creditable military service after June 30, 1963, and before January 1, 1975, to be taxable compensation, and one-half of the taxes payable by an employee representative under section 3211 of the Railroad Retirement Tax Act to be employee taxes under section 3201 of such Act, minus (B) the sum of all benefits paid to such employee, and to others deriving from such employee, during his or her life, or to others by reason of his or her death, under this Act, the Railroad Retirement Act of 1937, or the Social Security Act (excluding, for this purpose, payments to providers of services under section 7(d) of this Act or section 21 of the Railroad Retirement Act of 1937, any amounts by which that portion of the annuities provided the employee under section 3(a) of this Act or his spouse under section 4(a) of this Act were increased by reason of the employee's wages and self-employment income derived from employment and self-employment under the Social Security Act, that portion of the annuities provided the employee under section 3(h) of this Act or his spouse under section 4(e) of this Act, and so much of the benefits paid to the employee and to others deriving from him or her under the Social Security Act during his or her lifetime as would have been payable under that Act if such employee had not rendered service as an employee as defined in section 1(b) of this Act). In computing compensation for purposes of this subdivision there shall be excluded compensation in excess of $300 for any month before July 1, 1954; compensation in excess of $350 for any month after June 30, 1954, and before June 1, 1959; compensation in excess of $400 for any month after May 31, 1959, and before November 1, 1963; compensation in excess of $450 for any month after October 31, 1963, and before October 1, 1965; and compensation in excess of (i) $450 or (ii) an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954, whichever is greater, for any month after September 30, 1965.

26 USC 3201.

26 USC 3101.

26 USC 3211.

45 USC 228a.
42 USC 1305.
Post, p. 1338.
45 USC 228s-2.
Ante, pp. 1319, 1327.

26 USC 3121.

"(d)(1) Every individual who will have completed ten years of service at the time of his retirement or death, but does not meet the qualifications for an annuity amount determined under the provisions of section 3(h)(1) or 3(h)(2) of this Act, shall, at the time his annuity under section 2(a)(1) begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1) of this Act, or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower 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 payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

Ante, p. 1312.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to the sum of (A) 1.5 per centum of so much of such individual's combined earnings for any calendar

year after 1950 and before 1954 as is in excess of $3,600, plus (B) 2 per centum of so much of such individual's combined earnings for any calendar year after 1953 and before 1957 as is in excess of $4,200, plus (C) 2.25 per centum of so much of such individual's combined earnings for any calendar year after 1956 and before 1959 as is in excess of $4,200, plus (D) 2.5 per centum of so much of such individual's combined earnings for the calendar year 1959 as is in excess of $4,800, plus (E) 3 per centum of so much of such individual's combined earnings for each of the calendar years 1960 and 1961 as is in excess of $4,800, plus (F) 3.125 per centum of so much of such individual's combined earnings for the calendar year 1962 as is in excess of $4,800, plus (G) 3.625 per centum of so much of such individual's combined earnings for any calendar year after 1962 and before 1966 as is in excess of $5,400, plus (H) 4.2 per centum of so much of such individual's combined earnings for the calendar year 1966 as is in excess of $6,600, plus (I) 4.4 per centum of so much of such individual's combined earnings for the calendar year 1967 as is in excess of $6,600, plus (J) 3.8 per centum of so much of such individual's combined earnings for the calendar year 1968 as is in excess of $7,800, plus (K) 4.2 per centum of so much of such individual's combined earnings for each of the calendar years 1969 and 1970 as is in excess of $7,800, plus (L) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1971 as is in excess of $7,800, plus (M) 4.6 per centum of so much of such individual's combined earnings for the calendar year 1972 as is in excess of $9,000, plus (N) 4.85 per centum of so much of such individual's combined earnings for the calendar year 1973 as is in excess of $10,800, plus (O) 4.95 per centum of so much of such individual's combined earnings for the calendar year 1974 as is in excess of $13,200. For purposes of this subsection, the term 'combined earnings' shall include 'compensation' as defined in section 1(h) of the Railroad Retirement Act of 1937, 'wages' as defined in section 209 of the Social Security Act, and 'self-employment' income as defined in section 211(b) of the Social Security Act.

"Combined earnings."

45 USC 228a.

42 USC 409.

42 USC 411.

"POWERS AND DUTIES OF THE BOARD

45 USC 231f.

"SEC. 7. (a) This Act shall be administered by the Railroad Retirement Board established by the Railroad Retirement Act of 1937 as an independent agency in the executive branch of the Government and composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and any member holding office pursuant to appointment under the Railroad Retirement Act of 1937 when this Act becomes effective shall hold office until the term for which he was appointed under such Railroad Retirement Act of 1937 expires. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (i) of section 1(a)(1) of this Act, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and employers concerned. One member, who shall be the chairman of the Board, shall be appointed without recommendation by either employers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Vacancies in the Board shall not impair the powers or affect the duties of the

Membership.

Term of office.

Ante, p. 1305.

Vacancies.

Board or of the remaining members of the Board, of whom a majority of those in office shall constitute a quorum for the transaction of business. Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

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

"(2) In the case of—

"(A) an individual who will have completed ten years of service creditable under this Act,

"(B) the wife or husband of such an individual,

"(C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of this Act, and

Ante, p. 1312.

"(D) any other person entitled to benefits under title II of the Social Security Act on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry at the time of his death),

42 USC 401.

the Board shall provide for the payment on behalf of the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of monthly benefits payable under title II of the Social Security Act which are certified by the Secretary to it for payment under the provisions of title II of the Social Security Act.

"(3) If the Board finds that an applicant is entitled to an annuity or death benefit under the provisions of this Act then the Board shall make an award fixing the amount of the annuity or benefit, as the case may be, and shall certify the payment thereof as hereinafter provided; otherwise the application shall be denied. For purposes of this section, the Board shall have and exercise such of the powers, duties and remedies provided in subsections (a), (b), (d), and (n) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the express provisions of this Act. The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by the Act, excluding only the power to prescribe rules and regulations, including the power to make decisions on applications for annuities or other benefits: *Provided, however*, That any person aggrieved by a decision on his application for an annuity or other benefit shall have the right to appeal to the Board. Notice of a decision of the Board, or of an employee thereof, shall be communicated to the applicant in writing within thirty days after such decision shall have been made.

