

Y 4
.P 84/11
T 22

1044

T 22
P 84/11
1044

NATIONAL GUARD TECHNICIANS

GOVERNMENT DOCUMENTS

Storage

4 1972

HEARING

BEFORE THE

SUBCOMMITTEE ON

OPERATION AND EMPLOYMENT BENEFITS

OF THE

COMMITTEE ON

POST OFFICE AND CIVIL SERVICE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 855

TO AMEND TITLE 5, UNITED STATES CODE, TO CORRECT CERTAIN INEQUITIES IN THE CREDITING OF NATIONAL GUARD TECHNICIAN SERVICE IN CONNECTION WITH CIVIL SERVICE RETIREMENT, AND FOR OTHER PURPOSES

OCTOBER 13, 1971

Printed for the use of the
Committee on Post Office and Civil Service



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1971

70-596 O

CO

011600 748695

LIBRARY
KANSAS STATE UNIVERSITY

11/28/89
T 55

DOC
FEB
THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

GALE W. MCGEE, Wyoming, *Chairman*

JENNINGS RANDOLPH, West Virginia
QUENTIN N. BURDICK, North Dakota
ERNEST F. HOLLINGS, South Carolina
FRANK E. MOSS, Utah

HIRAM L. FONG, Hawaii
J. CALEB BOGGS, Delaware
TED STEVENS, Alaska
HENRY BELLMON, Oklahoma

DAVID MINTON, *Staff Director and Counsel*
ROD CROWLIE, *Associate Staff Director*
CLYDE S. DUPONT, *Minority Counsel*
RICHARD G. FULLER, *Professional Staff Member*
DAN DOHERTY, *Professional Staff Member*

SUBCOMMITTEE ON COMPENSATION AND EMPLOYMENT
BENEFITS

QUENTIN N. BURDICK, North Dakota, *Chairman*

ERNEST F. HOLLINGS, South Carolina
FRANK E. MOSS, Utah

J. CALEB BOGGS, Delaware
TED STEVENS, Alaska

(II)

CONTENTS

OCTOBER 13, 1971

| | Page |
|--|------|
| Text of S. 855..... | 2 |
| Departmental reports: | |
| Comptroller General..... | 5 |
| Civil Service Commission..... | 6 |
| Department of the Army..... | 7 |
| Executive Office of the President, Office of Management and Budget..... | 9 |

CHRONOLOGICAL LIST OF WITNESSES

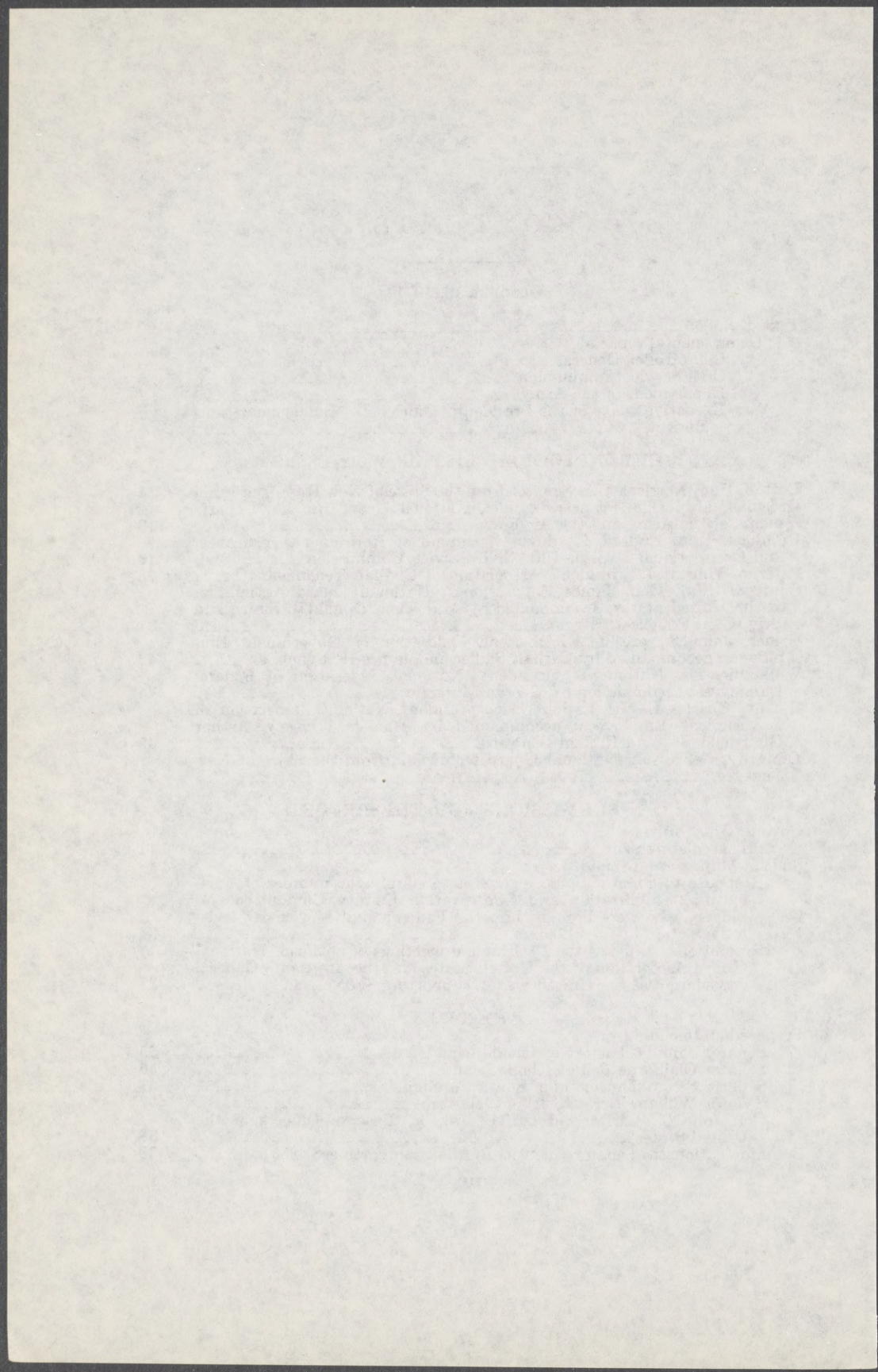
| | |
|---|----|
| Cotton, Hon. Norris, a U.S. Senator from the State of New Hampshire.... | 11 |
| Greenlief, Maj. Gen. Francis S., chief, National Guard Bureau, Depart- ments of the Army and the Air Force..... | 12 |
| Ruddock, Hon. Andrew E., director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission..... | 16 |
| Paterno, Vincent J., president, Association of Civilian Technicians..... | 23 |
| Cantwell, Maj. Gen. James F., president, National Guard Association of the United States; accompanied by Maj. Gen. Donald J. Smith and Brig. Gen. Francis J. Higgins..... | 31 |
| Griner, John F., president, American Federation of Government Em- ployees; accompanied by Carl K. Sadler and James H. Lynch, Jr..... | 42 |
| Wolkomir, Dr. Nathan T., president, National Federation of Federal Employees; accompanied by George Margolies..... | 45 |
| Hickey, Charles E., Jr., national vice president, National Association of Government Employees; accompanied by Alan J. Whitney, Arthur Guarriello, Jr., and Ronald Benward..... | 49 |
| Donnelly, Gervois J., National Guard technician, from the State of New Jersey..... | 52 |

SUBMISSIONS FOR THE RECORD

| | |
|---|----|
| Cotton, Hon. Norris: | |
| Prepared statement..... | 11 |
| Smith, Maj. Gen. Donald J.: | |
| Response to Senator Spong's request to supply the number of Agri- cultural Stabilization and Conservation County Committee em- ployees who were brought into the Federal civil service by legis- lative action in July 1960..... | 34 |
| Resolutions passed at the 1971 annual meetings of both the National Guard Association of the United States and the Adjutants General Association of the United States, supporting S. 855..... | 37 |

APPENDIX

| | |
|---|----|
| Prepared statements by: | |
| Senator John O. Pastore of Rhode Island..... | 55 |
| Senator Claiborne Pell of Rhode Island..... | 56 |
| Senator Strom Thurmond of South Carolina..... | 57 |
| Senator William V. Roth, Jr. of Delaware..... | 57 |
| Col. John T. Carlton, executive director, Reserve Officers of the United States..... | 58 |
| Communications to Senator Quentin Burdick, supporting S. 855..... | 58 |



NATIONAL GUARD TECHNICIANS

WEDNESDAY, OCTOBER 13, 1971

U.S. SENATE,
SUBCOMMITTEE ON COMPENSATION
AND EMPLOYMENT BENEFITS OF THE COMMITTEE
ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 10:04 a.m., pursuant to call, in room 6202, New Senate Office Building, Senator Quentin N. Burdick (chairman of the subcommittee) presiding.

Present: Senators Burdick, Fong, and Stevens.

Staff members present: David Minton, staff director and counsel; Clyde DuPont, minority counsel; Richard G. Fuller, and Dan Doherty, professional staff members.

Senator BURDICK. This is the Subcommittee on Compensation and Employment Benefits and the committee has been called to hear testimony on S. 855, a bill introduced by Senator Cotton in order to extend the Civil Service Retirement Act for the service performed by National Guard technicians prior to January 1, 1969. The service performed prior to that date is now credited to 55 percent of the full value, a figure reached by compromise in the National Guard Technician Act of 1968.

We have several witnesses appearing this morning, so before we hear our first witness I request that a copy of S. 855 and the agency reports concerning it be placed in the record at this time.

(The aforementioned material follows:)

(1)

92^D CONGRESS
1ST SESSION

S. 855

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18 (legislative day, FEBRUARY 17), 1971

Mr. COTTON (for himself, Mr. BOGGS, Mr. PASTORE, Mr. PELL, Mr. ROTH, Mr. SCHWEIKER, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) section 8332 (b) of title 5, United States Code,
4 relating to creditable service for civil service retirement
5 purposes, is amended by striking out the last sentence there-
6 of which reads as follows: "Service referred to in paragraph
7 (6) is allowable only in the case of persons performing serv-
8 ice under section 709 of title 32, United States Code, on or
9 after the effective date of the National Guard Technicians
10 Act of 1968."

1 (b) Section 8334 (c) of title 5, United States Code, re-
2 lating to deposits for periods of creditable service for civil
3 service retirement purposes, is amended by striking out the
4 last sentence thereof which reads as follows: "Notwithstand-
5 ing the foregoing provisions of this subsection, the deposit
6 with respect to a period of service referred to in section 8332
7 (b) (6) which was performed prior to the effective date of
8 the National Guard Technicians Act of 1968 shall be an
9 amount equal to 55 per centum of a deposit computed in ac-
10 cordance with such provisions."

11 (c) Section 8339 of title 5, United States Code, relat-
12 ing to computation of civil service retirement annuities, is
13 amended by striking out subsection (1) thereof which reads
14 as follows:

15 “(1) In determining service for the purpose of comput-
16 ing an annuity under each paragraph of this section, 45 per
17 centum of each year, or fraction thereof, of service referred
18 to in section 8332 (b) (6) which was performed prior to the
19 effective date of the National Guard Technicians Act of 1968
20 shall be disregarded.”

21 (d) Section 3 (c) of the National Guard Technicians
22 Act of 1968 (82 Stat. 757; Public Law 90-486), relating
23 to crediting of National Guard technician service for Fed-
24 eral employees' leave, death, and disability compensation,
25 group life and health insurance, severance pay, tenure, and

1 status, is amended by striking out the last sentence thereof
2 which reads as follows: "This subsection shall apply only
3 in the case of persons who perform service under section 709
4 of title 32, United States Code, on or after the effective date
5 of this Act."

6 SEC. 2. The foregoing provisions of this Act shall be-
7 come effective as of January 1, 1969.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 25, 1971.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of March 1, 1971, requests our views and comments on S. 855, 92d Congress, a bill: "To amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes."

The bill would amend the civil service retirement provisions which authorize credit for National Guard technician service prior to January 1, 1969, as added by the National Guard Technicians Act of 1968, approved August 13, 1968, Public Law 90-486, 82 Stat. 755 (5 U.S.C. 8332(b), 8334(c) and 8339(1)), to eliminate the requirement that credit for technician service prior to January 1, 1969, may be given only if the technician serves in such a position on or after that date and to authorize computation of an annuity for such prior service on the basis of 100 percent instead of 55 percent. Further, the bill would remove the 55 percent limitation on deposits for creditable service for which retirement deductions or deposits have not been made. The bill would also authorize counting of National Guard technician service prior to January 1, 1969, as Federal service for purposes of leave, Federal employees death and disability compensation, group life and health insurance, severance pay, tenure, and status even though the individual concerned did not serve as a National Guard technician on or after January 1, 1969.

While we recognize that the proposed legislation involves a matter of policy for determination by the Congress, nevertheless, it is our view that there are certain cogent reasons which militate against enactment of such legislation.

The limitations imposed on the crediting National Guard technician service performed prior to January 1, 1969, for civil service retirement purposes and for other Federal employee benefits were discussed at length in the reports of the Senate Committee on Armed Services (S. Rept. No. 1446, 90th Cong., 2d sess.) and the House Committee on Armed Services (H. Rept. No. 1823, 90th Cong., 2d sess.) with regard to the National Guard Technicians Act of 1968.

In support of the 55 percent formula for annuity computation purposes, those reports noted that of the approximately 42,000 technicians currently employed (1) approximately 20,000 had already acquired a vested interest in future social security payments and others may complete the 40 quarters and add to their social security credits through annual field training duty, (2) approximately 4,450 had acquired a vested interest in a future annuity under one of the State retirement systems based on past service, and (3) all will become eligible for Reserve retired pay at age 60 if they complete the required 20 years of satisfactory Reserve service.

The Senate Armed Services Committee's report also noted its dual obligation to exercise restraint in terms of causing additional financial obligations on the part of the Federal Government and to recognize the need for an adequate retirement and fringe benefit program for the National Guard technicians. The report explained that assuming future pay increases of 3½ percent annually and price index increases of 1½ percent annually, the following costs would result under the present 55 percent formula:

| | If appropriated to CSR fund immedi- ately | If appropriated as retirement is paid |
|----------------------------|---|--|
| Average age of retirement: | | |
| 55..... | \$789,209,000 | \$2,425,098,000 |
| 60..... | 591,907,000 | 1,818,824,000 |

If S. 855 is approved a 100 percent formula would replace the 55 percent formula now in effect. Under this condition, and assuming the same pay and price index increases as above, the report shows the cost would increase as estimated below:

| Average age of retirement: | If appropriated to CSR fund immedi- ately | If appropriated as retirement is paid |
|----------------------------|---|--|
| 55----- | \$1,217,637,000 | \$3,741,580,000 |
| 60----- | 913,228,000 | 2,806,185,000 |

Further, to allow technicians who were not employed as such on or after January 1, 1969, 100 percent credit for past service would undoubtedly cause an additional increase in civil service retirement costs. The amount of the increase would depend upon how many technicians were employed prior to January 1, 1969, and are currently employed or will subsequently become employed in another Federal capacity.

The cited reports stated that since fiscal year 1955 the Federal Government has contributed as the employer's share \$58,348,000 to the social security fund and \$19,606,000 to State retirement funds (fiscal years 1962 through 1968) totaling \$77,954,000. If these technicians had been under the civil service retirement system during this same period of time, the Federal Government would have contributed \$142,805,000. Therefore, in terms of past Government investment, the benefit of which the technicians retain, it could be stated that the Federal Government has already contributed 55 percent of the amount that would have been contributed to the civil service fund during this period. This contribution would leave a remainder of only 45 percent. Rather than limit the contribution under this concept to 45 percent, however, the Senate committee recommended that 55 percent of past technician service be creditable.

In view of the above information supporting the 55 percent annuity computation formula and the increase in cost to the Federal Government under the proposed legislation, we believe the National Guard Technicians Act of 1968 provides a fair and equitable retirement program for personnel employed as technicians on or after January 1, 1969, who had prior technician service. We believe the proposed amendment would result in benefits to technicians who have already acquired a vested interest in social security and State retirement programs through Federal contributions, therefore, giving them greater retirement annuities than other similar Federal employees. S. 855 would also increase the estimated cost of financing the civil service retirement program by approximately \$1 billion.

Sincerely yours,

R. F. KELLER,
*Assistant Comptroller General
of the United States.*

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 29, 1971.

HON. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This refers further to your request for the Commission's views on S. 855, a bill "To amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes."

Effective January 1, 1969, the National Guard Technician Act of 1968, Public Law 90-486, statutorily grants Federal employee status to National Guard technicians, bringing them under the civil service retirement law, and according full credit to those employed under the technician program on and after that date for their pre-1969 technician service in determining length of service for leave, Federal employees death and disability compensation, group life and health insurance, severance pay, tenure, status, and for civil service retirement, except for annuity computation and optional deposit purposes. For annuity computation purposes, credit is allowed for 55% of the pre-1969 technician service. Also, technicians have the option of paying 55% of the deposit required for this past technician service for which no retirement deductions were taken from their salaries. If the deposit is not made, the annuity otherwise payable in each case is reduced by 10% of the amount determined to be due.