45 USC 362.

"(4) The Board shall from time to time certify to the Secretary of the Treasury the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursements of the Treasury Department, and prior to audit by the General Accounting Office, shall make payment in accordance with the certification by the Board.

"(5) The Board shall establish and promulgate rules and regulations to provide for the adjustment of all controversial matters arising in the administration of this Act. All rules, regulations, or decisions of the Board shall require the approval of at least two members, and they shall be entered upon the records of the Board, which shall be a public record.

Rules and regulations.

Recordkeeping.

"(6) The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary to assure proper administration of this Act, including subdivision (2) of this subsection. The Board shall have power to require all employers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this Act, including subdivision (2) of this subsection. The several district courts of the United States and the District Court of the United States for the District of Columbia shall have jurisdiction upon suit by the Board to compel obedience to any order of the Board issued pursuant to this section. The orders, writs, and processes of the District Court of the United States for the District of Columbia in such suits may run and be served anywhere in the United States. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. The Board shall make an annual report to the President of the United States to be submitted to Congress.

Jurisdiction.

Witness fees.

Report to President and Congress.

Reports.

"(7) The Secretary of Health, Education, and Welfare shall furnish the Board certified reports of wages, self-employment income, and periods of service and of other records in his possession, or which he may secure, pertinent to the administration of this Act. The Board shall furnish the Secretary of Health, Education, and Welfare certified reports of records of compensation and periods of service reported to it pursuant to section 9 of this Act, of determinations under section 2 of this Act, and of other records in its possession, or which it may secure, pertinent to subsection (c) of this section or to the administration of the Social Security Act as affected by section 18 of this Act. Such certified reports shall be conclusive in adjudication as to the matters covered therein: *Provided, however*, That if the Board or the Secretary of Health, Education, and Welfare receives evidence inconsistent with a certified report and the application involved is still in course of adjudication or otherwise open for such evidence such recertification of such report shall be made as, in the judgment of the Board or the Secretary of Health, Education, and Welfare, whichever made the original certification, the evidence warrants. Such recertification and any subsequent recertification shall be treated in the same manner and be subject to the same conditions as an original certification.

42 USC 1305.
Post, p. 1349.

Military service records, certification.

"(8) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances payable, on a periodic basis or otherwise, under any other Act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subdivision shall be conclusive on the Board: *Provided, however*, That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which

made the original certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recertification, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

"(9) The Board shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such individuals and provide for their compensation and expenses as may be necessary for the proper discharge of its functions. All positions to which such individuals are appointed, except one administrative assistant to each member of the Board, shall be in and under the competitive civil service and shall not be removed or excepted therefrom. In the employment of such individuals under the civil service laws and rules the Board shall give preference over all others to individuals who have had experience in railroad service, if, in the judgment of the Board, they possess the qualifications necessary for the proper discharge of the duties of the positions to which they are to be appointed. For purposes of its administration of this Act or the Railroad Unemployment Insurance Act, or both, the Board may place, without regard to the numerical limitations contained in section 505 of the Classification Act of 1949, as amended, four positions in grade GS-16 of the General Schedule established by that Act, four positions in grade GS-17 of such schedule, and one position in grade GS-18 of such schedule.

Duties.

45 USC 367.

5 USC 5108.

5 USC 5332 note.

"(c)(1) Benefit payments determined by the Board to be payable under this Act shall be made from the Railroad Retirement Account, except that payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account.

"(2) At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board and the Secretary of Health, Education, and Welfare shall determine the amounts, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would place each such Trust Fund in the same position in which it would have been if (A) service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act and in the Federal Insurance Contributions Act and (B) this Act had not been enacted. Such determination with respect to each such Trust Fund shall be made no later than June 15 following the close of the fiscal year. If, pursuant to any such determination, any amount is to be added to any such Trust Fund, the Board shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from the Railroad Retirement Account to such Trust Fund. If, pursuant to any such determination, any amount is to be subtracted from any such Trust Fund, the Secretary of Health, Education, and Welfare shall, within ten days after the determination, certify such amount to the Secretary of the Treasury for transfer from such Trust Fund to the Railroad Retirement Account. Any amount so certified shall further include interest (at the rate determined in subdivision (3) for the fiscal year under consideration) payable from the close of such fiscal year until the date of certification. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund or to any such Trust Fund from the Railroad Retirement Account, as the case may be, such amounts as, from time to time, may be determined by the Board and

42 USC 1305.

26 USC 3101.

the Secretary of Health, Education, and Welfare pursuant to the provisions of this subdivision and certified by the Board or the Secretary of Health, Education, and Welfare for transfer from any such Trust Fund or from the Railroad Retirement Account.

"(3) For purposes of subdivision (2), for any fiscal year, the rate of interest to be used shall be equal to the average rate of interest, computed as of May 31 preceding the close of such fiscal year, borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

"(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services (all hereinafter referred to as 'services') under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 8, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

42 USC 426, 1395, 1395x.

"(2) Except as otherwise provided in this subsection, every person who—

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

"(ii) has not attained age 65 and (A) has been entitled to an annuity under section 2 of this Act, or under the Railroad Retirement Act of 1937 and section 2 of this Act, or could have been includible in the computation of an annuity under section 3(f)(3) of this Act, for not less than 24 consecutive months and (B) could have been entitled for 24 consecutive calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability if service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act and if an application for disability benefits had been filed, shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

Ante, p. 1312.
45 USC 228a.
Ante, p. 1319.
42 USC 423, 402.
42 USC 426.

"(3) If an individual entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act would have been insured for disability insurance benefits as determined under section 223(c)(1) of the Social Security Act at the time such annuity began, he shall be deemed, solely for purposes of paragraph (ii) of subdivision (2), to be entitled to a disability insurance benefit under section 223 of the Social Security Act for each month, and beginning with the first month, in which he would meet the requirements for entitlement to such a benefit, other than the requirement of being insured for disability insurance benefits, if service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act and if an application for disability benefits had been filed.