S. 855 would, retroactively from January 1, 1969, make the following changes in the crediting of pre-1969 National Guard technician service:

1. Repeal the last sentence in section 8332(b) of title 5, United States Code, which restricts civil service retirement credit for pre-1969 National Guard technician service to only those persons who are actually employed as technicians on and after January 1, 1969. Deletion of this sentence would have the effect of granting retirement credit to all former technicians serving in any civil service covered position on and after January 1, 1969.

2. Repeal the last sentence of section 8334(c) of title 5, United States Code, which limits the optional deposit to 55% of the amount determined to be due. Deletion of this sentence would allow eligible technicians to pay the full amount of the optional deposit due for their pre-1969 technician service.

3. Repeal section 8339(1) of title 5, United States Code, which provides that 45% of each year of such technician service is to be disregarded for annuity computation purposes. Elimination of this subsection would have the effect of allowing 100% retirement credit for pre-1969 technician service for annuity computation purposes.

4. Repeal the last sentence of section 3(c) of the National Guard Technician Act of 1968 (82 Stat. 757) which allows only those persons serving in the technician program on and after January 1, 1969 to receive full credit for their pre-1969 technician service in determining length of service for leave, Federal employees death and disability compensation, group life and health insurance, severance pay, tenure and status purposes. Deletion of this sentence would allow all former technicians in Government service on and after January 1, 1969 to receive service credit for their pre-1969 technician service for the purposes stated.

Insofar as cost is concerned, if the 55% credit provision for pre-1969 technician service is repealed, the unfunded liability of the civil service retirement fund would be increased by \$128 million. Under the provisions of section 8348(f) of title 5, United States Code, this amount would be amortized by 30 equal annual installments of approximately \$7.9 million. We are unable to determine the number of former technicians who were separated from the technician program prior to January 1, 1969, but who are and will be employed in civil service covered positions on and after this date and will under S. 855 receive retirement credit for their past technician service. We cannot therefore estimate the cost of providing retirement credit to these people for their past technician service.

In any event, the Commission does not concur in the enactment of S. 855. The National Guard Technician Act of 1968 represents a compromise among a wide range of choices which was available to the Legislative and Executive branches of the Government in considering (among other things) the persons who would benefit from the Act, and the degree and extent to which pre-1969 non-Federal technician service would be creditable for civil service retirement purposes.

The Commission is not aware of any new developments since adoption of the compromise solution which make it less acceptable today than it was at the time of enactment. No reasons have been advanced for liberalizing the benefit provisions and incurring the additional costs involved which were not fully considered before approval of the present law.

For the above reasons, the Commission recommends that adverse action be taken on S. 855.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

DEPARTMENT OF THE ARMY,
Washington, D.C., October 7, 1971.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 855, 92d Congress, a bill "To amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The purpose of the bill is to grant full credit to all employees covered by Federal civil service retirement legislation (subchapter III of chapter 83 of title 5, United States Code) after December 31, 1968, for National Guard technician service performed by them before January 1, 1969, under former section 709 of title 32, United States Code, or prior corresponding provisions of law.

The Department of the Army, on behalf of the Department of Defense, favors the bill.

Under current law, credit is given only to those former National Guard technicians who are employed under section 709 of title 32, United States Code, at some time on or after January 1, 1969, the effective date of the National Guard Technicians Act of 1968 (Public Law 90-486).

Other Federal employees who performed identical technician service before January 1, 1969, would not be entitled to credit for that service in the computation of retirement, leave, and other fringe benefits enumerated in section 3(c) of the cited act.

Current law also reduces the credit for technician service before January 1, 1969, by 45 percent, for the purpose of computing an employee's civil service annuity.

The reasons for this unprecedented restriction upon eligibility for credit, and percentage reduction for prior technician service, are set forth in the Senate Armed Services Committee Report No. 1446 on S. 3865, 90th Congress, dated July 22, 1968.

According to that report, the benefits to which National Guard technicians would become entitled as the result of the Federal Government's contributions to State Retirement systems, and the Social Security taxes which it had paid on their behalf, would more than offset the financial loss resulting from discounting their prior technician service by 45 percent. The report also said, with respect to the requirement that a person be employed as a technician after December 31, 1968, in order to receive credit for prior service, that "The basic purpose * * * is to provide an incentive for participation in the technician program."

The 45 percent reduction formula is highly inequitable. Service before 1954, when the Federal Government first began paying the employer's Social Security tax with respect to National Guard technicians, is subjected to the same reduction as is imposed upon subsequent service. Technicians in Ohio and Massachusetts, who constitute almost 7 percent of the entire technician work force, have never been covered by Social Security, but are subject to the same reduction factor. The technicians of the 31 jurisdictions not covered by State retirement programs incur the same reduction as those employed in jurisdictions where they were covered by State retirement. The majority of National Guard technicians, who in 1968 were not fully insured, may never become eligible for Federal Old-Age and Survivor Insurance benefits, which in any case would not be payable until two years after they had been mandatorily separated from their technician employment. Nearly three-fourths of the technicians covered by State retirement systems on January 1, 1968, were not then entitled to a deferred annuity at retirement age, and the great majority of these will derive no benefit whatever from the Federal Government's contributions covering the employer's cost. Finally, those who are fully insured for Social Security purposes will suffer a reduction in those benefits because no further contributions—employer or employee—will be made from their compensation while they are covered under the Federal civil service retirement system.

Denying credit for prior technician service to those Federal employees who may never have an opportunity to become employed in the National Guard technician program after December 31, 1968, because of their age, or lack of military status, or because there are no National Guard technician vacancies, is also inequitable. All persons employed by the United States after December 1968 should be entitled to include prior National Guard technician employment for leave and retirement purposes, irrespective of the Federal department, agency or program in which they happen to have been employed following their technician service.

One of the objectives of covering all National Guard technicians under a single retirement and fringe benefits program was to permit and encourage transfers between the technician programs of the several States, Puerto Rico and the District of Columbia, without loss of credits already earned.

The 45 percent reduction formula has already defeated that objective in part, because most National Guard technicians in Pennsylvania (some 4 percent of the national total) elected to remain in the State retirement system which offered full credit for past service rather than to become covered by the Federal retirement program. The Federal Government gained little or nothing since its contribution to the Pennsylvania retirement fund will equal what the Government

would otherwise pay to the Federal Civil Service Retirement and Disability Fund.

It is assumed that some of the technicians who elected to remain covered by their State systems would not have made that election had it not been for the 45 percent reduction factor. It is therefore recommended that the technicians who made such an election be permitted to make a new election within 90 days following the date of enactment of this legislation which would permit them to become covered by the Federal retirement program to the same extent as if they had not initially elected State retirement coverage.

As a result of the current law, which gives no credit for 45 percent of service performed before 1969 in the computation of his annuity, a technician may be attracted to other employment that offers him an immediate salary increase, or desirable fringe benefits. If full credit were to be given for prior service (subject to the standard reduction in annuity required by 5 U.S.C. 8339(h) if deposits are not made with respect to that period), the possibility of being able to retire with a more generous annuity, in some cases as early as age 55, would provide a strong incentive for technicians in this category to remain in the program, and thereby aid the services in conserving this critical manpower resource.

A substitute draft bill which would authorize the new election, and which would also eliminate the unnecessary quotation of the language of current law which the bills would repeal, is attached.

For the foregoing reasons the Department of the Army, on behalf of the Department of Defense recommends that the bill be amended in accordance with the inclosed substitute draft bill, and as thus amended, be favorably considered.

The enactment of this bill will cause no apparent increase in budgetary requirements of the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that while there is no objection to the submission of this report, that Office continues to oppose enactment of S. 855 for reasons set forth in report it is submitting to the Committee.

Sincerely,

ROBERT F. FROEHLKE,
Secretary of the Army.

A BILL To amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8332(b) of title 5, United States Code, relating to creditable service for civil service retirement purposes, is amended by striking out the last sentence.

(b) Section 8334(c) of title 5, United States Code, relating to deposits for periods of creditable service for civil service retirement purposes, is amended by striking out the last sentence.

(c) Section 8339 of title 5, United States Code, relating to computation of civil service retirement annuities, is amended by striking out subsection (1).

(d) Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757), relating to crediting of National Guard technician service for Federal employees leave, death, and disability compensation, group life and health insurance, severance pay, tenure, and status, is amended by striking out the last sentence.

SEC. 2. A person who elected, under section 6 (a) or (b) of the National Guard Technicians Act of 1968 (82 Stat. 758), not to be covered by subchapter III of chapter 83 of title 5, United States Code, may elect, not later than 90 days after the effective date of this Act, to be covered by that subchapter. Such an election is effective on the first day of the first pay period after the expiration of the 90-day period.

SEC. 3. The amendments made by section 1 of this Act are effective on January 1, 1969.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 8, 1971.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on S. 855, "To amend title 5, United States Code, to correct certain

inequities in the crediting of National Guard technician service in connection with civil service retirement and for other purposes.”

This bill would repeal provisions of the National Guard Technician Act of 1968, P.L. 90-486, that govern crediting of certain National Guard technician service under Federal employee benefit programs. P.L. 90-486 granted Federal employee status, effective January 1, 1969, to civilian technicians of the National Guard. Under its unique service credit provisions, P.L. 90-486 allowed full credit for all pre-1969 technician service in determining length of service for purposes of Federal employee benefits, e.g., leave, FECA, group life and health insurance, severance pay, tenure and status. For civil service retirement, however, P.L. 90-486 allowed only 55 percent of such service to be used in computing annuities, with the regular 10 percent reduction in annuity for non-deposit for past service applied against 55 percent of the required amount.

S. 855 would grant 100 percent retirement credit for all pre-1969 technician service, with annuity subject to the regular 10 percent reduction if deposit for such past service is not made. In addition, the bill would permit technician personnel who served prior to January 1, 1969, and left the technician program before that date, to receive credit for such service for civil service retirement and other benefits if they complete at least five years of Federal civilian service, of which at least one is subject to civil service retirement.

Legislation to clarify the status of civilian employees of the National Guard had been under consideration jointly by the Armed Services Committees of the Congress and the executive branch for an extended period, beginning with proposals in the 87th Congress. P.L. 90-486 was the culmination of that effort. The service credit provisions of that law represent an agreement reached after a considerable period of negotiations in order to ensure enactment of the legislation.

The special service credit provisions were designed by the Senate Armed Services Committee after the deletion in conference committee of an earlier technician proposal contained in H.R. 2 that provided full service credit as now proposed in S. 855. The Senate Committee's comprehensive analysis of the issues involved in granting service credit for prior, non-Federal technician service is set out in detail in its report on the National Guard technician bill—S. 3865, 90th Congress (Senate Report No. 1446, 90th Congress, Second Session).

Briefly, the Senate Committee restricted the right to receive credit for pre-1969 technician service to those technicians in the program on and after January 1, 1969. The Committee, in doing so, recognized the fact that such service was not Federal service and indicated the intent that credit be allowed only as an incentive for participation in the technician program. The amount of such service to be credited was limited to 55 percent, as an offset to the Government's contribution of the employee's share, on behalf of technicians, to OASDI since 1954 and to State retirement systems since 1961. The Committee observed that some technicians are eligible for retirement under State systems, others under OASDI, and that all will become eligible for Reserve retired pay as well. The Committee also recognized that “there is no formula for achieving exact justice for every individual technician . . .” and expressed its conviction that the 55 percent formula provided an equitable solution.

If enacted, S. 855 would have the effect of nullifying an agreement reached only three years ago by the Congress and the Department of Defense. It would appear pertinent to ask what new developments make the provisions of present law less acceptable today than when the law was enacted.

Two major concerns of the Senate Committee were:

1. The fact that the Federal Government had, over the period 1954-1968, expended \$79 million for retirement benefits for National Guard technicians.
2. The fact that if granted full service credit for civil service retirement, a number of technicians would receive windfalls in the form of multiple benefits for the same periods of service.

The Office of Management and Budget concurs and supports the validity of these concerns.

The bill contains no provision which would enable the Federal Government to recoup its \$79 million investment in other retirement plans, thus leaving the Government in the position of paying twice for the same service. Nor does the bill contain any provision for offsetting dual benefits for identical periods of service.

In our view there is no completely equitable way of solving the problem. Granting of additional windfall benefits does not serve the cause of equity. While correcting certain inequities of the existing statute, S. 855 would, if enacted, create others. Under the circumstances, we believe the best course of action would be to allow the current law to stand.

Accordingly, in view of the preceding comments, the Office of Management and Budget recommends against enactment of S. 855.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Senator BURDICK. Our first witness is the distinguished U.S. Senator from New Hampshire, Senator Norris Cotton. Senator Cotton.

STATEMENT OF HON. NORRIS COTTON, A U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator COTTON. Mr. Chairman, I want to express my appreciation for the opportunity to appear before your committee. During the second session of the last Congress, I had the privilege of introducing this bill. This year, when I reintroduced the bill, I was joined by Senators Boggs, Pastore, Pell, Roth, Schweiker, Thurmond, Metcalf, and Hart.

Mr. Paterno, the president of the Association of Civilian Technicians, is here with others. I expect that Mr. Buchard from New Hampshire will be here and wish to be heard briefly later. In view of the fact that I must go down to the Commerce Committee, I would like to request of the chairman that I may be permitted to file a supplementary statement to go along with such testimony that has been presented this morning.

Senator BURDICK. No objection. The statement will be made a part of the record this morning.

Senator COTTON. I thank you.

(The aforementioned statement was subsequently supplied for the record.)

PREPARED STATEMENT OF SENATOR NORRIS COTTON, NATIONAL GUARD TECHNICIANS RETIREMENT BILL, S. 855

Mr. Chairman, when the Chairman of the Committee on the Post Office and Civil Service indicated to me last June that you and he would schedule a hearing in the Fall on S. 855, I am sure that none of us realized how eventful the early part of October would be for the members of your Committee. You have just completed an extremely busy week and I am sure that the other witnesses are as appreciative as I am of your holding this hearing today.

As I said when I introduced S. 855 in the Senate on February 18, 1971, the inequities this bill seeks to correct were brought to my attention by the Association of Civilian Technicians at Pease Air Force Base. Four gentlemen from Pease wanted to be with me this morning but the miserable air service that we have in New England, and which you have heard me speak of on countless other occasions, prevented them from being with us today. Comprising the delegation are Mr. Laurence Brown, Mr. Ronald Simms, Mr. Luther Preston, and Mr. Henry Henriksen. They could give you specific individual examples under the present situation, however there are many others here from other parts of the Nation who can bear witness in their place.

A bipartisan group of eight other Senators has joined me in this effort, including the distinguished ranking Republican member of this Subcommittee, Senator Boggs, and his colleague from Delaware, Senator Roth; the two Senators from Rhode Island, Senator Pastore and Senator Pell; two members of the Committee on Armed Services, Senator Thurmond and Senator Schweiker, both of whom I know are fully aware of the situation that this bill seeks to correct; the junior Senator from Montana, Senator Metcalf; and last, but by no means least, the senior Senator from Michigan, Senator Hart.

Several bills have also been introduced in the House of Representatives identical to S. 855 which I am sure you are aware of. Testimony was taken on these bills on

September 17, 1971 by the Post Office and Civil Service Committee of that body. I am greatly encouraged that both Committees are holding hearings on these bills.

Briefly, the situation is this. For many, many years the National Guard technicians lived in a kind of limbo. They worked as civilian employees under the immediate direction of the Governors and Adjutant Generals of the States. Their very important function is to keep in constant operational readiness the equipment used by the National Guard units at the hundreds of local armories that dot the Nation. Without them the "weekend warriors" of our civilian militia that we have long relied on would never get off the ground. They were paid by the Federal government—yet they did not have real status as Federal employees. In spite of their great contribution as full-time civilian technical assistants to the National Guard program they were, as Congressman Stratton so aptly put it at the House hearing "neither fish nor fowl—not even good red herring!"

In 1968 the Congress passed the National Guard Technicians Act, Public Law 90-486. This Act was designed to rectify the situation and make these 42,000 professionals full Federal employees. Full credit was given for their pre-1969 technician service in ascertaining their length of service for leave, death and disability compensation, group life and health insurance, severance pay, tenure, and status. The members of this Committee are as aware as I am that you don't always get perfect legislation the first time around in the Congress. In order to get the National Guard Technicians Act approved a compromise was reached with regard to retirement benefits that provided that the Federal government would allow only 55 percent of the technicians Federal service to be credited to them for retirement annuity purposes.

My bill, that you are considering this morning, would grant retirement credit to all former technicians serving in any civil service covered position on and after January 1, 1969. It would also enable eligible technicians to pay the full amount of the optional deposit due for their pre-1969 technician service; establish 100 percent retirement credit for the pre-1969 technician service when computing annuities; and would allow all former technicians in Federal service on and after January 1, 1969 to receive credit for their pre-1969 service.