42 USC 1305.

"(4) The rights of individuals described in subdivision (2) of this subsection to have payment made on their behalf for the services

referred to in subdivision (1) but provided in Canada shall be the same as those of individuals to whom section 226 and part A of title XVIII of the Social Security Act apply, and this subdivision shall be administered by the Board as if the provisions of section 226 and part A of title XVIII of the Social Security Act were applicable, as if references to the Secretary of Health, Education, and Welfare were to the Board, as if references to the Federal Hospital Insurance Trust Fund were to the Railroad Retirement Account, as if references to the United States or a State included Canada or a subdivision thereof, and as if the provisions of sections 1862(a)(4), 1863, 1864, 1867, 1868, 1869, 1874(b), and 1875 were not included in such title. The payments for services herein provided for in Canada shall be made from the Railroad Retirement Account (in accordance with, and subject to, the conditions applicable under section 7(b), in making payment of other benefits) to the hospital, extended care facility, or home health agency providing such services in Canada to individuals to whom subdivision (2) of this subsection applies, but only to the extent that the amount of payments for services otherwise hereunder provided for an individual exceeds the amount payable for like services provided pursuant to the law in effect in the place in Canada where such services are furnished. For the purposes of section 10 of this Act, any overpayment under this subdivision shall be treated as if it were an overpayment of an annuity.

42 USC 426, 1395.

"(5) The Board and the Secretary of Health, Education, and Welfare shall furnish each other with such information, records, and documents as may be considered necessary to the administration of this subsection or section 226, and part A of title XVIII, of the Social Security Act.

"(e) The Board is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Railroad Retirement Account, to the Railroad Retirement Supplemental Account, or to the Railroad Unemployment Insurance Account, or to the Board, or any member, officer, or employee thereof, for the benefit of such accounts or any activity financed through such accounts. Any such gift accepted pursuant to the authority granted in this subsection shall be deposited in the specific account designated by the donor or, if the donor has made no such specific designation, in the Railroad Retirement Account.

"COURT JURISDICTION

"SEC. 8. Decisions of the Board determining the rights or liabilities of any person under this Act shall be subject to judicial review in the same manner, subject to the same limitations, and all provisions of law shall apply in the same manner as though the decision were a determination of corresponding rights or liabilities under the Railroad Unemployment Insurance Act except that the time within which proceedings for the review of a decision with respect to an annuity, supplemental annuity, or lump-sum benefit may be commenced shall be one year after the decision will have been entered upon the records of the Board and communicated to the claimant.

45 USC 231g.

45 USC 367.

"RETURNS OF COMPENSATION

"SEC. 9. Employers shall file with the Board, in such manner and form and at such times as the Board by rules and regulations may prescribe, returns of compensation of employees, and, if the Board shall so require, shall furnish employees with statements of their compensation as reported to the Board. The Board's record of the compensa-

45 USC 231h.

tion so returned shall be conclusive as to the amount of compensation paid to an employee during each period covered by the return, and the fact that the Board's records show that no return was made of the compensation claimed to have been paid to an employee during a particular period shall be taken as conclusive that no compensation was paid to such employee during that period, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the day on which return of the compensation was required to be made.

"ERRONEOUS PAYMENTS

45 USC 231i.

"SEC. 10. (a) If the Board finds that at any time more than the correct amount of annuities or other benefits has been paid to any individual under this Act, or payment has been made to an individual not entitled thereto, recovery by adjustment in subsequent payments to which such individual, or any other individual on the basis of the same compensation, wages, or self-employment income, is entitled under this Act, or the Railroad Unemployment Insurance Act may, except as otherwise provided in this section, be made under regulations prescribed by the Board. If the individual to whom more than the correct amount has been paid dies before recovery is completed, recovery may be made by setoff or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act, or the Railroad Unemployment Insurance Act, to the estate of such individual or to any person on the basis of the compensation, wages, or self-employment income of such individual.

45 USC 367.

"(b) Adjustments under this section may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of annuities or other benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

"(c) There shall be no recovery in any case in which more than the correct amount of annuities or other benefits has been paid under this Act to an individual or payment has been made to an individual not entitled thereto who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of the Acts or would be against equity or good conscience.

"(d) No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under subsection (c) of this section or has been begun but cannot be completed under subsection (a) of this section.

"WAIVER OF ANNUITIES

45 USC 231j.

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

"INCOMPETENCE

"SEC. 12. (a) Every individual receiving or claiming benefits, or to whom any right or privilege is extended, under this Act or any other Act of Congress now or hereafter administered, in whole or in part, by the Board shall be conclusively presumed to have been competent until the date on which the Board receives written notice, in a form and manner acceptable to the Board, that he is an incompetent, or a minor, for whom a guardian or other person legally vested with the care of his person or estate has been appointed: *Provided, however*, That, regardless of the legal competency or incompetency of an individual entitled to a benefit administered by the Board, the Board may, if it finds the interest of such individual to be served thereby, recognize actions by, and conduct transactions with, and make payments to, such individual, or recognize actions by, and conduct transactions with, and make payments to, a relative or some other person for such individual's use and benefit. 45 USC 231k.

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

"PENALTIES

"SEC. 13. (a) Any person who shall knowingly fail or refuse to make any report or furnish any information required by the Board in the administration of this Act, including the provisions of section 7(b)(2) thereof, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of this Act, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment to be made, shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year, or both. 45 USC 231*l*.

"(b) All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the Railroad Retirement Account.

"EXEMPTION FROM LEGAL PROCESS

"SEC. 14. Notwithstanding any other law of the United States, or of any State, territory, or the District of Columbia, no annuity or supplemental annuity shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated: *Provided, however*, That the provisions of this section shall not operate to exclude the amount of any supplemental annuity paid to an individual under section 2(b) of this Act from income taxable pursuant to the Federal income tax provisions of the Internal Revenue Code of 1954. 45 USC 231m. 26 USC 1 *et seq.*

"RAILROAD RETIREMENT ACCOUNT

45 USC 231n.
45 USC 228o.

"SEC. 15. (a) The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby authorized to be appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of benefits to be made from such Account in accordance with the provisions of section 7(c)(1) of this Act, and to provide for expenses necessary for the Board in the administration of all provisions of this Act, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act, except those portions of the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of such Tax Act as are necessary to provide sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 3(e) of this Act and, with respect to those entitled to supplemental annuities under section 205(a) of title II of this Act, at the level provided under section 205(a). The Board is directed to determine what portion of the taxes collected under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act is to be credited to the Railroad Retirement Account pursuant to the preceding provisions of this subsection and what portion of such taxes is to be credited to the Railroad Retirement Supplemental Account pursuant to the provisions of subsection (c) of this section. The Board shall make such a determination with respect to each calendar quarter commencing with the quarter beginning January 1, 1975, shall make each such determination not later than fifteen days before each calendar quarter, and shall, as soon as practicable after each such determination, advise the Secretary of the Treasury of the determination made. The Secretary of the Treasury shall credit the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act to the Railroad Retirement Account and the Railroad Retirement Supplemental Account in such proportions as is determined by the Board pursuant to the provisions of this subsection.