Mr. Vincent J. Paterno, the President of the Association of Civilian Technicians is here today to testify to the great need for legislation to correct the inequity in the National Guard Technicians Act. He has just come from the national convention of his organization in Atlanta and is well fortified with particular instances of the injustices in the present system. He can bring you compelling evidence of what it is like to be only a 55 percent Federal employee when retirement time comes.

Thank you again for having this hearing in the midst of a very crowded schedule for this Committee and for allowing me the opportunity to present these remarks. I urge your favorable consideration of this legislation and look forward to your bringing it to the floor of the Senate at the earliest possible date.

Senator BURDICK. Our next witness will be Maj. Gen. Francis S. Greenleaf, Chief, National Guard Bureau, Departments of the Army and the Air Force. You will proceed in any order you wish, Mr. Greenleaf.

STATEMENT OF MAJ. GEN. FRANCIS S. GREENLIEF, CHIEF, NATIONAL GUARD BUREAU, DEPARTMENTS OF THE ARMY AND THE AIR FORCE

General GREENLIEF. Mr. Chairman and members of this committee, I am Maj. Gen. Francis S. Greenleaf, Chief, National Guard Bureau, Departments of the Army and the Air Force. I am accompanied by Mr. William Blatt, legal counsel of the National Guard Bureau. The Department of the Army has been designated as the representative of the Department of Defense for this legislation. I represent the Department of the Army for that purpose. I have a brief prepared statement that I would like to present to the committee. The purposes of the bill are:

(a) To give all Federal employees, irrespective of the agency by which they are employed, identical credit for National Guard tech-

nician service before January 1, 1969, the effective date of the National Guard Technicians Act of 1968, and

(b) To remove the 55-percent limitation on the credit currently allowed for National Guard technician service before January 1, 1969, thereby permitting full credit for all such prior service.

Under existing law, no credit is given for National Guard technician service before January 1, 1969, unless the individual was employed under section 709 of title 32, United States Code, at some time after that date. For example, an AST (administrative and supply technician) of the Puerto Rico Army National Guard, who left that employment before January 1, 1969, and took a similar job with a USAR unit in the Virgin Islands, gets no credit for his National Guard technician service. If he made such a change today, or if he is re-employed as a National Guard technician at any time after December 31, 1968, his service before January 1, 1969, would be creditable for Federal civil service retirement.

Moreover, service before the latter date is discounted by 45 percent in computing the amount of the employee's Federal civil service annuity.

The Department of Defense favors enactment of this legislation.

National Guard technicians were in a unique legal status before January 1, 1969. Although they were employed under authority of Federal law, paid directly by U.S. finance officers from Federal-appropriated funds, at salaries fixed by Federal officers, and were considered to be Federal employees for workmens compensation, and, until the 1965 Supreme Court decision in *Maryland v. U.S.*, 381 U.S. 41, for Federal Tort Claims Act purposes, they were not covered under the Civil Service Retirement Act.

In 1955, the United States began contributing the employer's portion of social security taxes on behalf of technicians who became covered by that act, and in 1962 began to contribute toward the cost of State retirement in the handful of States that considered technicians to be State employees for that purpose.

As the Senate Armed Services Committee indicated in its July 22, 1968, report to accompany S. 3865, 90th Congress—which became the National Guard Technicians Act of 1968—the 45-percent reduction in credit for prior technician service was intended as a rough approximation of the ratio between the Government's contributions to social security and State retirement programs on behalf of these employees during the years 1955–68, and the amount it would have contributed to the Federal Civil Service and Retirement Disability Fund during the same years had they been covered under the Civil Service Retirement Act.

The deficiencies in the application of this formula are readily demonstrable:

(a) All other groups heretofore brought under the Civil Service Retirement Act, whose prior service was covered by social security, have been given full credit for that service for retirement purposes. Examples are the Agricultural Stabilization Committee who became covered under CSRA on July 1, 1960; and all Federal temporary employees, initially covered by social security, who are subsequently appointed to permanent civil service positions.

(b) As can be seen by inspection of the tables in the report of the Senate Armed Services Committee on S. 3865, 90th Congress, which

became the National Guard Technicians Act of 1968, for each dollar the Federal Government contributed to social security and State retirement systems during the 1955-68 period, take-home annuity benefits of the technicians will be reduced tenfold.

(c) Technicians in the 31 States where they were not covered by local retirement systems are penalized because of Federal contributions in the 20 jurisdictions that did provide coverage.

(d) Technicians in Massachusetts, Ohio, and Nevada, who were not covered by social security, are penalized because of Federal contributions on behalf of other technicians who were covered.

(e) Many technicians, who were covered by social security will derive no benefits because they did not have the necessary quarters of coverage before January 1, 1969, when they became covered by civil service retirement. Those who were fully insured for OASI will receive increasingly smaller amounts, since service after January 1, 1969 in the technician program will be included in computing the average earnings upon which OASI benefits are based. Finally, the majority of National Guard technicians will be mandatorily separated at least 2 years before they can begin to claim social security benefits at age 62.

(f) Three-fourths of the technicians covered by local retirement systems did not have the service required to acquire vested interests in State systems, and will never become entitled to State annuities.

(g) The 55-percent limitation applies not only with respect to service during the 1955-68 period during which the Federal Government contributed to social security and during 1962-68 to State retirement, but also to service before 1955, when the United States made no contributions whatever.

With respect to the provisions restricting credit for prior service to those in the program after December 31, 1968, I would like to adopt the position of the Director of the U.S. Civil Service Commissions Bureau of Retirement and Insurance expressed in his letter of December 7, 1966 to the National Guard Bureau. He said:

We appreciate that the limited interest of the National Guard would be fulfilled if credit for National Guard technician service were given only to those who remain in or return to the National Guard program. However the Cabinet committee on Federal Staff Retirement Systems has recommended, and the President has endorsed, that there be a statutory entitlement to civil service retirement credit for past National Guard technician service. I might add that, traditionally, service which is made creditable for retirement purposes is credited for all persons who may have such service, i.e., no distinction is made as between classes of employees who may have had the same service.

Many Federal employees with National Guard technician service before January 1, 1969, because of age, physical condition, or lack of vacancies, will not have been able to obtain technician employment after that time. The principle of "equal pay for equal work" should be observed by giving equal credit for prior service in the computation of retired pay.

One of the objectives of covering all National Guard technicians under a uniform retirement program was to encourage and facilitate transfers between States without loss of credits. The 45-percent reduction formula has served to defeat that objective in part, because most of the technicians in Pennsylvania (about 4 percent of the national total), and some in other States, elected to remain covered by their State retirement systems which gave 100-percent credit for past

service. It is quite probable that many of those technicians would, if the law were amended as provided by S. 855, elect to become covered by the Federal retirement program if permitted to do so.

A further amendment would be necessary to authorize such action, because section 6(c) of the National Guard Technicians Act of 1968 provided for a one-time, irrevocable election.

Such an election would not increase the cost to the Department of Defense since it is already contributing to the Commonwealth of Pennsylvania and other State retirement funds, the same amount it would otherwise contribute to the Federal Civil Service Retirement and Disability Fund.

Enactment of the legislation will cause no increase in budgetary requirements of the Department of Defense.

The Office of Management and Budget advises that while there is no objection to the submission of this statement, the position of that office is set forth in the report from that office to the committee.

I have appreciated this opportunity of appearing before the committee and shall be happy to answer any questions you may have on this bill.

Senator BURDICK. Thank you for your contribution, General. I have one or two questions. In your statement it reads:

As can be seen by inspection of the tables in the report of the Senate Armed Services Committee on S. 3865, 90th Congress, which became the National Guard Technicians Act of 1968, for each dollar the Federal Government contributed to Social Security and State retirement systems during the 1955-1968 period, take home annuity benefits of the technicians will be reduced tenfold.

Explain that, please.

General GREENLIEF. The report of the Senate Armed Services Committee includes some tables of statistics. Chart 1 and chart 2 are the statistics that I use to make this point. Chart 1 is a table that shows the estimated past service cost for National Guard technician service computed at a 100-percent basis. That is the cost at retirement of these technicians if they were given credit for 100 percent. At the end of that chart it shows the amount that would have to be appropriated by the Federal Government to pay technicians at the average age at which they would retire. And this cost, as of January 1, 1968, assuming future pay and price index increases, was estimated at \$2,461,000,000.

Chart 2, the report shows the cost of the retirement of those technicians if they were given only 55 percent credit for past service. The cost of that retirement would be \$1,500 million; the difference between those two figures which is \$866 million is the amount of money that will not be paid the technicians on retirement because \$78 million had been contributed by the Federal Government to Social Security and State retirement systems. By comparing the \$77 million plus which the Federal Government contributed, with the \$866 million denied to technicians upon retirement by the application of the 55 percent rule, it is evident that the amount to be withheld is over 10 times the prior contribution.

Senator BURDICK. Do you favor giving the time and credit for National Guard service to former technicians any longer, technicians in some other accredited position?

General GREENLIEF. Yes, I do.

Senator BURDICK. Why, General?

General GREENLIEF. Yes, I do because of the equal pay, equal work principle. It's my belief if a technician who worked as a National Guard technician before January 1, 1969, is now working for some other Federal employment, some other Federal program, he should have the same retirement benefit as the man who stayed in the program; for example, we have, in fact, the case in Puerto Rico, a National Guard technician who worked for Puerto Rico, for the Puerto Rican National Guard prior to January 1, 1969; prior to that date, he changed from that job to an almost identical position for the U.S. Army Reserve in the Virgin Islands.

Had he remained in the Guard program, he would have gotten retirement credit for his technician service prior to January 1. Since, however, he is now in another program, that of the U.S. Army Reserve, to be specific, he does not get the credit which in my judgment, he should get, as an application of the principle of equal pay for equal work.

Senator BURDICK. I think that's all, General. Have I a right to assume that you are for this legislation?

General GREENLIEF. Sir?

Senator BURDICK. Am I right to assume that you are for this bill?

General GREENLIEF. Very much so.

Senator BURDICK. Thank you.

General GREENLIEF. Thank you for the opportunity of appearing.

Senator BURDICK. The next witness will be Mr. Andrew E. Ruddock, Director of the Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission. Good to see you again, Mr. Ruddock.

Mr. RUDDOCK. Thank you, Mr. Chairman. Mr. Chairman, I have a prepared statement. With your permission, I would like to read that statement.

Senator BURDICK. You may proceed in any way you wish.

STATEMENT OF HON. ANDREW E. RUDDOCK, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. RUDDOCK. Mr. Chairman and members of the subcommittee: I appreciate the opportunity to appear this morning to present the Commission's views on S. 855. The main features of this bill would liberalize current law relating to the crediting of National Guard technician service rendered before 1969, in computing civil service retirement annuities.

The Commission on September 29, 1971, submitted its formal report on S. 855. Mr. Chairman, I suggest that this report be incorporated in the record of the subcommittee's proceedings.

At this time, I would like to underscore some of the main points in this report, and also to discuss in more detail the legislative background of the current law relating to the creditability of technician service. This background is a major reason why the Commission recommends against enactment of S. 855.

Before January 1, 1969, National Guard technicians were not Federal employees. In most places they were considered to be employees of the State. The National Guard Technician Act of 1968, which became effective on January 1, 1969, specifically made National

Guard technicians employees of the Federal Government, and made them subject to the civil service retirement law. In other words, from January 1, 1969, National Guard technicians are Federal employees and are treated the same as all other Federal employees.

With respect to service before 1969, the National Guard Technician Act of 1968, provides that—

(1) Unless an employee is a technician on or after January 1, 1969, he receives no credit for technician service he may have had before that date. One of the main reasons for this requirement advanced by the Senate and House Committees on Armed Services in 1968, is to provide an incentive for continuing participation in the technician program.

(2) If an employee is a technician on or after January 1, 1969, he receives credit for 55 percent of his pre-1969 technician service. This represents, in the view of the committees that reported the legislation in 1968, a compromise with respect to the extent former non-Federal service would be creditable toward civil service retirement.

(3) Technicians serving on or after January 1, 1969, may pay 55 percent of the amount otherwise owed as a deposit for technician service before that date during which no retirement deductions were made; if this payment is not made, annuity is reduced by 10 percent of the outstanding 55 percent deposit. This provision conforms to the 55 percent credit provision just described.

S. 855 would retroactively, from January 1, 1969, make the following changes in the crediting of pre-1969 technicians service:

(1) It would grant retirement credit for technician service performed before 1969 to all former technicians serving in any position subject to the retirement law on or after January 1, 1969.

(2) It would allow credit for 100 percent of pre-1969 technician service for annuity computation purposes.

(3) It would permit eligible technicians to pay the full amount rather than 55 percent of the sum otherwise owed as a deposit for pre-1969 technician service.

The Commission objects to these changes that would be made by S. 855. Insofar as cost is concerned, changing the current 55 percent credit provision for pre-1969 technician service to allow 100 percent credit would increase the unfunded liability of the civil service retirement system by \$128 million. This amount would be amortized by 30 equal annual installments of \$7.9 million, beginning June 30, 1972. We are unable to determine the number of former technicians who were separated from the technician program before January 1, 1969, but who are, or will be, employed in positions subject to civil service retirement on or after that date and who would, under S. 855, receive retirement credit for their past technician service. We cannot, therefore, estimate the additional unfunded liability and financing cost of providing retirement credit for their past technician service, but we expect that it would be substantial. The Commission believes that it is particularly inappropriate at this time to impose these additional costs on the taxpayers for the sole purpose of liberalizing retirement benefits for one category of employees.

In addition to cost considerations, the Commission opposes enactment of S. 885 for another reason. As I stated earlier, the National Guard Technician Act of 1968, represented a compromise among the alternatives which were available to the Congress concerning the people who would benefit from the 1968 act, and the extent to which

pre-1969 non-Federal technician service would be creditable toward civil service retirement. The legislative background of the National Guard Technician Act makes this clear.

I would like to quote from the July 1968 report of the Senate Committee on Armed Services:

The committee had a wide range of choices in considering the degree to which past technician service (which is considered State service except for the District of Columbia) should be creditable for future civil service retirement. It could have recommended no credit for past service on the premise that the technicians were similar to any other non-Federal employee and as such would accrue retirement credit only from the period in which he was a statutory Federal employee covered under the civil service retirement system. The other extreme would have been to recognize past technician service to the extent of 100 percent for civil service retirement purposes. The committee, after long and careful examination of all aspects of this matter, has unanimously concluded that the 55-percent credit represents a fair, equitable, and generous treatment of this matter.

By way of further justification of the 55-percent credit, the report of the House Committee on Armed Services on this same bill notes that—

(1) Approximately half of the technicians had already acquired a vested interest in future social security payments, since they had completed the required 40 quarters of coverage as a result of their technician equipment.

(2) Still more technicians could be expected to complete the 40 quarters of social security credits through annual Reserve training duty as Federal civilian employees.

(3) Another 10 percent of the technicians not covered under social security had acquired a vested interest in an annuity under their State retirement systems.

(4) All technicians become eligible for Reserve retired pay at age 60 if they complete 20 years of satisfactory Reserve service, whether or not they are Federal employees.

These other retirement programs were in effect then part of the employment program for technicians, to which the Federal Government, incidentally, had already contributed the employer's share of the cost. Consequently, the committee took them into account in arriving at the 55-percent formula.

The Commission is not aware of any new developments since passage of the National Guard Technician Act of 1968 which make the compromise provisions for crediting pre-1969 technician service less acceptable today than they were when it was enacted a little over 3 years ago. No reasons have been advanced for liberalizing the benefit provisions and incurring the additional costs involved which were not fully considered before approval of the 1968 law.

I thank you for the privilege of appearing this morning. I will be glad to answer any questions you may have.

Senator BURDICK: Thank you, Mr. Ruddock. It's your position that the 1968 act was a compromise in this matter?

Mr. RUDDOCK. Yes, sir, and so far as we are aware, there have been no developments since that time which were not considered by the Congress in enacting the original legislation.

Senator BURDICK. Is it fair to say that the Commission's position today is that the 1968 act is not fair, not based on precedent contrary to the Commission's recommendation, contrary to the Cabinet's Committee recommendation, but you support it because it is the law and you don't want to rehash the same argument?

Mr. RUDDOCK. Yes. If I can elaborate on that?

Senator BURDICK. You may elaborate.

Mr. RUDDOCK. Just a little bit. I do not want to indicate to the committee that the compromise was one which was either dreamed up by the Commission or supported by the Commission. The fact is that is not the way we would have done it. On the other hand, the committees very clearly reported out legislation stating that it was a compromise between two extremes. We then received the enrolled bill. We were asked for a recommendation as to the action the President should take on that bill at that point, we recognized that the major objective intended by the legislation to bring the technicians into the Federal service, would be accomplished by enactment. We recommended that it be signed by the President. In other words, we, at that point, accepted the compromise for what it was. And at this point, we see no justification for reopening that question.

Senator BURDICK. The staff has a very unusual question here. Do you have an estimate of how many active retired Senators or Representatives receive or would receive both civil service retirement, armed services retirement, armed services reserve retirement?

Mr. RUDDOCK. No, sir, I do not. And I am glad I do not.

Senator BURDICK. There have been some objections to this legislation because these people had National Guard retirement, social security insurance and, in some cases, State retirement. Are these windfalls for these people or are these earned unit annuities for which they are paid?

Mr. RUDDOCK. I would type each one of them as an earned annuity rather than any windfall. Each one is related to service performed by the individual. Any State retirement benefit would also be related to the length of that service. Both social security and Reserve retired pay would be related to the value of the service as measured in terms of earnings.

Senator BURDICK. Do other civil service annuities have similar multiple benefits?

Mr. RUDDOCK. Yes. The last time we had a reasonably good fix on it indicated that approximately 40 percent of the people receiving retirement annuities under the civil service retirement system also receive social security old age benefits. Now, in most cases, the social security benefit would be related to non-Federal employment performed either before or after Federal service, in between periods of Federal service or, in some cases, by people who are working for the Federal Government and also working in other jobs in which they are under social security. That would be a much, much smaller number of people who would receive both the social security old age benefit and civil service retirement and who had earned the social security credits in the Federal employment. I think that's one unusual thing about the National Guard technician.

Senator BURDICK. Are you aware of any percentage of these technicians who might have benefit of either Federal or State programs?

Mr. RUDDOCK. It would be a relatively high percentage, who will not receive a State retirement benefit, of those who are currently serving as technicians. If they complete at least 5 years of service as a civilian employee of the Federal Government, they will be entitled to annuity benefits under the civil service retirement system. So, I would think that we could expect those who remain in technician service will qualify for a civil service retirement annuity.

Senator BURDICK. Senator Fong.

Senator FONG. Mr. Ruddock, you estimated this would cost \$128 million?

Mr. RUDDOCK. Yes.

Senator FONG. This is a cost which does not take into account the number of people who terminated their services prior to 1969, but came back subsequently to the Federal service.

Mr. RUDDOCK. No, sir. We don't know how many such people there are or will be, and we have not attempted to put a dollar value upon that.

Senator FONG. About how many technicians come to the program?

Mr. RUDDOCK. To my recollection, it was about 42,000 or 43,000.

Senator FONG. Now, do you have anything similar to this in other branches of the Government; for example, in the Agriculture Department when the Extension Service people were brought in, did they get a windfall. I have been told that some of these people who are retired now almost get full salary because they get a retirement from the State and get a retirement from the Federal Government; is that what you are saying?

Mr. RUDDOCK. I am not aware of any of the people who were employees of Agricultural Stabilization and Conservation county committees and who were brought under the retirement system by legislation having been under State retirement systems. Many of them undoubtedly would have been under social security and will have acquired sufficient quarters of coverage to qualify for social security old-age benefit.

Senator FONG. I have been advised that some of them probably would have the compensation of one from the State and one from the Federal Government.

Mr. RUDDOCK. Well, I am aware that many of the employees who are in the programs operated by cooperative agreement between Agriculture and the States, under the Extension Service, have been under both the State retirement system and will also qualify for civil service retirement, but I thought your question related specifically to those people that have been brought in by legislation, such as employees of the Agricultural Stabilization and Conservation county committee. I am not aware of any of those people being employed in that group.

Senator FONG. The technicians that were brought in, if they had qualified under the retirement system of their State, actually, they would be able to get retirement from their State?

Mr. RUDDOCK. Yes, sir.

Senator FONG. And if they qualify under social security, they would qualify under social security benefits?

Mr. RUDDOCK. Yes, sir.

Senator FONG. So, the Congress allowed them 55 percent 3 years ago. This is a compromise. If we gave them 100 percent, then they would get something which the other Federal employees would not get; is that correct?

Mr. RUDDOCK. Yes, sir; they would.

Senator FONG. They would earn a social security benefit which other Federal employees have not been able to earn?

Mr. RUDDOCK. They would have more of an opportunity to acquire title to the social security old-age benefit; yes, sir.

Senator FONG. And the 10 percent have already gotten, have already qualified for retirement under the State system, would be entitled to that?

Mr. RUDDOCK. Yes, sir. Ten percent, I believe, is the estimate of the Armed Services Committee in 1968.

Senator FONG. Now, is there a dispute between the Civil Service Commission and the Department of Defense relative to policies in regard to this bill?

Mr. RUDDOCK. Our recommendation is that the legislation be not enacted. This is the position of the Civil Service Commission. And I might also indicate that the Office of Management and Budget recommend that the question be not reopened at this time.

Senator FONG. Do you know of any other group now in the Federal service who were brought in who were formerly under a State system who probably would like to come in and get similar consideration?

Mr. RUDDOCK. No, sir. I do not. There is no other group in which service is credited at 55 percent.

Senator FONG. Is there any other group whose service was never credited but who would like to be credited?

Mr. RUDDOCK. I am not aware of any group who became Federal employees by virtue of legislation not receiving credit for their past similar service.

Senator FONG. All of the people who came in under the agricultural program have been taken care of for retirement?

Mr. RUDDOCK. Yes, they have.

Senator FONG. And there is no pressure on that score?

Mr. RUDDOCK. There is continuing pressure to give credit out of the civil service retirement system for people who were State employees at one time, employees of the State or in some instrumentality of the State and then who left that employment to become Federal employees. In other words, they are now Federal employees.

Senator FONG. These are separate?

Mr. RUDDOCK. Well, it's a separate category. They became Federal employees by changing jobs.

Senator FONG. Not—

Mr. RUDDOCK. Not by legislative fiat which declared them to be Federal employees in their old jobs.

Senator FONG. Yes. Well, I am aware of that. That the matter of request be made by people who already have service with State government, wishing to add that service to the Federal service. But you do not know of any group which has been brought in by a Federal law where it would be under civil service?

Mr. RUDDOCK. No, sir, I do not. I don't believe there is any.

Senator FONG. Are you able to find out how many more people are affected by this, the number of people you say that do not?

Mr. RUDDOCK. I don't know any way you could do that, sir, without taking a poll of the more than 2 million Federal employees, asking each one whether he had prior service with the National Guard. That would be very time-consuming and a costly process. I believe I would recommend to the committee that the matter be settled in principle.

Senator FONG. Does this bill call for payment by the technicians if this committee should allow, the Congress should allow them to secure the other 45 percent?

Mr. RUDDOCK. If the legislation were enacted, I think we would learn fairly quickly how many present Federal employees had technician service before 1969.

Senator FONG. Is there anything in the bill which says that, if the Congress would allow them the other 45 percent, that payment would be made for credits?

Mr. RUDDOCK. Not a requirement that the payment be made on mandatory basis. The individual would have the privilege of paying into the retirement fund 100 percent of the equivalent of retirement deductions for the period. But if he did not make the payment, he would still get credit for the service. The penalty would be a reduction in the annuity equal to 10 percent of the amount he owes the fund.

Senator FONG. In that respect, he would be treated like any other employee who came?

Mr. RUDDOCK. Same provision.

Senator FONG. Thank you.

Senator BURDICK. Mr. Ruddock, how many States had retirement coverage of technicians in 1968?

Mr. RUDDOCK. I believe it was 21.

Senator BURDICK. Do you know whether these technicians have all retained those rights?

Mr. RUDDOCK. Most of them, it's my understanding, have elected to come into the civil service retirement system, which meant they had to leave the State retirement system. I believe that the testimony indicated that Pennsylvania had 4 percent of the technicians and that many of them had elected to remain under the State system.

Senator FONG. You mean to say that several technicians stayed in the State system?

Mr. RUDDOCK. Yes, sir, the privilege of remaining in the State retirement system was in the legislation which declared them to be Federal employees.

Senator FONG. And they would now like to come in?

Mr. RUDDOCK. No, sir. That was a one-time election. It was irrevocable. This legislation does not propose reopening that question.

Senator FONG. I see. So, if we do allow 100 percent credit those who would like to stay out can come in now and say they want to come in?

Mr. RUDDOCK. They would have to amend the bill in order to permit that. I would expect that if you did not do that, you would be having a hearing next year or the year after to make that change.

Senator BURDICK. Could you give some reasons why the technicians stayed with the State system; could it be that they felt that the 55 percent was not a good deal for them and they stayed?

Mr. RUDDOCK. I am sure that would be a very cogent reason for someone who had extensive service before 1969, and who had a choice of staying in a liberal State retirement system and receiving 100 percent credit or of transferring over to the civil service retirement credit system and receiving 55 percent credit for their past service. I am sure that would be a factor in the decision.

Senator BURDICK. Are you aware of the fact that some States have canceled out the programs and the technicians elected to take the Federal program?

Mr. RUDDOCK. I was not aware of that.

Senator BURDICK. I believe that New Jersey and Pennsylvania canceled out the retirement programs of the State when the employee

elected to take the Federal program. Maybe there is some witness here who might know.

Mr. RUDDOCK. There might be. I don't know of that. If an individual had met the requirements of the State retirement system; for example, if they had a provision that after 10 years of service, he would receive an annuity at age 65, it would be rather unusual, I would think, for a State to divest an individual of that vested right. But I do not know about the New Jersey situation.

Senator BURDICK. I think a hand went up in the audience. We will have his name and we will hear from him later on. What is your name?

A MAN IN THE AUDIENCE. Guarriello, sir. And I am a member of the New Jersey Guard, a technician guard. And I can testify.

Senator BURDICK. We will hear from you. Do you have anything else, Mr. Ruddock?

Mr. RUDDOCK. No, sir.

Senator BURDICK. Thank you, very much, Mr. Ruddock.

Mr. RUDDOCK. Thank you for the privilege of appearing.

Senator BURDICK. The next witness will be Mr. Vincent J. Paterno, president of the Association of Civilian Technicians, Inc.

Mr. PATERNO. Thank you, Mr. Chairman. I have with me, to my right, Mr. Giarusso, our vice president and to my left, Mr. Donald Bean, secretary for the organization.

Mr. Chairman and members of the committee.

Senator BURDICK. Do you wish to insert your statement and summarize, or do you want to give it verbatim? You may have your privilege.

Mr. PATERNO. I think that the statement pretty well addresses itself to some of the problems, Mr. Chairman.

Senator BURDICK. Proceed.

STATEMENT OF VINCENT J. PATERNO, PRESIDENT, ASSOCIATION OF CIVILIAN TECHNICIANS

Mr. PATERNO. Mr. Chairman and members of the committee: I speak to you today as the national president of the Association of Civilian Technicians, and as a National Guard civilian employee on leave of absence to serve in that capacity. It is not without some degree of pride that I look back 11 years to the founding of our organization with only 13 members, dedicated simply to the improvement of the status of National Guard civilian employees, marking the achievement of Federal employee identity, employer contribution to health and life insurance plans, and limited retirement.

But I would be remiss in my stewardship of our organization, now representing thousands in many States, if I sat back, satisfied with limited accomplishments, looking at the plaque on the wall wherein resides the pen used by President Johnson to sign the National Guard Technician Act of 1968 into law. Proud, though I am, of that singular presentation—I cannot set aside larger goals to be achieved and principles not met. Public Law 90-486 stands as a landmark on the way to full equity and a rational employee relationship. S. 855 stands to become another landmark in our quest. To this end we propose our position.

S. 855, introduced by Senator Norris Cotton of New Hampshire, and cosponsored by Senators Pastore, Pell, Roth, Boggs, Schweiker,

Thurmond, and Hart along with H.R. 2530 and 16 other bills introduced by Representatives Rooney, Tiernan, the late Mr. Corbett, Fulton, St Germain, Dent, Moorehead, Davis, Halpern, Hagan, Morgan, Quillen, Melcher, Stratton, O'Konski, Hanley, and O'Neil, present a fair way to adjust one of the inequities resulting from Public Law 90-486. That being the singular and discriminatory 55 percent formula for crediting retirement service before 1969.

This legislation would recognize past service credit in full and penalize the annuitant only to the degree that his unpaid deposits would reduce the retirement benefit by the same formula that exists for all other retirees under the law. At present the retirement is computed at 55 percent and the penalty for unpaid deposits is figured on that scale. Further, this legislation would grant credit to those National Guard employees that left the technician program before enactment of the 1968 legislation and went in to other Federal employment.

All of these changes are appropriate. The employee effected has given to his National Government many years of federally paid and federally sponsored service. In no instance did he exist under initiatives, or directions, from State sources. We can wonder about the generous use of the term "State employee" so often used to describe the National Guard employee prior to 1969, if we consider the facts that regulations creating them came from the Defense Department, and the funds used to pay them were all congressionally appropriated. Public Law 90-486, as full of compromise as it was, did establish a recognition of present Federal employee status, and recognized the past, if not in clear and unequivocal terms, at least in basic principle. The failure to encompass these employees, despite their clear and identifiable parentage, should not discredit them as if the decision were theirs. Once accepted into the framework of Federal employment—it should have been with whole heart. To have done less is to deride the service already given.

If we consider Public Law 90-486, "The National Guard Technician Act of 1968," in detail we can better understand the climate in which a 55 percent formula was constructed. The pluses and the minuses are from our viewpoint.

PLUS

1. National Guard employees became Federal employees of the Department of Army or Air Force as applicable.
2. They received credit for past service for leave, health and life insurance, severance pay, and exceptionally limited tenure rights.
3. Their positions, already paid under classified and wage board standards, were formally converted to that, by law.
4. They received credit for past service, computed at a 55 percent formula for years before 1969, and current service credits at full rates.

MINUS

1. They did not receive full credit for past service for retirement.
2. They were denied competitive status, with all other civil employees of the executive branch without grounds of political or security exception. (Note: Some 5 percent are competitive because of a non-military membership requirement.)
3. They were denied overtime pay for overtime worked.

It is interesting that the Comptroller General, and this has just been given in writing, that when they are working in overtime situations for compensatory time, they are not entitled to hazardous duty pay.

4. Ninety-five percent are required to belong to the military to hold their jobs.

5. They are not entitled to veteran's preference, despite the fact that veterans are a source of major initial appointment.

6. They are not under the merit system.

7. The adjutant general is the sole agent for employment and administration.

8. The final level of appeal in adverse actions, grievances, and reductions-in-force is the adjutant general of the State.

9. All who are military members (95 percent), must terminate their employment upon loss of military membership. Age 60 is final termination in all instances with earlier terminations frequent because of military physicals and age/rank barriers.

It is obvious, at least to this witness, that the insistencies of the adjutants general upon the maintenance of their prerogatives in the arbitrary management of this force of better than 40,000 federally paid employees, so clouded up the issues under consideration that a reasonable historical and actual perspective was destroyed. The tenacity and persistence with which men fought to keep a federally funded program under their complete control is easily understood, even if their lack of loyalty to their subordinates is not.

Men and women, many of whom had been called out and served in World War II, Korea, the Berlin crisis, and Vietnam, and all of whom kept our Reserves in order and awaited call, were ill-served by legislation that gave them 55 percent credit for retirement and far less actual Federal employee status than that. Public servants who manned missile bases "at the ready," provided 24-hour air defense coverage, flew cargo to overseas sites including Vietnam, and kept a Strategic Reserve Force within days of possible combat involvement deserved better rewards for Federal service actually given.

S. 855 will provide our older technicians with notice that their service was not partial, but complete and significant. It will give them the possibility of facing a future, or past retirement with dignity and reasonable annuity. It will, if passed into law, say that their service stands no counterpart. As civilian employees these public servants have given more and gotten less than any other civil employee I can bring to mind.

Let them look forward to the uncommonly early retirement forced upon National Guard employees, because of their military status, without the fears of large-scale economic deprivation. Let their widows be somewhat better off in the event the employees death. If disabled, their income would not be abnormally low. The security and equitable rewards of long-term Government service would deservedly be gained.

Historically we can note that legislation that would have given National Guard employees full credit for past service passed the House in 1966 and 1967. It was in the Senate that action was delayed. We can remark that the recommendations of the President's Cabinet Committee on Federal Staff Retirement Systems, which were referred to the House Post Office and Civil Service Committee, and had gained the approval of the Civil Service Commission, and the Bureau of Budget, on March 7, 1966 included the following:

Since National Guard technicians perform essentially Federal functions, necessary procedural changes should be effected by statute to provide formally for their Federal appointment and supervision. Their resulting formal designation by statute as Federal employees would entitle them to Civil Service Retirement Act credit and related Federal benefits. As Federal employees thus designated, they should concurrently be granted a statutory entitlement to civil service retirement credit for all past National Guard technician service.

I do not find it inconsistent that the present Civil Service Commission and Office of Management and Budget think differently. I would be surprised were they to back any benefit or gain for employees. But at least they have not held out, and then withdrawn, the carrot of "comparability" before our retirees.

They have determined with the efficiency, heart, and soul of an adding machine that 55 percent computed retirement benefits for National Guard employees gives a "comparability" they can live with, even if our retirees must sacrifice. As I watch the economic "game plan" unfold I hear from a widow, living in a condominium retirement village home that she invested almost all of her savings into a few years ago so that she could live on her \$200-a-month income as a retired GS-4, as she reports to me that the real property taxes have gone up more than double. If her monthly payment is increased in the same proportion, she will surely have to sell her retirement home just to exist. This widow is not a National Guard retiree at 55 percent computation, but a full civil service annuitant.