26 USC 3233.
26 USC 3211, 3221.

"(b) In addition to the amount authorized to be appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this Act, of benefits payable under section 2 of this Act, but only to the extent that such Account is not reimbursed for such costs under section 7(c)(2), (B) the additional administrative expenses resulting from the crediting of military service under this Act, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this Act: *Provided, however*, That, in determining the amount to be appropriated to the Railroad Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this Act for which appropriations to such Account have already been made pursuant to section 4(l) of the Railroad Retirement Act of 1937. Any determination as to loss in interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account.

45 USC 228c-1.

The cost resulting from the payment of additional benefits under this Act based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this Act to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (g) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. When authorized by an appropriation Act, the Secretary of the Treasury shall transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 7(c)(2) of this Act, no further charges shall be made against the Trust Funds established by title II of the Social Security Act for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(l) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken in account in making any such determination.

Transfer of funds.

42 USC 401.

45 USC 228c-1.

"(c) The Railroad Retirement Supplemental Account established by section 15(b) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby authorized to be appropriated to such account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of supplemental annuities under section 2(b) of this Act, and to provide for the expenses necessary for the Board in the administration of the payment of such supplemental annuities, an amount equal to such portions of the amounts covered into the Treasury (minus refunds) during each fiscal year under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act as are not appropriated to the Railroad Retirement Account pursuant to the provisions of subsection (a) of this section.

Supplemental annuities.

45 USC 228o.

26 USC 3211, 3221.

"(d) There is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1976, such sums as the Board determines to be necessary on a level basis to pay before the end of fiscal year 2000 the total of (A) the amounts of the annuities paid and to be paid after 1974 pursuant to the provisions of sections 3(h), 4(e), and 4(h) of this Act and pursuant to the provisions of sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of title II of this Act, plus (B) any loss in interest to such Account resulting from the payment of such amounts reduced by (C) such amount as the Board determines, on an estimated basis, is equal to the excess of (i) the interest which such account will actually earn in the fiscal years 1976 through 2000 over (ii) the interest which such account would have earned in such fiscal years if the provisions of subsection (e) of this section were identical to the provisions of section 15(c) of the Railroad Retirement Act of 1937. The Board shall, at the time of each actuarial valuation made prior to the fiscal year 2000 pursuant to the provisions of subsection (g) of this section re-evaluate the amount determined under the preceding sen-

tence for the purpose of determining the amounts to be appropriated thereunder.

Investments.

"(e) At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury (hereinafter referred to as the 'Secretary') to invest such portion of the amounts credited to the Railroad Retirement Account and the Railroad Retirement Supplemental Account as, in the judgment of the Board, is not immediately required for the payment of annuities, supplemental annuities, and death benefits. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price; or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the accounts. Such obligations issued for purchase by the accounts shall have maturities fixed with due regard for the needs of the accounts, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing notes of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. At the request of the Board the Secretary shall purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, or other obligations which are lawful investments for trust funds of the United States, on original issue or at the market price: *Provided*, That the interest yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. At the request of the Board, the Secretary shall sell at the market price such obligations in the accounts (other than special obligations issued exclusively to the accounts) as the Board designates. The Board shall from time to time request the Secretary to redeem such special obligations issued exclusively to the accounts as the Board designates and upon such request the Secretary shall redeem such obligations at par plus accrued interest. All requests of the Board to the Secretary, provided for in this subsection, shall be mandatory upon the Secretary. It shall be the duty of the Board to determine at all times what proportion of the accounts shall be invested in other than special obligations issued to the accounts and further to determine which of such obligations available to the accounts consistent with the foregoing requirements will provide the greatest rate of return on the funds invested.

31 USC 774.

Rate of interest.

Actuarial Advisory Committee.

"(f) The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of employers as defined in paragraph (i) of section 1(a)(1) of this Act. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Account. The actuaries so selected shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of pen-

sion plans: *Provided, however*, That these requirements shall not apply to any actuary who served as a member of the Committee prior to January 1, 1975. The Committee shall examine the actuarial reports and estimates made by the Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the Committee, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per diem basis.

"(g) The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement and Railroad Retirement Supplemental Accounts. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this Act and shall include such estimate in its annual report. Annual report.

"PRIVATE PENSIONS

"SEC. 16. Nothing in this Act shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities paid to such employees under this Act, nor shall this Act be taken as terminating any trust heretofore created for the payment of such pensions or gratuities. The annuity, except a supplemental annuity under section 2(b), of an individual shall not be reduced on account of any pension or gratuity paid by an employer to such individual. 45 USC 231o.

"FREE TRANSPORTATION

"SEC. 17. It shall not be unlawful for carriers by railroad subject to this Act to furnish free transportation to individuals receiving annuities under this Act in the same manner as such transportation is furnished to employees in their service. 45 USC 231p.

"CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT

"SEC. 18. (1) Except as provided in subdivision (2), the term 'employment' as defined in section 210 of the Social Security Act shall not include service performed by an individual as an employee as defined in section 1(b) of this Act. 45 USC 231q. 42 USC 410.

"(2) For the purpose of determining (i) monthly insurance benefits under the Social Security Act to an employee who will have completed less than ten years of service and to others deriving from him or her during his or her life and (ii) monthly insurance benefits and lump-sum death benefits under such Act with respect to the death of an employee who (A) will have completed less than ten years of service or (B) will have completed ten or more years of service but will not have had a current connection with the railroad industry at the time of his death, and for the purposes of section 203 of that Act, section 210(a)(9) of the Social Security Act and subdivision (1) of this section shall not operate to exclude from 'employment' under the Social Security Act service which would otherwise be included in such 'employment' but for such sections. For such purpose, compensation paid in a calendar year shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in service as an employee. In the application of the Social Security Act pursuant to this subdivision to service as an employee, all service as defined in section 1(d) of this Act shall be deemed to have been performed within the United States. 42 USC 403. 42 USC 1305.