I sometime wonder why National Guard employees stay with such a program as we have. Not only is their time before 1969 partially credited, but they are, for the most part, outside the competitive service, can be fired at will, do not get paid for overtime, are restricted in promotional possibilities by sex and military rank, are required to belong to the military to hold their jobs, and in most instances are forced to wear military uniforms to hide their civilian status from the world. If there is a worse public employee system in this Nation I have not heard of it. I think it is a faith that things would get better that has kept them to this point. I now feel that if the program does not improve drastically that, with the next upturn in the economy, there will be a huge exodus. The productive ones will leave with only the high graded clubmen and their circle of bootlickers remaining.

The repair job on the imperfections of Public Law 90-486 can start in this subcommittee with affirmative consideration of the proposed legislation. It is where we must begin because hundreds of our long term employees face retirement soon and many have retired already on amounts not sufficient to maintain dignity and reasonable life standards.

We have a man, now age 59, who retired on disability after almost 25 years of service with the final grade of GS-7 step 8, receiving \$2,208 per year in retirement pay. Another who retired at the mandatory age of 60 receives \$2,172 per year. A fine technician, i WG-12, who retired on disability at age 50 and died 10 months later has a widow receiving \$2,145 per year.

It was argued in the Senate Armed Services Committee hearings in 1967 that these employees were covered by social security benefits. Little recognition was given to the fact that the mandatory age of retirement is 60 and that benefits under that act can not begin before age 62, and then only at a reduced amount. It was stated that our

type of employee was also covered by reserve military retirement. However, some are not, and those with the lower grades and income can hardly expect large payments. Further, as I testified in 1967, any Federal employee who served 20 or more years in the Guard or Reserves would get the same thing. The military retirement is for separate time and separate duties.

A big issue at the time was the argument that some 4,500 employees had a vested interest in State retirement systems that would give them a "windfall". As a result we gave this 10 percent of the working force only a 55 percent "windfall" but succeeded in divesting the other 90 percent of a full 45 percent of their prospective retirement for past service.

Behind all of the purportedly meritorious positions that denied National Guard employees the full light of day, and days past, as civil employees of their National Government, there existed adjutants general of various States, jealous in their prerogatives within a nonlegislated system of federally paid employees and fighting bitterly against efforts to gain civil service status for these employees. Suffering no need to answer to appeals or grievance systems, defying merit standards, making mockery of civil rights, practicing nepotism, cronyism, and personal favoritism, there was no desire to see an identity as public servants emerge. Retirement they were not against as long as the arbitrary rule could remain.

Effort after effort was made to stem the prevailing tide. The Congress was assured that if the Federal Government would pay the State share the technicians would all be put in State retirement system and so they passed the law in 1961. It did not happen. Laws were then proposed that would have placed technicians under the cover of the civil service retirement system without their becoming Federal employees. This did not happen. When we finally did become Federal servants, the entry law, Public Law 90-486, gave us so few of the normal rights that it is no wonder that even credit for past service was cut in half. One of these State Generals said to me in 1964, before a large group, "You will never be Federal employees as long as I am around." We have since gotten the label and most of the benefits, but I think he was right.

That some employees have completed the minimum quarter coverage under social security should not be importantly regarded. This coverage available only from 1954 to 1968, will rapidly diminish in value providing only minimum benefits in most instances. It can also be considered coverage contributed to by both employee and employer that will tend to balance out the unpaid deposit deduction from the annuity. Too, current coverage within 5 years is required for other benefits. Only 2 more years exist for that coverage due to Federal employment.

Coverage for employees who were not on board as technicians on the initial date of the act, should be extended. Many have become Federal employees in other agencies and activities and deserve no penalty for honest service, honestly given. Exclusions of this sort are discriminatory.

Reasonable retirement income, adequate survivor benefits and above poverty level disability benefits are not possible for a generation of National Guard technicians without the passage of this legislation. It will cost the Government money without doubt, but it is only

proper back wages for a group of the finest employees this Nation has ever had.

I wish to thank the chairman and members of the subcommittee for their interest and stand ready to answer any questions to the best of my ability.

Senator FONG. You said that the National Guard technician who is now a Federal employee does not have the same rights as other civil service employees?

Mr. PATERNO. That's correct, sir.

Senator FONG. You might know what those rights are that they don't have.

Mr. PATERNO. First, they are not in the competitive service; they are in the excepted service denying more specifically appeals of the right to hire or fire by the Adjutant General and to have higher jurisdiction under all classifications which give equal opportunity.

Senator FONG. In other words, if there is a vacancy, there is no examination for that vacancy?

Mr. PATERNO. There are different standards prevailing and differences in the desires of the particular Adjutant Generals concerned. For my purposes and my experiences, there is not an adequate merit system in any State.

Senator FONG. I see. If the Adjutant General wishes to appoint the man, he appoints him?

Mr. PATERNO. Generally speaking. There are systems in which they have jobs advertised. But when you indicate sex, military rank and age and things like this, you are actually leaving the merit system. You are not basing it on the qualifications of the person concerned but on extraneous factors that may or may not pertain to the particular job.

Senator FONG. And so you say you don't have grievance systems?

Mr. PATERNO. We have grievance systems, but the final level of decisionmaking would be that of the Adjutant General. This cannot be appealed to the Civil Service Commission or any other Federal agency. This frequently ends up with the fact that the grievances being responded to is by the same man the grievance is against.

Senator FONG. Well then at the age of 60 you have to retire?

Mr. PATERNO. That's right. Frequently, it can be before this because of the provisions of the Reserve Officers Promotion Act, which requires them to get out earlier if they reach certain ages in certain ranks. And, of course, there are physicals that have to be passed, physical standards to be maintained. They have military membership requirements and if you don't maintain the Guard membership, you can't stay in the job. So there are many barriers to continuous employment.

Senator FONG. So you are in a different class from other civil service employees. You must maintain a military status?

Mr. PATERNO. That's correct.

Senator FONG. And if you don't maintain a military status, you immediately lose your job as a technician?

Mr. PATERNO. Right. And a very interesting adjunct to this is that the terms and conditions of military service are under State military laws, excepting periods of active duty. So, you are putting Federal employees under the jurisdiction of various and sundry State authorities.

Senator FONG. So, actually, you are in a very different category from the civil service employee in that you are subject to State authority, also, aren't you?

Mr. PATERNO. We are subject to State authority because of the requirement of the military membership and because of the specific requirement of the adjutant general. However, I believe that in the law where the adjutant general has been given this final hiring and firing role, is relative to his position as appointing officer in a position appointed by the Federal Government. However, when you put in the requirement that a man be a military member of the National Guard, then the National Guard is run by military law of the State during the period in which it's not in Federal status.

Senator FONG. Now, as a National Guardsman, how often do you meet as a National Guardsman?

Mr. PATERNO. There are 48 training periods a year. Usually this combines into weekends, 12 weekends, plus, normally, a 15-day period of training.

Senator FONG. And your work as a technician and as a National Guardsman is separate?

Mr. PATERNO. Yes, separate.

Senator FONG. Separate. And the time you spend as a National Guardsman is the same type as that of any other National Guardsman who is not a technician?

Mr. PATERNO. Well, sometime, a technician will set a little more extra time, he might not be paid for it, but he may put in certain extra periods of time.

Senator FONG. You have advanced an argument that is very strong and convincing, but there were only 10 percent of the people who were brought into the service that would qualify for retirement under State?

Mr. PATERNO. That had vested retirement rights at the time of the Senate report in 1968.

Senator FONG. So, 90 percent of the people who came in will not have any retirement under the State system?

Mr. PATERNO. But one thing was not brought out at the time the Senate report was made, the State of Pennsylvania was not under the State retirement system. And a very interesting fact here, the State legislation was passed in 1968 and the Governor signed the retirement act for the Commonwealth of Pennsylvania, almost simultaneously with President Johnson signing the National Guard Technician Act of 1968 into law. The adjutant general of that State had gone out and stated, per se, to his employees and others to write to the State because he said there was no chance of this bill making us Federal employees, becoming the law.

Senator FONG. You say the State of Pennsylvania retirement system was enacted in 1968?

Mr. PATERNO. That's right.

Senator FONG. You didn't have any retirement system before that?

Mr. PATERNO. Not in the State of Pennsylvania.

Senator FONG. Never was a retirement system before 1968?

Mr. PATERNO. I don't know.

Senator FONG. Any other State in the same category?

Mr. PATERNO. I think there was something like—let me find out by the statement—about 20 States that would come in, the final State

being the State of Pennsylvania, based on a 1961 law that allowed the Federal contribution to the State retirement system to a maximum level of 6.5 percent.

Senator FONG. Now, your argument regarding social security; How many quarters of employment do you have to have to qualify for social security?

Mr. PATERNO. Normally, 40, sir; but it's a depreciating amount so that you don't maintain a good final coverage. I would estimate that many of our technicians that had this coverage are only going to get the minimum of benefits. I think Mr. Ruddock gave some very interesting figures when he said that 40 percent of the retirees of the Federal service get retirement benefits under social security. You get credits of coverage for any quarter in which you earn over \$50. It's possible to moonlight and gain coverage. The only time the National Guard performing military duty, gets covered under social security is when he is in field training. So he gets one period of social security coverage due to that. You know he gets none as a Federal employee at this time.

Senator FONG. So, even if he retired at the age of 60, he still could make up for the number of quarters to qualify for social security?

Mr. PATERNO. I think also we ought to regard the fact that there is going to come a day when there will have to be a decision as to where the Social Security Act and the Federal retirement program fit together. This decision has come in industry already. I think it's going to come here. I feel that we are being harpooned on this particular issue. I think that the 10-percent reduction based on the unpaid deposits, which in some cases can amount to \$13,000 or \$15,000 with accrued interest and the amount that that man would receive from social security, would fairly well balance out. He may get a little better, but when you think of all the years that the man didn't get paid for working overtime, didn't get any contributions for his life insurance, didn't get any contributions toward health insurance, it is only just. I don't think anybody is profiting unfairly outside of an exceptional few because their States did have a retirement system and they had vested rights. If they get a windfall, there is nothing I can do about this. I wouldn't want to exclude them.

I'd also state that, if my memory serves me right, that the Senate Armed Services Committee made a recommendation that the Defense Department look into getting the money back from the States, contributed to the State retirement system. I don't believe that anything was done. And I think that this type of law, if it were to pass, would be a very difficult one to administer. It was entered into by the State under a law written in 1962.

Senator FONG. The figure of 5 percent is an arbitrary figure? Could you tell me in what category, what GS grade most of the technicians fall in?

Mr. PATERNO. I believe the average grade is a GS-7. I would put most of them in the \$9,000 average, \$9,000 or \$10,000 average by today's standards.

Senator STEVENS. Just a couple of questions. It's my understanding that—Senator Fong and I are both in the situation—it's my understanding that the Territorial National Guard people receive no credit under the 1968 act. Is it only the State guard people who receive credit?

Mr. PATERNO. I believe the only exclusion, sir, was the District of Columbia which is already under the Federal retirement system. I am not familiar with the territory being excluded; I am certain that they weren't Puerto Rico, I am certain they must have been included. If this happened, it happened underneath the table without my noticing it and I can't think of it getting by.

Senator STEVENS. I was told by some members of the Territorial Guard, who had retired prior to statehood. I would say this is an important technicality.

Mr. PATERNO. I have to look into that, sir.

Senator STEVENS. Thank you.

Senator FONG. Do you have any questions?

Mr. MINTON. No.

Senator FONG. Thank you very much, Mr. Paterno.

The next will be Maj. Gen. James F. Cantwell, president of the National Guard Association of the United States. You introduce those with you, Maj. Gen. Donald J. Smith, Illinois, and Brig. Gen. Francis Higgins, Newark. Proceed as you wish.

STATEMENT OF MAJ. GEN. JAMES F. CANTWELL, PRESIDENT, NATIONAL GUARD ASSOCIATION OF THE UNITED STATES; ACCOMPANIED BY MAJ. GEN. DONALD J. SMITH AND BRIG. GEN. FRANCIS J. HIGGINS

General CANTWELL. Mr. Chairman and members of the committee we appreciate your giving us this opportunity to testify.

Senator FONG. Have you got your statement printed?

General CANTWELL. Yes.

Senator FONG. Have you given us a copy of your statement?

General CANTWELL. Yes, we did.

Senator FONG. We don't seem to have it. Have you an extra copy? We have Major General Smith's statement and General Higgins. We don't have yours.

General CANTWELL. Mine is a preamble to their two statements. I will proceed. We owe a gratitude to the chairmen of those committees, Senator Stennis of Mississippi, and Senator F. Edward Hébert of Louisiana, for their personal concern relative to this program. I feel that the 1968 act still did not set aside the needs of the technicians because of some restrictive conditions that were written into that act. The enactment of S. 855 would eliminate these inequities and we testify today to that effect.

I brought two outstanding officers of the National Guard with me on behalf of the National Guard Association of the United States. One is Maj. Gen. Donald J. Smith, chief of staff for Air, Illinois National Guard, and himself a technician for many years. The other is Brig. Gen. Francis J. Higgins, adjutant general of the State of New York. To avoid confusion, I should point out that, in New York, the senior National Guard officer is the chief of staff to the Governor and the adjutant general is his principal deputy, who also serves in the National Guard in full-time capacity. These two represent a good many years of experience in the National Guard and understanding of our technician program.

First, I'd like to call on General Smith to testify on behalf of our association on S. 855.

General Smith.

General SMITH. Mr. Chairman, distinguished members of this committee, the National Guard Association of the United States strongly supports the enactment of legislation which would give National Guard technicians full credit for all past technician service in computation of retirement annuities, and would rescind an existing restriction which denies retirement credit for past technician service to employees of other Federal agencies who once served as National Guard technicians.

These highly desirable objectives could be attained by enactment into law of S. 855, introduced by Senator Norris Cotton of New Hampshire. The proposed legislation was described most aptly by the sponsor of a similar bill, H.R. 9858. Representative Samuel S. Stratton of New York, who said it represented "an effort to achieve merely simple justice for thousands of loyal Federal employees who, because of a very specialized situation, are not receiving that justice today."

I will attempt to demonstrate to your satisfaction, in my testimony today, that the cause of justice and fair play would indeed be best served by this legislation.

First, I believe a brief review of the background of this proposal would help put the situation in better perspective.

Technicians have been employed full time by the National Guard since about 1924. Until quite recently, they were termed "caretakers and clerks" in the statutes. From the beginning, they were Federal employees in all but a narrow legal sense. That is, their duties were, and are, primarily related to the National Guard's Federal defense mission, with only an inconsequential segment applied toward exclusively State responsibilities. They have drawn their pay from the Federal Government, and the Secretaries of the appropriate military departments have been empowered by law to set their salary levels and prescribe other conditions of employment. They have existed to enhance the military readiness and capability of the National Guard as a firstline element in the National Defense Establishment.

Control of the National Guard in peacetime is constitutionally reserved to the States, along with responsibility for training, housing, and administering the National Guard program. Nevertheless, the primary mission of the Guard is national defense, and the primary function of the technicians is to insure that the Guard can perform effectively in that mission. The interest and prerogatives of the States has been protected by designating the adjutants general of the States as agents of the Federal Government for employing and supervising technicians, and administering the technician program.

As long ago as 1947, this association recognized the largely Federal character of the technician function, and initiated an effort to obtain Federal retirement benefits, as a minimum, for these key members of the Guard structure. It was 7 years, however, before the first small breakthrough occurred. That was in 1954 when the Comptroller General of the United States ruled that moneys appropriated to the National Guard for payment of technician salaries also could be used to make the employer's contribution to social security. This was only one small step toward the ultimate goal, but it was significant because it gave implicit recognition to the Federal character of the technician function.

We continued our efforts to obtain full Federal retirement benefits and made more progress in 1961 when Congress legislatively authorized payment from Federal funds of employer contributions into those State retirement systems that would accept the technicians. But this, too, could only be considered a stopgap. Only 16,000 technicians—40 percent of the work force as it then existed—were accepted into State systems, in 19 States, and the Commonwealth of Puerto Rico, leaving the majority of our technicians still with no more than social security and with few of the other fringe benefits customarily associated with Government employment.

In the meantime, other administrative and legal findings were attesting further to the largely Federal nature of technician employment. For example, the Department of Labor proclaimed the technicians to be Federal employees for purposes of the Federal Employees' Compensation Act (workmens' compensation), and the U.S. courts of appeal for five circuits ruled that they were Federal employees for purposes of the Federal Tort Claims Act.

Finally, after two decades of effort on our part, Congress enacted the National Guard Technicians Act of 1968 granting legal status as Federal employees to technicians, 95 percent of them in the noncompetitive category, and granting the full range of benefits long enjoyed by other Federal employees with two important exceptions.

First, the technicians were credited with only 55 percent of their past technician service for the purpose of computing their annuities.

Second, civil service retirement credit, and credit in such areas as severance pay, tenure, group life and health insurance, leave eligibility and death and disability compensation, were limited to those individuals who were employed in the technician program on or after January 1, 1969, the effective date of the act.

Senate Report No. 1446 (July 22, 1968) pointed out in reference to the two restrictions that—

(1) Full 100-percent credit for past service was being withheld because the Federal Government already had contributed \$58,348,000 as the employers' share to social security, and \$19,606,000 to State retirement systems on behalf of the technicians, or a total of \$77,954,000.

(2) Retirement credit was being withheld from individuals who no longer were technicians on the effective date of the act because "the basic purpose of the legislation is to provide an incentive for participation in the program."

It long has been the view of this association that those factors did not warrant the reduction in annuities or the limitation on who qualified for retirement credit.

The first point that should be made in reference to the two restrictions were that they were unprecedented in the history of the civil service retirement system. Numerous groups were brought under Federal civil service retirement in the years after its enactment in 1920. In no previous case were any individuals within a group denied credit for past service. In some of those earlier cases, the Federal Government had been paying the employers' share into social security prior to their acceptance into the Federal retirement system. In others the Federal Government had been contributing to State retirement systems on their behalf. But in no case prior to that of the National Guard technicians, I repeat, was full credit for past service withheld or credit given to one category and not to another.

Groups brought under the Federal employees retirement system between 1920 and 1968 included employees of the U.S. Soldiers' Home, the Indian Service, the U.S. courts, the legislative branch of Government, the National Library for the Blind, Members of Congress, and numerous others. Most nearly parallel to National Guard technicians, perhaps, were the several thousand employees of county committees established by the Soil Conservation and Domestic Allotment Act. They, like the technicians, had been performing a function that was held to be primarily Federal in character, and drawing Federal pay, although not previously designated legally as Federal employees. Under an act of July 1, 1960 (74 Stat. 302), they were brought into the Federal civil service system with full credit for all past service and no reduction in annuity even though they had been covered by social security during the preceding years and the employers' share had been paid by the Federal Government. One year later by an act of October 4, 1961 (75 Stat. 770), an overly restrictive "payback" provision was rescinded on grounds that these county committee employees should be brought under the Federal retirement system on equal terms with other Federal workers.

In a similar case, Cooperative Agricultural Extension employees were brought under Federal civil service in 1945 by administrative ruling with full credit for all past service and no reduction in annuity although they previously had been covered under State retirement systems with the Federal Government paying the employers' share into those systems, just as they were for some National Guard technicians.

Senator FONG. Do you know how many employees were involved in that?

General SMITH. No, sir; I don't have the figures.

Senator FONG. You don't have the figures for the number of employees?

General SMITH. No, sir; I do not have it.

Senator FONG. Could you supply us with that information?

General SMITH. Yes.

(The aforementioned information was subsequently supplied for the record.)

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES,
October 15, 1971.

HON. QUENTIN N. BURDICK,
Chairman, Subcommittee on Compensation and Employment Benefits, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearing conducted by the Subcommittee on Compensation and Employment Benefits on S. 855, witnesses testifying on behalf of this Association were asked by a member of the Subcommittee to provide certain additional information for the record.

First, they were asked to provide the number of Agricultural Stabilization and Conservation County Committee employees who were brought into the Federal Civil Service by legislative action in July, 1960 (74 Stat. 302).

A letter from John W. Macy, Jr., Chairman of the Civil Service Commission at the time, to the Chairman of the House Post Office and Civil Service Committee (as published in 2 U.S. Code Congressional and Administrative News, 87th Congress, 1st Session, 1961, on Page 3172) said there were 11,900 presently-employed County Committee workers with the necessary five years of qualifying service and an estimated 40,000 additional County Committee employees who would qualify, or 51,900 employees with "potential eligibility." In response to a recent inquiry, Mr. Andrew E. Ruddock, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission, informed us that the 11,900 figure was precise but that it is not possible to determine how many of the

40,000 estimated additional eligible individuals actually applied for, and received, the subject retirement credit.

Second, our witnesses were asked to provide the number of Cooperative Agricultural Extension employees who were enfolded in Civil Service retirement by administrative determination in 1945. A copy of a letter from Mr. Luke Schruben, Assistant Administrator for Administration, Federal Extension Services, Department of Agriculture, to the Department of Defense in 1967, stated that an estimated 12,000 to 15,000 Extension employees would be eligible. We were informed quite recently by the aforesaid Mr. Ruddock, Civil Service Commission, that the number actually turned out to be approximately 15,000.

If we can be of further assistance to the Subcommittee in clarifying any other portions of the testimony, we will be happy to do so.

Sincerely,

W. D. McGLASSON,

Colonel, ARNG, Executive Assistant (Army).

General SMITH. The next point we want to make is that the 45 percent reduction in annuities prescribed for National Guard technicians in the 1968 act was applied indiscriminately, across the board for all previous technician service even though the Federal Government has been contributing to social security in their behalf only since 1954 and to State retirement systems only since 1961.

Third, the Federal Government currently contributes the employers' share to social security on thousands of Federal workers. These are such individuals as employees hired for a year or less, teachers overseas, and employees hired on a fee or contract basis for terms not to exceed 5 years. I refer you to Federal Personnel Manual 831-7, paragraphs 2-2 and 3-3, for the official guidance on this subject. What should be noted here is that considerable numbers of these so-called "temporary" employees gravitate into permanent Federal employment under civil service and are given full credit, without reduction of annuities, for the periods in which Federal payments were being made into social security on their behalf.

If this is acceptable for thousands of Federal workers in other categories, why not for National Guard technicians?

Here are some additional arguments against the 45 percent reduction in annuities:

Fewer than half the technicians in the program at the time the retirement measure was adopted had completed the necessary 40 quarters, or 10 years of coverage as a result of their technician service. That means that a majority of the force, as it then existed, may never become eligible for Federal old age and survivors benefits. For them, the Federal contribution to social security thus was made meaningless. It will not produce any benefits.

Even those who had completed the necessary 40 quarters, and thus were fully insured, will suffer a reduction in the social security benefits that eventually are paid because further contributions ceased, both employee and employer, on the day they entered the Federal retirement system.

Technicians in the 31 States covered by State retirement systems incurred the same 45 percent reduction in annuities as those in the 21 States for when the Federal Government was paying the employers' share into State retirement systems.

Senator FONG. Are you saying that in 31 states technicians were not covered under the retirement systems?

General SMITH. Yes; that's right.

Senator FONG. And only 21 since 1952?

General SMITH. Yes.

Senator FONG. Thirty-one States not covered? And you also stated that in the 21 States where they covered—probably, there is a typographical error somewhere. That would make 52 States; but that's not material. You are quite sure 31 States did not have any retirement system at the time?

General SMITH. Yes; our research revealed that 31 States did not have retirement systems at that time.

Senator FONG. And retirement systems for technicians in 1969?

General SMITH. Yes, sir.

Senator FONG. Proceed.

General SMITH. Nearly three-fourths of the technicians who on January 1, 1969, were covered under State retirement systems had not yet earned a vesting right, i.e., were not entitled to a deferred annuity at retirement age. For them, as for many of those covered by social security, the Federal contribution became an empty gesture on the day they switched to the Federal retirement program. Only 4,576 technicians had earned vesting rights in State retirement systems at the time the National Guard Technicians Act of 1968 was enacted. This represented barely 11 percent of the total technician work force.

The technicians of Ohio and Massachusetts, who constituted almost 7 percent of the total force, were never covered by social security, as provided by the laws of those States. Yet they were subjected to the same 45 percent reduction in annuities that applied to technicians in other States.

Now let me discuss briefly the restrictions against granting retirement credit to individuals who were no longer technicians on or after the effective date of the act.

In a typical case technician A served as a technician for 7 years but terminated his technician employment on May, 30, 1967, to accept a Federal civil service job in another agency. He cannot be credited with that 7 years toward Federal retirement under the 1968 act, even though such credit is given to other individuals with like service under like conditions.

As I pointed out earlier, this restriction had not been imposed on other groups incorporated in the Civil Service system, only on National Guard technicians. This point was covered in a 1966 letter from the Director of the Bureau of Retirement and Insurance, U.S. Civil Service Commission, who stated the following:

We appreciate that the limited interest of the National Guard would be fulfilled if credit for National Guard technician service were given only to those who remain in or return to the National Guard program. However, the Cabinet Committee on Federal Staff Retirement Systems has recommended, and the President has endorsed, that there be a statutory entitlement to Civil Service retirement credit for past National Guard technician service. I might add that, traditionally, service which is made creditable for retirement purposes is credited for all persons who may have such service, i.e., no distinction is made as between classes of employees who may have had the same service.

That principle, of equal credit for equal service, has been observed for all other groups brought under Civil Service and we believe that in all fairness, it should be observed in respect to National Guard technicians.

To summarize:

First the technician function is, and always has been, primarily of a Federal character, and acceptance of technicians into the Federal retirement program was long overdue and completely justified.

Second, reductions and restrictions were imposed on retirement credit for technicians that were not imposed on other groups brought into the Federal retirement system.

Third, although Federal payments were made into social security and State retirement systems on behalf of some of the technicians, only a minority stand to receive any benefits as a result of those contributions yet penalties were levied across the board, against all technicians.

Finally, it appears to us that the imposition of such harsh terms on the technicians subject them to far more than their fair share of restrictions because they are, by other conditions of their employment, burdened with constraints that do not apply to other employees. They must, for example, maintain military membership in the National Guard as a condition of their continued technician employment. This means they must continue to meet the physical and educational standards for military service else lose their jobs. There are good and valid reasons to justify this requirement but it nevertheless is a condition which only they among Federal employees, must meet.

Second, they must retire at age 60, 2 years before they are eligible for social security benefits.

Third, 95 percent of the technicians are categorized as "excepted," or noncompetitive civil service employees. This deprives them of the opportunity, available to most Federal employees, of being transferred to better paying jobs in other Federal agencies.

We believe that a great inequity would be eliminated and the needs of justice satisfied by the passage of S. 855, or any one of numerous identical bills which have been introduced in the House. This would place National Guard technicians on equal terms with other Federal employees.

As part of our written statement to this committee, we also are submitting copies of resolutions passed at the 1971 annual meetings of both the National Guard Association of the United States and the Adjutants General Association of the United States strongly supporting the principle represented in S. 855.

(The aforementioned material follows:)

ADJUTANTS GENERAL ASSOCIATION OF THE UNITED STATES,
Washington, D.C.

RESOLUTION NUMBER 7

RELATING TO AN AMENDMENT OF PUBLIC LAW 90-486 TO PROVIDE FULL CREDIT FOR PAST TECHNICIAN SERVICE FOR RETIREMENT ANNUITY COMPUTATION PURPOSES

Whereas, Public Law 90-486, enacted August 31, 1968, granted National Guard Technicians Federal Employee status effective January 1, 1969; and

Whereas, provisions of this legislation recognized credit for past technician service in full for Civil Service retirement eligibility purposes but limited the amount of credit in determining a retirement annuity to 55%; and

Whereas, there is already a provision of law that requires an additional 10% deduction of the balance due for any service for which retirement deductions were not made and for which the technician or his survivor have not made a deposit, or if deposit payments are begun and not completed, resulting in a further reduction of this service to 45% credit in computing a retirement annuity,

Now, therefore be it resolved, by the Adjutants General Association of the United States that this Association lend its full support to an amendment of Public Law 90-486, to provide full credit for past technician service for retirement annuity computation purposes.

Executed this 18th day of May 1971, at Santa Fe, New Mexico.

MAURICE L. WATTS,
Major General, AGC, Utah NG, President.

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES,
Washington, D.C.

RESOLUTION No. 11

RELATING TO AN AMENDMENT OF PUBLIC LAW 90-486 TO PROVIDE FULL CREDIT FOR PAST TECHNICIAN SERVICE FOR RETIREMENT ANNUITY COMPUTATION PURPOSES

Whereas, Public Law 90-486, enacted August 31, 1968, granted National Guard Technicians Federal Employee status effective January 1, 1969; and

Whereas, Provisions of this legislation recognized credit for past technician service in full for Civil Service retirement eligibility purposes but limited the amount of credit in determining a retirement annuity to 55%; and

Whereas, there is already a provision of law that requires an additional 10% deduction of the balance due for any service for which retirement deductions were not made and for which the technician or his survivor have not made a deposit, or if deposit payments are begun and not completed, resulting in a further reduction of this service to 45% credit in computing a retirement annuity; now

Therefore, be it resolved, That this Association lend its full support to an amendment of Public Law 90-486, to provide full credit for past technician service for retirement annuity computation purposes.

Executed this 23rd day of September 1971 at Honolulu, Hawaii.

JAMES F. CANTWELL,
Major General NJARNG (Ret), President.

General SMITH. Mr. Chairman, in conclusion, I thank you.

Senator BURDICK. Thank you. I thank you on your appearing first.

Next, Brig. Gen. Francis Higgins' statement based on his knowledge or involvement in the technician program. General Higgins.

General HIGGINS. I would be remiss if I did not first express to you gentlemen and other Members of Congress my sincere appreciation on behalf of all technicians employed by the Army National Guard, and Air National Guard for the National Guard Technician Act of 1968, which became effective January 1, 1969.

This act, which granted Federal employee status to National Guard technicians with accompanying employee benefits was a milestone in legislation affecting the National Guard technicians.

Since 1948, in New York State, we had attempted to resolve the status of "legal limbo" in which the technicians found themselves. In 1948, the command authorities in New York attempted to explore the possibility of including technicians in the New York State employees' retirement system. At that time the attorney general ruled that technicians (then called caretakers and clerks), were not State employees for the purpose of joining the retirement system.

In 1958, recognizing the vital need to provide retirement benefits, which were given most governmental employees, an amendment to the New York State retirement and social security law was enacted. This amendment permitted technicians to join the New York State employees' retirement system, provided the United States paid the employer's share. This legislation never accomplished its designed purpose. The New York State employees' retirement system is actuarially funded, and the share which the United States was willing to pay (6.5 percent), including the employer's share of social security was far less than was required. So our technicians had no benefits other than social security, during the period 1954-1968.

Despite the lack of benefits normally available to all employees, the State of New York was privileged to have a group of dedicated, professional, hardworking officers and enlisted men, who were willing to become technicians and work for the Army and Air National Guard.

How we were able to maintain and attract the people we did is a

tribute to the loyalty of these officers and enlisted men and their fundamental belief in the National Guard system.

I applaud what happened in 1968 with the passage of the National Guard Technician Act. However, the time has come to again give our dedicated technicians, in equity, the full measure of benefits which they so richly deserve, and for which they have worked so hard.

I know personally how the technicians were prejudiced by the lack of employee benefits since I was employed in a technician status as air defense officer of New York from 1955 to 1957, before accepting State employment. We had no employer sponsored health or life insurance. We had to form local employee groups to obtain health insurance and pay both the employer and employee share.

I will not in any way receive any benefit as a result of the passage of this act.

I do not have actuarial costs—I do not have the computations so necessary for your deliberations. It is my understanding that these will be furnished by other individuals, who will appear before this committee.

I am appearing before you to tell you of the accomplishments the Army and Air National Guard have been able to make as a result of the technician force which has so loyally and ably supported us. These technicians have earned a full, not a reduced, retirement system.

Technicians provide expertise and continuity to our units. They are the men who repair our tanks and our aircraft engines, our rifles, our trucks and accomplish the myriad of administrative tasks necessary in military organizations. The hard-pressed battery and company commander leans very heavily upon his full-time administrative technician.

The technician, in essence, is the unit commander's military representative during the 40-hour workweek, when the unit commander is off pursuing his civilian occupation. The image of the National Guard in many ways is determined by how well the administrative supply technician (AST) represents the National Guard to the general public.

Defense Secretary Laird has indicated that increased emphasis will be placed upon the ability of the Reserve components to augment the Active Forces in case of emergency.

The demands which we have placed on our technicians in the past will pale compared to those we will put on them in the future.

I realize that there will be representatives from other governmental agencies who will appear before you gentlemen, and may express the view that technicians have received credit for social security during the period in question, while other Federal employees have not. I can only state that in the State of New York, the State has provided its employees, both State and municipal, with the ability to participate both in the employees' retirement system, and the social security system. The State and municipalities pay the employer's share of both systems.

I appreciate the fact that other witnesses may state that funds have been contributed to State employee retirement systems and the Federal Government may be unable to recapture these funds. However, from personal knowledge I know that the great majority of technicians were not included in State retirement systems. I know that there is precedent for what we are trying to accomplish here. Numerous other groups of Federal employees who were brought in from a quasi-Federal status into a Federal employee status were retroactively included in the U.S. employees retirement system with full benefits.

I have been informed that several thousand agricultural employees, employees of the U.S. Soldier's Home, the Indian Service, the U.S. courts, legislative branch of Government, the National Library for the Blind have all received retirement credit for prior service, even though that service at the time it was rendered, was not recognized for Federal employment retirement system purposes.