"AUTOMATIC BENEFIT ELIGIBILITY REQUIREMENT ADJUSTMENTS

45 USC 231r.
42 USC 401.

"SEC. 19. (a) If title II of the Social Security Act is amended at any time after December 31, 1974, to reduce the eligibility requirements for old-age insurance benefits, disability insurance benefits, wife's insurance benefits payable to a wife, husband's insurance benefits, child's insurance benefits payable to a child of a deceased individual, widow's insurance benefits payable to a widow, widower's insurance benefits, mother's insurance benefits payable to a widow, or parent's insurance benefits, such reduced eligibility requirements shall be applicable, in accordance with regulations prescribed by the Board, to individuals, spouses, or survivors, as the case may be, under section 2 of this Act to the extent that such reduced eligibility requirements would provide such individuals, spouses, or survivors with entitlement to annuities under such section 2 to which they would not be entitled except for such reduced eligibility requirements: *Provided, however*, That no annuity shall be paid to any person pursuant to the provisions of this subsection if that person does not satisfy an eligibility requirement imposed by section 2 of this Act of a kind not imposed by the Social Security Act on December 31, 1974, or an eligibility requirement imposed by section 2 of this Act of a kind which was imposed by the Social Security Act on December 31, 1974, but which was not reduced by the amendment to that Act: *Provided further*, That the annuity amounts to which such individuals, spouses, or survivors will be entitled under this Act by reason of the provisions of this subsection shall be only such amounts as are determined under the provisions of section 3(a), 4(a), or 4(f), respectively, of this Act.

42 USC 1305.

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

42 USC 426, 1395.

"(c) If section 226 or title XVIII of the Social Security Act is amended at any time after December 31, 1974, to reduce the conditions of entitlement to, or to expand the nature of, the benefits payable thereunder, or if health care benefits in addition to, or in lieu of, the benefits payable under such section 226 or such title XVIII are provided by any provision of law which becomes effective at any time after December 31, 1974, such reductions in the conditions of entitlement to benefits, such expanded benefits, or such additional, or substituted, health care benefits shall be available to every employee (as defined in this Act), and those deriving from him, in the same manner, and to the same extent, as if his service as an employee after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act. The Board shall have the same authority, in accordance with regulations prescribed by it, to determine the rights of employees who will have completed ten years of service, and of those deriving from such employees, to benefits provided by reason of the provisions of this subsection as the Secretary of Health, Education, and Welfare has with respect to individuals insured under the Social Security Act.

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

"(1) No annuity or other benefit shall be payable to any person on the basis of the compensation and years of service of an individual by reason of the provisions of subsection (a), (b), or (c) of this section if, and to the extent that, such annuity or other benefit would duplicate a benefit payable to such person on the basis of such compensation and years of service under a provision of the Social Security Act, or any other Act of Congress, which becomes effective after December 31, 1974. 42 USC 1305.

"(2) No annuity shall be payable to a person by reason of subsection (a) or (b) of this section unless the individual upon whose compensation and years of service such annuity would be based will have (A) completed ten years of service, and (B) in the case of a survivor, had a current connection with the railroad industry at the time of his death.

"(3) If the Social Security Act is amended after December 31, 1974, to remove any, or all, restriction on the receipt of more than one monthly insurance benefit thereunder, annuity amounts provided a person under section 3(h), 4(e), or 4(h) of this Act, or under section 204(a)(3), 204(a)(4), 206(3), or 207(3) of title II of this Act, shall be reduced (but not below zero) by the amount of any annuity provided such person under this Act by reason of such amendment.

"(4) If and to the extent that an annuity or other benefit payable to a person by reason of the provisions of subsection (a), (b), or (c) of this section duplicates an annuity or other benefit then payable to such person under other provisions of this Act, such annuity or other benefit then payable under other provisions of this Act shall be reduced (but not below zero) by the amount of the annuity or other benefit payable by reason of subsection (a), (b), or (c).

"SEPARABILITY

"SEC. 20. If any provision of this Act, or the application thereof to any person or circumstance, should be held invalid, the remainder of such Act, or the application of such provision to other persons or circumstances, shall not be affected thereby. 45 USC 231s.

"SHORT TITLE

"SEC. 21. This Act may be cited as the 'Railroad Retirement Act of 1974'." Railroad Retirement Act of 1974. 45 USC 231t.

TITLE II—TRANSITIONAL PROVISIONS

SEC. 201. The claims of individuals who, prior to the effective date of title I of this Act, became eligible for annuities, supplemental annuities, or death benefits under section 2, 3(j), or 5 of the Railroad Retirement Act of 1937 shall be adjudicated by the Board under that Act in the same manner and with the same effect as if title I of this Act had not been enacted: *Provided, however*, That no annuity, supplemental annuity, or death benefit shall be awarded under the Railroad Retirement Act of 1937 on the basis of an application therefor filed with the Board on or after the effective date of title I of this Act: *Provided further*, That no annuity under the Railroad Retirement Act of 1935, no annuity or supplemental annuity under the Railroad Retirement Act of 1937, and no pension under section 6 of the Railroad Retirement Act of 1937 shall be payable for any month after December 31, 1974.

45 USC 231 note.

45 USC 228b, 228c, 228e.

45 USC 228a.

45 USC 215-228 notes.

45 USC 228f.

45 USC 231 note.
45 USC 215-228 notes.

SEC. 202. (a) Every individual who would have been entitled to an annuity under the Railroad Retirement Act of 1935 for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975, in an amount determined under the provisions of section 3(a) of such Act, which amount shall initially be equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in such individual's annuity under the Railroad Retirement Act of 1935 pursuant to the provisions of section 105 of Public Law 93-69, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act.

Ante, p. 1312.
Ante, p. 1319.
45 USC 228c.
45 USC 228f note.
42 USC 1305.

(b) The amount of the annuity of an individual under subsection (a) of this section shall be increased by an amount, if any, equal to the amount by which (i) his annuity under the Railroad Retirement Act of 1935 for the month of December 1974 exceeds (ii) his annuity under subsection (a) of this section for the month of January 1975.

Pensions.
45 USC 231 note.
45 USC 228f.

SEC. 203. (a) Every individual who would have been entitled to a pension under section 6 of the Railroad Retirement Act of 1937 for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974 in an amount determined under the provisions of section 3(a) of such Act, which amount shall initially be equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in such individual's pension under section 6 of the Railroad Retirement Act of 1937 pursuant to the provisions of section 105 of Public Law 93-69, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act.