Gentlemen, our Army and Air National Guard technicians are unique in Federal employment. This uniqueness alone might dictate preferential treatment, if such were the case, for them. Army and Air National Guard technicians are required, in the main, to concurrently be members of the Army and Air National Guard. They are required to be eliminated for age long before the average Federal employee. They are required to be available for State and Federal mobilization with their units. Technicians in New York have served their country on multiple occasions, during World War II, the Korean war, the Berlin crisis and most recently our New York State Air National Guard in the Vietnam war. These men are required to attain and maintain the physical standards of any member of the Army and Air National Guard. They can be subject to forced retirement if they do not meet physical standards.

I believe an equitable solution to the technicians' dilemma would be enactment of S. 855, which proposes to place National Guard technicians on equal terms with all other Federal employees in respect to computing their retirement.

Gentlemen, if we were speaking about men who are entitled to retirement allowances amounting to tens of thousands of dollars per year, perhaps I would have less interest. However, in the last two applications which came across my desk recently, one individual with 21 years as a technician and 6 years of active duty (assuming no deposit being made for technician service), is now entitled to an annual retirement allowance of \$2,175. Another technician with almost 28 years of service and 5 years of active duty will draw (again assuming no deposit made for technician service) an annual retirement allowance of \$2,549. If this bill is enacted it will not cause a drastic increase in their retirement allowance. For example, the technician entitled to \$2,175 would be entitled to \$3,372. The technician now entitled to \$2,459 would be entitled to \$4,131 per year. Both of these men with long and dedicated service are 60 years of age, and will have a 2-year interim waiting period until they reach age 62 and become entitled to a reduced annuity under social security.

I strongly urge your subcommittee to consider this bill favorably and to recommend its adoption by the committee and the U.S. Senate.

It has been my extreme pleasure to be here today to speak on behalf of this dedicated group of Army and Air National Guard technicians.

Senator BURDICK. Thank you, General.

Senator FONG. Mr. Chairman, may I inquire?

Senator BURDICK. Senator Fong.

Senator FONG. Now between 20 and 31 States; the National Guard, we have 52, in this we include 50 States, Puerto Rico, and the District of Columbia.

General CANTWELL. That is correct.

Gentlemen, if there are no further questions that concludes our testimony.

Senator STEVENS. May I raise a question, Mr. Chairman?

Senator BURDICK. Mr. Stevens.

Senator STEVENS. I have a question, General. You just said, assuming no deposit for technician service, was made, approximately \$2,000 would be the entitlement of each individual. What would be the annual retirement benefits if deposits were made?

General HIGGINS. May I get those figures, sir? I have them in my briefcase. The man by not making the deposit in the one case of \$2,549 a year, he would have been entitled to \$3,389 a year had he made the deposit. The other man who is now entitled to retirement, a sum of \$2,175 a year, he would have made \$2,823 per year had he made a deposit.

Senator STEVENS. Thank you very much.

Mr. MINTON. General I would like to ask you a couple of questions. In regard to your average technician, how old is the technician?

General HIGGINS. I'd say that the average technician is probably in his mid-twenties.

Mr. MINTON. Would he generally have an opportunity to work until he is 60 years of age?

General HIGGINS. Yes; he does and he has to be a member of the Army National Guard.

Mr. MINTON. Well, he retires on title 3, today you have an average rank for this kind of person; do they generally rise to be master sergeant over a period of their entire career of 30 years or so?

General HIGGINS. I would say with a range expressed in continuity, he would probably arise to be a senior enlisted grade; yes, sir.

Mr. MINTON. When he retires on title 3 retirement, do you have an average percentage of his retirement? I realize the figure would fluctuate according to when he retired; but after 30 years, what do you get under title 3 retirement?

General HIGGINS. That would be very difficult to compute. I'd like to use an average of about 5 years National Guard service translated into two-and-a-half-percent of active duty at the time.

Mr. MINTON. So, 5 years, if he had 30 years, then he would have six times?

General HIGGINS. Six times two and a half about 15 percent.

Mr. MINTON. Fifteen percent of basic pay at the time?

General HIGGINS. The base pay, yes.

Mr. MINTON. What is the current base pay of senior enlisted men?

General HIGGINS. Now, you've got me, sir. I would say somewhere about \$800, perhaps \$800 a month for senior enlisted men.

Mr. MINTON. So, you are talking about \$120 a month approximate retirement?

General HIGGINS. Yes.

Mr. MINTON. Now, on top of that, he would get whatever civil service retirement credit he would earn at that time?

General HIGGINS. Right.

Mr. MINTON. So, if he had 30 years of civil service retirement, he would get $56\frac{1}{4}$ percent of his high 3-year average less 45 percent under present law. That would be about \$3,000 a year?

General HIGGINS. Well, in this case I have cited, these men both participated in World War II and I am also counting their military service in World War II.

Mr. MINTON. On top of that, he gets whatever social security he earned while he was a technician?

General HIGGINS. Well, he wouldn't get the social security until he is 62. Technicians were under social security from 1954, of course,

until 1969, January 1, 1969. And the number of people we had coming in during the interim period would have earned 10 years of 40 quarters; it's possible. A man, for example, employed in 1960 would not have the 40 quarters. He would have 36 quarters literally.

Mr. MINTON. So, his benefit from social security would be somewhat less than the maximum?

General HIGGINS. Well, if he attains written entitlement. There would be people, as I say again, he may not have been able to attain the social security.

Mr. MINTON. So, you are talking about the total retirement benefit in a range of \$6,000 or \$7,000?

General HIGGINS. I'd say that's reasonable; yes.

Mr. MINTON. That's all.

Senator STEVENS. General Cantwell, has anybody raised a problem to you regarding the Alaska Territorial Guard before statehood?

General CANTWELL. What was that question?

Senator STEVENS. Has anybody raised the question to you concerning the credit to be given to the Alaska or Hawaiian Guard for the period of time they served before statehood? Alaska became a State in 1959 and Hawaii in 1960.

General CANTWELL. Well, I have never had any question posed.

Senator STEVENS. Thanks very much.

Senator BURDICK. Thank you, gentlemen.

General CANTWELL. Thank you very much.

Senator BURDICK. Our next witness is Mr. John F. Griner, president of the American Federation of Government Employees, accompanied by Mr. Carl K. Sadler, legislative representative and Mr. James H. Lynch, assistant legislative representative. Welcome to the committee again.

STATEMENT OF JOHN F. GRINER, PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; ACCOMPANIED BY CARL K. SADLER AND JAMES H. LYNCH, JR.

Mr. GRINER. Thank you, sir.

Mr. Chairman, members of the committee, with your permission, I'd like to ask the National Guard's representative who is to my left to sit in with me this morning and also Mr. Carl Sadler who is my legislative representative. I might say, Mr. Chairman, that I intentionally did not relate to the background of this legislation although I felt sure that I'd better not; I want to conserve the time of the committee. So, I tried to make my statement just as short as I possibly could.

The American Federation of Government Employees which represents over 650,000 Federal employees in exclusive recognition units is the largest union of employees in the service of the Federal Government. Furthermore, according to the best information available, AFGE represents under exclusive recognition more National Guard technicians than any other union. In light of this, we have a deep and continuing interest in legislation to provide equitable retirement programs to all career Federal employees.

We have found it noteworthy that this growth in concepts has been reflected most of all in the legislative bodies of our country, especially the Senate and the House of Representatives, which has been particularly responsive to new ideas and to changes in our national life.

Our organization, which is a voluntary union based on democratic principles, has always sought to obtain equity for all Federal employees. For this reason, we have sought to define more accurately the meaning of career service. Most of all, we have sought to update the provisions of Federal personnel legislation to keep them all in general conformity with the evolution of the modern reforms which Congress has been successfully enacting on the basis of the bills emerging from the House and Senate Post Office and Civil Service Committees.

The National Guard Technician Act (Public Law 90-486) was signed into law August 13, 1968. The purpose of this act was to clarify the status of National Guard technicians. However, during the clarifying procedure, a retirement formula was developed which, though considered appropriate at the time, now seems in retrospect and in the light of more recent legislation, to need revision.

I'd like to comment just a moment on the statement of the gentleman representing the Civil Service Commission this morning. If I understood him correctly, he has taken the same approach as on many other occasions, to leave the law as is, don't update it; this is all agreed to and we ought to leave it like it is. On the other hand, I behold the same group saying from time to time, let's take a law and give it a chance. Let's find out what's wrong with it and then come back and update it in accordance to its needs.

Now, I don't know whether they are trying to carry water on both shoulders or not. Certainly, we have given this law a sure chance. We have found some inequities in it and we are back here this morning trying to update that law and to bring it in conformity with the retirement system which covers other Federal employees. It's true that was a compromise which is at the present. In other words, it seems as if he feels about it. They didn't seem to have too much trouble including those. For some reason, they reached up and grabbed a figure of 55 percent as a compromise figure for service for, I mean for credit in service under the Retirement Act.

This compromise resulted first in a provision that a National Guard technician, serving in a National Guard program on or after January 1, 1969, received credit for retirement purposes for only 55 percent of his past service as a technician. Second, the compromise denied to current Federal employees who, at the time of the enactment of the National Guard Technician Act, were no longer National Guard technicians, any benefits or credit for their past National Guard service.

These two limitations on retirement credit contrast unfavorably with the general provisions of section 3(c) of Public Law 90-486 which reads as follows:

(c) All service under Section 709 of title 32, United States Code, or prior corresponding provision of law performed before the effective date of this Act shall be included and credited in determination of length of service for purposes of leave, Federal employees death and disability compensation, group life and health insurance, severance pay, tenure and status. This subsection shall apply only in the case of persons who perform service under Section 709 of title 32, United States Code, on or after the effective date of this Act.

Retirement annuity computation should have been included among the list of benefits that accrue to all Federal career employees.

Mr. Chairman, I can't now think of any possible group whose situation might be similar or the same as the National Guard technician.

Gentlemen, I have never appeared before this committee where costs were involved but what I have said that the people that we represent are willing to pay the past year of additional cost if they get the benefit of the additional benefit and we have taken that same position here today. And as to this matter, we want to point out that the National Guard technician under this bill must pay retroactively to the civil service retirement fund.

From the above quote of section 3(c) of Public Law 90-486, one can easily see what effect the law has had on National Guard technicians who served prior to January 1, 1969.

They lost all credit for their past service. At the time of the enactment of the National Guard Technician Act, these dedicated Federal employees who had given many years of loyal service to the National Guard program, were working in other Federal service. Is this reason enough to deprive them of benefits and credit for their past service? The time has come to improve on the temporary formula that was approved 3 years ago.

A factor that must be kept in mind when dealing with the question of technician service is that even prior to January 1, 1969, these loyal and dedicated technicians found themselves tangled in a web of ambiguous relationships. Though these technicians were formally employees of the States they were nevertheless performing duties for the Federal Government and their pay was federally financed. It is this peculiar ambiguity with regard to their "Federal" status which is mainly responsible for the situation on which these technicians find themselves in the area of retirement benefits.

S. 855, a bill introduced by Senator Cotton and cosponsored by several of his colleagues will once and for all correct this situation. S. 855, will give these Federal career employees full credit for all past service not just the 55 percent as previously stipulated and will grant all Federal employees who were former technicians, credit for their service as well.

For the above reasons, we urgently appeal to you for the earliest passage of this bill, S. 855.

Before concluding our statement, we should like to anticipate and answer a criticism which we have heard in the past from representatives of the executive branch, specifically the Civil Service Commission.

The Commission has been opposed to similar bills in the past on two grounds. On alleged "principle" it has argued that such action would establish precedents for the inclusion of other groups in retirement benefits. We believe that the alleged "principle" that the Commission invoked is a "strawman" argument and not relevant because all other groups would also have to pass legislative scrutiny before they could be included and only the worthy ones would meet the test.

It has also argued that the cost would be excessive. As to the matter of cost, we wish to point out that the National Guard technician must pay retroactively to the civil service retirement fund with interest his own full share of contributions for years for which retirement is being granted. It is thus quite clear that the National Guard technicians will not be receiving "something for nothing." They will be paying their way in precisely the same way as other career employees. Thus, equity toward the retirement fund will be safeguarded as well as equity toward these career employees.

There was a question asked this morning that I would like to take the privilege of giving you a comment on. The question was whether we

knew of any other group of employees that might be eligible, might become eligible to a more different retirement. I'd like to remind him that we have thousands, I might say hundreds of thousands of retired military working in the Federal service who are eligible for military retirement who would also be eligible for social security and after 5 years of civil service, they would be eligible for civil service retirement. And so this is no exception.

Again, we urge the subcommittee and its members to act favorably upon S. 855, a bill which will open the doors of equity to Federal career employees who are not yet benefiting fully in the manner of retirement credits for services rendered as National Guard technicians in the past.

With that, I wish to thank you for the opportunity to appear before you this morning.

Senator BURDICK. Thank you, Mr. Griner for your contribution this morning.

Senator, do you have any questions?

Senator STEVENS. No questions.

Mr. GRINER. Thank you.

Senator BURDICK. Our next witness, Dr. Nathan Wolkomir, president of the National Federation of Federal Employees. Mr. Wolkomir.

STATEMENT OF DR. NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES; ACCOMPANIED BY GEORGE MARGOLIES

Mr. WOLKOMIR. Mr. Chairman, members of the subcommittee, to my right is my legislative and legal assistant, George Margolies. My name is Nathan T. Wolkomir. I am president of the National Federation of Federal Employees, which is the pioneer and largest of the independent general unions of Federal employees. The NFFE has many locals and members in virtually all Federal departments and agencies. For over 53 years our organization has been promoting the welfare of Federal employees and the public interest. It is to be noted that in the report of recognitions and agreements issued by the Civil Service Commission in November of 1970, NFFE represents National Guard technicians in many States such as Alabama, Arkansas, Arizona, Colorado, Illinois, Louisiana, Maryland, Massachusetts, Montana, New Mexico, Oklahoma, Puerto Rico, Wisconsin, and others. NFFE does have an immediate and direct concern in their conditions of employment.

The subcommittee is addressing itself to the annuity computation figure for National Guard technicians in S. 855 but the attention of the committee is also invited to S. 1962, and related House bills H.R. 2530 and H.R. 9858. S. 855 was initially sponsored by Senators Cotton, Boggs, Pastore, Pell, Roth, Schweiker, and Thurmond and S. 1962 was initially sponsored by Senator Pell and referred to the Committee on Armed Services. Senators and members of the subcommittee are thanked for their interest in this equitable proposed legislation. We strongly support both bills which would raise the annuity computation figure for National Guard technicians from 55 percent to a full 100 percent and which would allow all former technicians in Government service on and after January 1, 1959, to receive service credit for their pre-1969 technician service.

During the last session of Congress, similar legislation was proposed on the Senate side. We call to the attention of this subcommittee the following quote from an editorial taken from our convention issue of the NFFE newspaper the Federal Employee:

In a letter to the NFFE following his telegram to the union's national convention at Sacramento, Sept. 14-18, 1970, Senator Williams wrote in part:

"Dear Nate: It is indeed a pleasure to be able to sponsor this needed legislation. Workers who have the responsibilities of Federal service should be treated as others of the same status. They should enjoy the privileges and protection that accompany Federal employment, including equitable retirement benefits. Best personal regards . . ."

In introducing S. 4352, Senator Williams then made the following statement in the Senate, published in the Congressional Record of September 16, 1970:

"I am pleased to introduce today a bill that would correct several inequities of the 1968 National Guard Technicians Act. Under the law, the National Guard Technicians were granted status as Federal employees. Accordingly, I feel they should share the benefits of retirement and promotion. This bill will establish a uniform merit promotion system for these skilled technicians. It would also provide an equitable retirement program. A technician over 50 years of age with 20 years of service can, with the approval of the Secretary of the Military Department and the Civil Service Commission, receive an annuity. This bill would make this annuity a right.

"Mr. President, the inequity is clear—the need for the proposed legislation is apparent. I am very pleased to state that this legislation has received the endorsement of the National Federation of Federal Employees."

Senator Williams then asked unanimous consent that the text of the bill be printed in the Congressional Record. This was granted and S. 4352 was referred to the Committee on Armed Services where prompt and favorable action was urged by Senator Williams and the NFFE. This is history.

Legislation to provide retirement equity to these dedicated National Guard employees, in line with the provisions of the retirement law as it affects other Federal workers, is indicated by every consideration of fairplay and, I must emphasize, in the national interest as well.

The same considerations which quite properly and reasonably and logically pointed to the need for the legislation bringing these employees into the Federal career service also are operative as they affect the retirement rights of these skilled workers.

Section 709 of section 3(c) and (d), title 32, United States Code as amended by Public Law 90-486 conspicuously omits full credit for service rendered prior to the effective date of the National Guard Technician Act of 1968. Section 5(b) and (c) of said act thus also requires amendment to read "an amount equal to 100 percent of a deposit computed in accordance with such provisions." S. 1962, does provide a clear-cut definition of the term "service" whereas S. 855, amends by deletion the proper contaminating clauses.