(b) The amount of the annuity of an individual under subsection (a) of this section shall be increased by an amount, if any, equal to the amount by which (i) his pension under section 6 of the Railroad Retirement Act of 1937 for the month of December 1974 exceeds (ii) his annuity under subsection (a) of this section for the month of January 1975.

(c) The annuities of each individual under the preceding subsections of this section shall be paid on January 1, 1975, and on the first day of each calendar month thereafter during his life.

45 USC 231 note.
45 USC 228b.

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

(1) that portion of the individual's annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of

1937 for the purpose of computing the last increase in the amount of such individual's annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act; 45 USC 228c. 42 USC 1305.

(2) that portion of the individual's annuity as is provided under section 3(b)(1) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to the amount by which (A) his annuity under section 2(a) of the Railroad Retirement Act of 1937 for the month of December 1974 (before any reduction on account of age and without regard to section 2(d) of such Act) exceeds (B)(i), if such individual is entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of the annuity which would have been provided such individual under paragraph (1) of this subsection (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) for the month of January 1975 if he had no wages or self-employment income under the Social Security Act other than wages derived from service as an employee under the Railroad Retirement Act of 1974 after December 31, 1936, and before January 1, 1975, or (ii), if such individual is not entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of his annuity provided under paragraph (1) of this subsection (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) for the month of January 1975: *Provided, however*, That if the annuity of any individual under the Railroad Retirement Act of 1937 for the month of December 1974 was computed under the first proviso of section 3(e) of such Act, the annuity of such individual for purposes of clause (A) of this paragraph shall be the annuity which such individual would have received under such Act for the month of December 1974, if no other person had been included in the computation of the annuity of such individual; and

Ante, p. 1319. 45 USC 228b. *Ante*, p. 1305. 45 USC 228a.

(3) if the individual was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 3(h)(1) of the Railroad Retirement Act of 1974: *Provided, however*, That, if the individual was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause the total of the annuity amounts provided the individual by the provisions of this subsection for the month of January 1975 to equal the total of the annuity under the Railroad Retirement Act of 1937 (prior to any reduction on account of age and without regard to section 2(d) of that Act) plus the old-age or disability insurance benefit under the Social Security Act (before any reduction on account of age and deductions on account of work) which such individual would have received for such month if this Act had not been enacted.

Old-age or disability insurance benefits.

(4) if the individual was entitled to a wife's, husband's, widow's, or widower's insurance benefit under the Social Security Act on December 31, 1974, or is the wife, husband, widow, or widower of a person who was fully insured under that Act on

that date, the annuity amounts provided under paragraphs (1) and (2) of this subsection shall be increased by an amount determined under the provisions of section 3(h)(3) of the Railroad Retirement Act of 1974.

Ante, p. 1319.

(b) An individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937, but who could not have become eligible for an annuity under paragraph 2 of such section, shall not be eligible for an annuity under paragraph (ii) of section 2(a)(1) of the Railroad Retirement Act of 1974.

45 USC 228b.

Ante, p. 1312.

Supplemental annuity, eligibility.

45 USC 231 note.

45 USC 228c.

SEC. 205. (a) Every individual who was entitled to a supplemental annuity under section 3(j) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such a supplemental annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such a supplemental annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to a supplemental annuity under section 2(b)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975, in an amount, the provisions of section 3(e) of such Act notwithstanding, equal to the amount of the supplemental annuity to which such individual was entitled under section 3(j) of the Railroad Retirement Act of 1937 for the month of December 1974, or to which such individual would have been entitled for such month under such section 3(j) except for the provisions of section 2(d) of such Act.

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

Spouse's annuity.

45 USC 231 note.

SEC. 206. Every spouse who was entitled to an annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(c) of the Railroad Retirement Act of 1974, beginning January 1, 1975. For purposes of this section—

Ante, p. 1327.

(1) that portion of the spouse's annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse's annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937, less the amount of any wife's insurance benefit or husband's insurance benefit to which such spouse is actually entitled (before any deductions on account of work) under the Social Security Act on the basis of such individual's wages and self-employment income: *Provided, however*, That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974;

42 USC 1305.

42 USC 402.

(2) that portion of the spouse's annuity as is provided under section 4(b) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to 50 per centum of the individual's annuity as computed in accordance with the provisions of para-

graph (2) of section 204(a) of this title: *Provided, however*, That, in case of a spouse who is not entitled to an annuity amount provided under paragraph (3) of this section, if (A) the amounts of the annuity provided a spouse for the month of January 1975 by the provisions of paragraph (1) (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act) and the preceding provisions of this paragraph exceed (B) the amount of the annuity to which such spouse was entitled (before any reduction on account of age) for the month of December 1974 under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (deeming, for this purpose, any increase in the amount of such annuity which, had this Act not been enacted, would have become effective January 1, 1975, by reason of an increase in the maximum amount payable as a wife's insurance benefit under the Social Security Act to have been effective for the month of December 1974), or to which such spouse would have been entitled for such month under such section 2(e) or 2(h) except for the provisions of section 2(d) of such Act, the amount of the annuity provided such spouse for the month of January 1975 by the preceding provisions of this paragraph shall be reduced until the total of the amounts described in clause (A) of this proviso equals the amount described in clause (B): *Provided further*, That, if the amount of the annuity of the spouse provided by paragraph (1) of this section is reduced by reason of the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974, the amount of the annuity provided such spouse by the preceding provisions of this paragraph shall not be less than an amount which would cause the total of the annuity amounts provided such spouse under paragraph (1) (before any reduction pursuant to the provisions of section 202(k) or 202(q) of the Social Security Act and before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act) and paragraph (2) of this section for the month of January 1975 to equal the amount of the annuity (before any reduction on account of age) which such spouse would have received for such month under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (without regard to the provisions of section 2(d) of that Act) if this Act had not been enacted; and

42 USC 1305.

45 USC 228b.

Ante, p. 1327.

42 USC 402.

(3) if the spouse was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act of December 31, 1974, or was fully insured under that Act on that date, or was entitled to a wife's or a husband's insurance benefit under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this section shall be increased by an amount determined under the provisions of section 4(e)(1), or, if the spouse was entitled only to a wife's or husband's insurance benefit, 4(e)(3) of the Railroad Retirement Act of 1974: *Provided, however*, That, if the spouse was entitled to a monthly insurance benefit under the Social Security Act of December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the spouse by the provisions of this section for the month of January 1975 plus (ii) the monthly insurance benefit to which such spouse is entitled for that month under the Social Security Act (before any reductions on account of age and deductions on account of work) to equal (B) the total of (i) the spouse's annuity under the Railroad Retirement Act of 1937 (prior to any reduction on account of age and without regard to

45 USC 228a.

45 USC 228b.

section 2(d) of that Act) plus (ii) the monthly insurance benefit under the Social Security Act (before any reduction on account of age and deductions on account of work) which such spouse would have received for such month if this Act had not been enacted.

Survivor's annuities.
45 USC 231 note.
45 USC 228e.

SEC. 207. Every survivor who was entitled to an annuity under section 5 of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 5(i) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(d) of the Railroad Retirement Act of 1974 beginning January 1, 1975. For purposes of this section—

Ante, p. 1312.

(1) that portion of the survivor's annuity as is provided under section 4(f) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such survivor's annuity as computed under the provisions of section 5(q) of the Railroad Retirement Act of 1937: *Provided, however*, That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act in the same manner as any widow's insurance benefit, mother's insurance benefit, widower's insurance benefit, parent's insurance benefit, or child's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974;

Ante, p. 1327.
45 USC 228c.
42 USC 402.

(2) that portion of the survivor's annuity as is provided under section 4(g) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to 30 per centum of the amount computed in accordance with the provisions of paragraph (1) of this section prior to any reductions, other than reductions on account of age, in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act and prior to any reductions in accordance with the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974: *Provided, however*, That, if such survivor is not entitled to an annuity amount provided under paragraph (3) of this section, such amount shall not be less than an amount which would cause (A) the total of the annuity amounts provided the survivor by the provisions of this section for the month of January 1975 to equal (B) the amount of the annuity which the survivor would have received for such month under section 5 of the Railroad Retirement Act of 1937 (without regard to section 5(i) of that Act) if this Act had not been enacted; and

(3) if the survivor is a widow or widower who was entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act on December 31, 1974, or was fully insured under that Act on that date, the annuity amounts provided under paragraphs (1) and (2) of this section shall be increased by an amount determined under the provisions of 4(h)(1) of the Railroad Retirement Act of 1974: *Provided, however*, That, if the widow or widower was entitled to a monthly insurance benefit under the Social Security Act on December 31, 1974, such amount shall not be less nor more than an amount which would cause (A) the total of (i) the annuity amounts provided the widow or widower by the provisions of this section for the month of

42 USC 1305.

January 1975 plus (ii) the monthly insurance benefit to which such widow or widower is entitled for that month under the Social Security Act (before any deductions on account of work) to equal (B) the total of (i) the widow's or widower's annuity under the Railroad Retirement Act of 1937 (without regard to section 5(i) of that Act) plus (ii) the monthly insurance benefit under the Social Security Act (before any deductions on account of work) which such widow or widower would have received for such month if this Act had not been enacted.

42 USC 1305.
45 USC 228a.
45 USC 228e.

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

45 USC 231 note.
45 USC 228c.
45 USC 228b.
45 USC 228e.

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

Monthly insurance benefits, increases.
45 USC 231 note.
42 USC 402.

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

Annuity increases.
Ante, p. 1319.

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

45 USC 231 note.

TITLE III—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 301. Section 202(l) of the Social Security Act is amended—

42 USC 402.

(1) by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974"; and

Ante, p. 1312.

(2) by striking out "subsection (f)(1) of such section" and inserting in lieu thereof "section 6(b) of such Act".

Ante, p. 1334.

42 USC 405.

SEC. 302. (a) Section 205(i) of the Social Security Act is amended by inserting immediately before the colon preceding the proviso therein the following: "(except that in the case of (A) an individual who will have completed ten years of service creditable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1974, (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974, and (D) any other person entitled to benefits under section 202 of this Act on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974)".

45 USC 228a.
Ante, p. 1305.

Ante, p. 1312.

42 USC 405 note.

(b) The amendment made by this section shall apply only with respect to benefits payable to individuals who first become entitled to benefits under title II of the Social Security Act after 1974.

42 USC 401.

42 USC 405.

SEC. 303. Section 205(o) of the Social Security Act is amended—

(1) by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974";

Ante, p. 1312.

(2) by striking out "subsection (f)(1) of such section" and inserting in lieu thereof "section 6(b) of such Act"; and

Ante, p. 1334.

(3) by striking out "section 4 of such Act" and inserting in lieu thereof "section 3(i) of such Act".

Ante, p. 1319.

SEC. 304. Sections 216(b), 216(c), 216(f), and 216(g) of the Social Security Act are each amended by striking out "section 5 of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 2 of the Railroad Retirement Act of 1974".

42 USC 416.

42 USC 426.

SEC. 305. (a) Section 226(b) of the Social Security Act is amended by striking out "section 22 of the Railroad Retirement Act of 1937" from paragraph (2) and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

Ante, p. 1338.

(b) Section 226(d) of such Act is amended by striking out "section 21 or section 22 of the Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

(c) Section 226(e) of such Act is amended by striking out "Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "Railroad Retirement Act of 1974".

42 USC 1395s.

SEC. 306. Section 1840(b) of the Social Security Act is amended by striking out "or pension under the Railroad Retirement Act of 1937" from paragraph (1) and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

42 USC 1395u.

SEC. 307. Section 1842(g) of the Social Security Act is amended by striking out "section 21(b) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "section 7(d) of the Railroad Retirement Act of 1974".

42 USC 1395v.

SEC. 308. Section 1843(b) of the Social Security Act is amended by striking out "or pension under the Railroad Retirement Act of 1937" and inserting in lieu thereof "under the Railroad Retirement Act of 1974".

42 USC 1395gg.

SEC. 309. Section 1870(b) of the Social Security Act is amended by striking out "Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "Railroad Retirement Act of 1974".

SEC. 310. Section 1874(a) of the Social Security Act is amended by striking out "Railroad Retirement Act of 1937" and inserting in lieu thereof "Railroad Retirement Act of 1974". 42 USC 1395kk.

SEC. 311. Section 210(l) of the Social Security Act is amended— 42 USC 410.

(1) by striking out "section 4 of the Railroad Retirement Act of 1937" from paragraph 4(A) and inserting in lieu thereof "section 3(i) of the Railroad Retirement Act of 1974"; and *Ante*, p. 1319.

(2) by striking out ", as provided in section 4(p)(2) of that Act", from paragraph (4)(A) thereof.

TITLE IV—AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SEC. 401. (a) Section 2(c) of the Railroad Unemployment Insurance Act is amended by striking out "Railroad Retirement Act of 1937" and inserting in lieu thereof "Railroad Retirement Act of 1974" and by striking out "and section 10(h)". 45 USC 352. *Ante*, p. 1305.

(b) Section 2(g) of such Act is amended by striking out "section 3(f)(1) of the Railroad Retirement Act of 1937" each time it appears therein and inserting in lieu thereof "section 6(a)(1) of the Railroad Retirement Act of 1974". *Ante*, p. 1334.

SEC. 402. Section 4(a-1) of the Railroad Unemployment Insurance Act is amended by striking out "or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937" from paragraph (ii) and inserting in lieu thereof "under the Railroad Retirement Act of 1974". 45 USC 354.

SEC. 403. Section 10 of the Railroad Unemployment Insurance Act is amended by striking out subsection (h) and all that appears therein. 45 USC 360.

SEC. 404. Section 11(c) of the Railroad Unemployment Insurance Act is amended— 45 USC 361.

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

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

SEC. 405. Section 12(l) of the Railroad Unemployment Insurance Act is amended by striking out "section 10(b)(4) of the Railroad Retirement Act of 1937" and inserting in lieu thereof "subdivisions (5), (6), and (9) of section 7(b) of the Railroad Retirement Act of 1974". 45 USC 362. *Ante*, p. 1338.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 501. (a) Section 3221(c) of the Internal Revenue Code of 1954 is amended— 26 USC 3221.

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

(2) by striking out "under section 3(j) of such Act" and inserting in lieu thereof "at the level provided under section 3(j) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974"; and 45 USC 228c.

(3) by inserting after "section 3(j)(2) of the Railroad Retirement Act of 1937" "or section 2(h)(2) of the Railroad Retirement Act of 1974". *Ante*, p. 1312.

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

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

Ante, p. 1312.

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

26 USC 6413.

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

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

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

26 USC 3231.

TITLE VI—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

45 USC 228c.

SEC. 601. Section 3(a)(6) of the Railroad Retirement Act of 1937 is amended by adding at the end thereof the following new sentences: "If the individual entitled to an increase determined under the preceding provisions of this paragraph is also entitled to a benefit for the same month under title II of the Social Security Act, there shall, any provisions to the contrary notwithstanding, be offset against the total of the increase, or increases, of such individual determined under the preceding provisions of this paragraph, any amount by which such individual's social security benefit was increased during the period July 1, 1974, through December 31, 1974. For purposes of approximating any such offsets, the Railroad Retirement Board is authorized to determine the percentage figure which, when applied against current social security benefits, will produce approximately the amount of the increase, or increases, in social security benefits during the period July 1, 1974, through December 31, 1974. The amount produced by applying such percentage figure to the current social security benefit of an individual shall be the amount utilized in making the offset prescribed by the provisions of this paragraph."

42 USC 401.

45 USC 231a note.

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

(b) The provision of section 1(o) of the Railroad Retirement Act of 1974 which provides that a "current connection with the railroad industry" will not be broken by "employment with the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, or the Railroad Retirement Board" shall not be applicable (A) for purposes of paragraph (iv) of section 2(a)(1) of such Act, to an individual who became disabled, as provided for purposes of such paragraph, prior to January 1, 1975, (B) for purposes of section 2(b)(1) of such Act, to an individual whose annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 first began to accrue prior to January 1, 1975, and (C) for purposes of section 2(d)(1) of such Act, to a survivor of a deceased employee if such employee died prior to January 1, 1975.

Ante, p. 1305.

45 USC 228b.

(c) The provisions of clause (i)(B) and clause (ii)(B) of section 2(c)(1) of the Railroad Retirement Act of 1974 shall not be applicable to the spouse of an individual if (A) such individual will have completed thirty years of service and will have been awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to July 1, 1974, or (B) such individual will have completed less than thirty years of service and will have been awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 of section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to January 1, 1975. For purposes of the entitlement of the spouse of an individual described in clause (A) or (B) of the preceding sentence to an annuity under such section 2(c)(1), the provisions of clause (i)(B) of such section 2(c)(1) shall be deemed to read: "(B) has attained the age of 65".

45 USC 231a note.
Ante, p. 1312.
45 USC 228b.

(d) The provisions of section 2(b)(1) of the Railroad Retirement Act of 1974 which permit an individual to become entitled to a supplemental annuity thereunder if he "has attained age 60 and completed thirty years of service" shall not be applicable to an individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 or section 2(a)(1) of the Railroad Retirement Act of 1974 which first began to accrue prior to July 1, 1974.

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

Ante, p. 1338.
45 USC 231f note.

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

42 USC 402 note.

SEC. 604. The amendments made by the provisions of title V of this Act shall become effective on January 1, 1975, and shall apply only with respect to compensation paid for services rendered on or after that date.

26 USC 3221 note.

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

45 USC 228c note.
45 USC 228a.

CARL ALBERT
Speaker of the House of Representatives.

JAMES O. EASTLAND
President of the Senate pro Tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
October 15, 1974.

The House of Representatives having proceeded to reconsider the bill (H.R. 15301) entitled "An Act to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

W. PAT JENNINGS
Clerk.

I certify that this Act originated in the House of Representatives.

W. PAT JENNINGS
Clerk.

IN THE SENATE OF THE UNITED STATES,
October 16, 1974.

The Senate having proceeded to reconsider the bill (H.R. 15301) entitled "An Act to amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes", returned by the President of the United States with his objections to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO
Secretary.

Public Law 93-446

October 17, 1974
[S. J. Res. 123]

JOINT RESOLUTION

Authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren.

Former Chief Justice Earl Warren.
Oil portrait and marble bust, procurement.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Marshal of the Supreme Court of the United States, subject to the direction and approval of Chief Justice of the United States, is authorized and directed to procure an oil portrait and a marble bust, including pedestal, of the former Chief Justice Earl Warren and to cause them to be placed in the United States Supreme Court Building.

Appropriation.

(b) There is authorized to be appropriated $25,000 to carry out the purposes of this joint resolution.

Approved October 17, 1974.