Mr. Chairman and members of the subcommittee, the NFFE does not believe it is in the national interest to adopt an arbitrarily restrictive, hesitant, reluctant, and grudging attitude with respect to the full retirement rights and indeed other appropriate civil service benefits of the National Guard technicians. Such an attitude, I hasten to add, obviously is not that of the sponsors nor we hope the members of this subcommittee. Indeed, the introduction of the pending legislation, and the fact of these hearings in themselves, bespeak a entirely different and we believe proper point of view.

The skills and the dedication which these employees bring to their tasks need no extended comment from me at this point. You all are fully aware that to a very significant degree the instant readiness, the technical efficiency the capacity of the National Guard to perform its absolutely vital functions throughout these United States in these

critical times is dependent upon the technical skills and the high degree of dedication which these workers bring to their daily tasks. We see the risks to which they are exposed daily.

Therefore, it follows inevitably that the enactment of the legislation here under consideration not only represents an important step toward giving equality of treatment to this group of employees but is, as well, essential to the effectiveness of the Guard itself. One among many beneficial results of the enactment of the legislation, from the standpoint of the national interest will be to stabilize employment, to prevent the loss of skills which the Guard can ill afford to lose, and to further enhance the esprit de corps which is so essential at this particular point in time.

Immediate public hearings on the problems affecting National Guard technicians by the very nature of their hybrid existence should be called to the attention of this appropriate congressional subcommittee. At our last national convention dozens of resolutions were introduced by our National Guard technician locals which clearly identify the dual type of administrative whims of adjutants generals normally appointed by Governors of States, and also controlled by general administrative policies issued by the National Guard Bureau in Washington. This Bureau in turn falls back upon Department of Defense policies and regulations.

This triumvirate type of control has led to much confusion and political innuendoes. They can only turn to Congress in many cases in order to obtain equal and fair treatment even on minor issues and normal grievances. Some of the proposed legislation covers such subjects as the present subject of our hearing, while others cover requests for universal standards on the wearing of uniforms (H.R. 8616), quarters allowance, medical and dental care (H.R. 8614), reserve training status, and so forth. The diverse nature of these subjects themselves are an indication of the triumvirate type of administrative controls and the inadequacies of providing a clear cut administrative system for National Guard technicians.

A typical illustration of the foregoing is found in the varied policies adopted among the 50 States in connection with the wearing of the uniform. In some of the more enlightened jurisdictions, the Adjutant General has permitted a guardsman to wear civilian clothes when he is in a civilian capacity. On the other hand, in many States the Adjutant General insists that the uniform be worn all of the time. This causes considerable frustration and embarrassment among the guardsmen. We regret that a matter of this type must be brought to the attention of Congress. It would appear appropriate and reasonable for the Bureau of the National Guard or the Defense Department to issue appropriate policies in this matter. The fact is, that they have not, and as a consequence, the morale of the guardsmen is destroyed.

At a time when the Government is seeking to make the military career, including the Guard, more attractive, the Defense Department avoids its important responsibility in promulgating fair and reasonable policies. The chairman may wish to consider a policy which will permit guardsmen the right to wear civilian attire when not engaged in military activities. The House hearings, Mr. Chairman, clearly illustrated the inequity of the present retirement clauses of the National Guard Technicians Act of 1968.

Credit under said act is allowed for only 55 percent of the pre-1969 technician service. Technicians are then given the option of either

paying 55 percent of the normal deposit that would be required (plus interest may we add) or the annuity otherwise payable is reduced by 10 percent of the amount determined to be due. The act also restricts civil service retirement credit for any employee in civil service for former technician service prior to January 1, 1969.

The proposed legislation would correct the above mentioned inequities allowing eligible technicians to pay back the full amount of optional deposit due and thus allowing 100 percent retirement credit. It would also allow former technicians presently in Government service similar equity.

Through a series of wars, current civil riots and much societal turbulence, the National Guard has demonstrated its link in the defense posture. During peace periods in between open conflicts, they maintain a state of readiness. A viable Guard force is needed to encourage recruitment. Proper retirement is one of the elements needed to encourage a competent force with no compromised status as Federal employees. Is not the Guard technician in truth being punished for his former hybrid Federal/State relationship? Even as part of the so-called State militia prior to January of 1969, the Guard performed essentially Federal functions. Not only is the triumvirate type of control, mentioned previously, part of the cause of their chaotic existence, but an examination of the administrative policies reveals further chaos. The uniform problem is one, promotional opportunities are rigidly controlled, true merit principle competitive service is practically non-existent, overtime pay is haphazard and not in consonance with even DOD policy, and sex and military rank are discriminatory practices common to their way of life.

Further inequities exist when it is to be realized that prior to January of 1970, the Federal Government, on the one hand, subsidized the States to operate the National Guard, but contributed nothing to their health, life, or other benefits. In the prior setup, the guardsmen were neither fish nor fowl serving a dual purpose.

The Adjutant Generals, State oriented political appointees generally, and their association fought bitterly the legislation to make the technicians Federal employees. In most States, they still bitterly oppose what is now law and their actions are indicative of their attitude. In fact, as a union we called to the attention of the President, the fact that one A.G. publicly announced that "in his State, the State was not part of the union, and they would run the Guard as they please, union or no union." This generally connotes attitudes that still prevail.

Advancement to higher positions in the National Guard program is contingent upon having Guard membership, and in some cases to officer rank in the Guard. This is a definite discrimination against the many female employees in the program. They too are restricted by the 55 percent formula. It is our contention that the majority of the employee force, due to the limitations of present legislation, will retire on poverty incomes. Much has been said by the administration spokesman against subject legislation because of potential National Guard pensions and social security benefits. Social security is applicable only from 1955 to 1969. It is to be realized that the Guard pension with only 21 States involved is akin to the present civilian employee who is drawing a military pension for military time served. How much military time can one accumulate via a weekly 4-hour drill, an occasional weekend, and a couple of weeks of annual training?

Must they depend on postal strikes, Attica Prison outbreaks, and civil riots to increase said time? At age 60 they must complete 20 years of reserve time to be eligible. At best, the military pension and social security benefits are so minimal that they would provide little by way of income. It is our estimate that the heart of the technician core is affected by the 55 percent inequity. They are willing to "pay their way" as all other civilian employees pay.

The fact that they are "Federal employees" is now fully established. Congress saw fit to provide full retirement to other groups such as ASCS—the Agriculture Stabilization and Conservation Service—under Public Law 87-350 in 1961. The Army and Air National Guard of the District of Columbia are granted full retirement credit, so why not equity for all technicians?

Mr. Chairman, I want to express to you and to the members of the subcommittee, the appreciation of the National Federation of Federal Employees for your initiative and concern on the issues here articulated. I know that I speak also for all of the many National Guard technician members of the NFFE especially in extending our thanks to you, and also in expressing the hope that at this session the legislation can be enacted into a law, so very urgently needed.

Senator BURDICK. Thank you very much. Thank you for a very competent statement. There will be no questions.

Our next witness is Mr. Charles Hickey, Jr., national vice president of the National Association of Government Employees.

STATEMENT OF CHARLES E. HICKEY, JR., NATIONAL VICE PRESIDENT, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES; ACCOMPANIED BY ALAN J. WHITNEY, ARTHUR GUARRIELLO, JR., AND RONALD BENWARD

Mr. HICKEY. Mr. Chairman, I would like to introduce the people who are accompanying me today. At the table with me are the executive director of the NAGE, Mr. Alan J. Whitney; and Mr. Ronald Benward, president of NAGE Local 14-73 of the Army National Guard of Missouri; and to my right, Mr. Arthur Guarriello, Jr., president of NAGE Local R2-78 of the Army National Guard in New Jersey.

The National Association of Government Employees as the certified bargaining agent for 9,500 civilian technicians of the National Guard appreciates this opportunity to speak in support of legislation to grant technicians full credit toward retirement for employment prior to 1969.

The principal justification for enactment of this measure into law is the simple fact that technicians, under the terms of the National Guard Technicians Act of 1968, are unfairly penalized and deprived of treatment equal to that accorded other Federal employees. Because credit for years of service performed prior to 1969 is limited to 55 percent, technicians are faced with the prospect of entering retirement, the so-called golden years of life, on limited annuities.

This, of course, will force them to live at a lesser level of income and security than their colleagues who retire from other Federal agencies.

The NAGE recognizes that the primary basis for imposing this limitation in the basic legislation was of an economic nature: The cost of providing full credit for retirement purposes as measured against

the amount of funds contributed by the Federal Government both to the social security fund and to various State retirement funds as the employer's contribution. Such contributions, over the years 1955 to 1969, totaled slightly less than \$78 million the bulk of that amount being represented by contributions to the social security fund.

Had the technicians been subject to the Federal civil service retirement system during those years, the Federal Government would have contributed to the civil service retirement fund nearly \$143 million. The difference between these figures can be considered a rough approximation of the disparity of retirement benefit levels which technicians receive compared to what they would receive if these bills are enacted into law.

An important element which must not be overlooked in considering these measures is that while technicians were quasi-State employees prior to January 1, 1969, they were fulfilling a mission of the Federal Government. It is this very ambiguity incidentally, which has resulted in technicians having their benefits and terms of employment set at a level vastly inferior to the working conditions of other Federal workers.

Technicians, it is true, are subject to the operations control of the adjutants general of the various States. However this control is exercised by these State officials only through a delegation of authority from the Secretaries of Army and Air Force.

It is because of this essentially "Federal" nature of their service over this period of years that the NAGE believes technicians are entitled to 100-percent credit toward retirement. In short, service is either creditable or it is not creditable.

I might point out that employees of the Agricultural Stabilization and Conservation Service (ASCS) were accepted into the Federal retirement system in 1961 under the terms of Public Law 87-350. They were granted 100-percent credit for retirement purposes for past employment within their respective States.

It also should be noted that those technicians employed by the Army and Air National Guards of the District of Columbia enjoy full retirement credit, since they were covered by the Federal retirement system prior to 1969.

It has been suggested that since about 20,000 technicians have acquired a vested interest in future social security payments, this supports the imposition of the 55-percent restriction. This suggestion overlooks the fact that an equal number of technicians have not acquired such a vested interest.

It also overlooks the fact that social security payments in these cases will typically be at the system's minimum level, which falls far short of the amount of benefits which would be payable if that same service had been subject to the Federal retirement system. And, finally, it overlooks the fact that social security payments become available to an individual only upon reaching age 65 (or, at a reduced level age 62). Technicians must, as a matter of law, retire at the age of 60.

We cannot emphasize too strongly that social security, in nature and philosophy, is designed to fulfill a "social-equity" principle quite different from the "individual equity" principle of the civil service retirement system. It should rightfully be regarded as a means of assuring an adequate minimum level of protection to all American workers, particularly those who do not attain a high level of earnings in their careers, whether those careers are of a long or brief duration.

In other words, social security provides a floor below which protections may not drop; it should not be used to supplant regular pension and retirement plans, in whole or in part.

National Guard technicians were denied even social security protection until fiscal year 1955, and this remained the only retirement benefit for nearly 24,000 technicians up to 1969.

Regarding State retirement systems, only 21 States accepted technicians into their systems, and most such acceptances occurred in the sixties. The report of the Armed Service Committee on the Technician Act noted that only about 4,450 technicians had acquired a vested interest in a future annuity under one of these systems. Some of these, of course, have forgone their entitlement to a State annuity in favor of Federal retirement. And, in at least one State—New Jersey—legislation was passed depriving technicians of their vested right to State annuity.

A third rationale advanced to justify the 55-percent limitation is that all technicians become eligible for Reserve retired pay at age 60 if they complete the required 20 years of satisfactory Reserve service. The inference is that their entitlement to Reserve retired pay offsets the benefits they lose due to the 55-percent restriction. It is the position of the NAGE that the Federal Government has no more right to limit civil service retirement benefits based on Reserve retirement pay than it would to force General Electric, General Motors or any other employer to deduct or limit pensions paid by those employers based on any Reserve pension that an employee might qualify for.

We noted at the outset the basic economic nature of the objections to providing technicians full retirement credit. Necessarily, such objections must be resolved within this context.

The NAGE, therefore, submits that roughly \$136 million is available to assist in financing this legislation by framing it to enable the Federal Government to (1) retrieve the \$19,606,000 it has paid in past years into State retirement funds for technicians' service, and (2) provide for a transfer-of-credits from the social security fund to the civil service retirement fund in the amount of \$58,348,000 which was contributed by the Government as the employer's share for past technician service which was subject to social security coverage, plus the technicians' matching \$58,348,000 in contributions.

We can readily anticipate the screams of anguish that would emanate from the 21 States involved if legislation were enacted to recoup these moneys. However, these cries should not be permitted to override the pleas of the technicians for adequate protection in their retirement years. The simple fact is that the States have had the use of moneys that do not belong to them; and they have used these funds for everything from highway construction bonds to paying annuities to their own employees.

The concept of a transfer-of-credits between social security and civil service retirement is not new. It has been proposed in other contexts in the past and, to our knowledge, has been researched and found to be feasible.

One final proposal, which can be considered a secondary alternative to the foregoing, is to enact legislation which would increase the technicians' credit for pre-1969 service by 9 percent over each of the next 5 years. This would result in the achievement of full coverage on a phased basis by providing the required additional 45-percent credit on an incremental basis over a 5-year period.

This is not, of course, what the technicians hope to achieve; but we are convinced that they would accept it as an adequate compromise if this subcommittee were to determine that full credit cannot be accorded immediately.

Mr. Chairman, the National Guard Technicians Act of 1968, hailed as a breakthrough when it became law, has become to the technicians a hastily settled paternity suit that has been a relief only to the parents—the Federal and State governments, leaving the illegitimate offspring—the technicians—inadequately provided for. Enactment of the measures you are now considering would do much to make them legitimate members of the Federal civil service family. Thank you for your attention.

Senator BURDICK. Any comments by the members? I say are there any comments by the other members of your group?

Mr. HICKEY. No.

Senator BURDICK. Thank you very much.

Mr. HICKEY. It may be, since you raised the question, I have two technicians.

Senator BURDICK. I think I have a witness I would like to have. I think your statement made it pretty clear that New Jersey did cancel benefits; is that correct?

Mr. DONNELLY. Yes, sir.

Senator BURDICK. And now the special witness we had that stood up, you will be next.

State your name and occupation and residence?

**STATEMENT OF GERVOIS J. DONNELLY, NATIONAL GUARD
TECHNICIAN, FROM THE STATE OF NEW JERSEY**

Mr. DONNELLY. My name is Gervois Donnelly. I am a resident of the State of New Jersey. I am a National Guard technician employed by the Federal Government. I would like to reply to the question about whether we did or still have a vested interest in the retirement system. We were denied a vested right according to the laws and our money in the system, the only way we were eligible after 15 years in the State retirement system; after 15 years, we were eligible for vestment. We did after 15 years have the money in the system. The money is returned to us at 2-percent interest; that is 2-percent interest after 15 years. Then we were released from the State retirement system.

Senator BURDICK. Was that after the passage of the 1968 act?

Mr. DONNELLY. Yes, sir. We were getting ready to go into Federal/State status. In answer to the question you asked why did some people remain in the State retirement system; well, most of the people that did remain in the retirement system at that time were in the twilight years or within 2 or 3 years of retirement. So they elected to remain with full retirement rather than the 55 percent. That's why most of them did remain in the State system at that time.

Senator BURDICK. Well, what about a technician who had less than 15 years of service; what was his situation in the State of New Jersey?

Mr. DONNELLY. All the money in the system was returned to him, but he was not eligible for vested rights.

Senator BURDICK. With 2-percent interest, you say?

Mr. DONNELLY. Pardon, sir?

Senator BURDICK. With 2-percent interest?

Mr. DONNELLY. Yes, sir.

Mr. MINTON. Were the people who had the vested right, were they permitted to return?

Mr. DONNELLY. No.

Mr. MINTON. You had 23 years and you lost it?

Mr. DONNELLY. Well, if you had 23 years, you would not want to go into the Federal system. You retire from the State system. To do otherwise would be foolish.

Mr. MINTON. That's what I mean. If the people who would like to stay in the New Jersey system; is that so?

Mr. DONNELLY. Yes, sir.

Mr. MINTON. So, those who elected to come under the Civil Service Retirement Act lost whatever length of service they had in New Jersey?

Mr. DONNELLY. That's right.

Senator BURDICK. And those who had less than 15 were canceled out?

Mr. DONNELLY. Their contributions were returned to them.

Senator BURDICK. But that did not occur until the passage of the 1968 act?

Mr. DONNELLY. That's right, sir. Now, we didn't have a chance with the money. We were ineligible to buy back any service that we had which probably would mean legislation was enacted to deprive us of that opportunity.

Senator BURDICK. That was regardless of whether, the number of years, whether it's 10 years, 15 years or 25, if the technician elected to go into the federal system, after 1968, all his money that he had paid into the State system will be returned to him?

Mr. DONNELLY. If he went into the federal system, all of his contributions were returned to him; yes.

Senator BURDICK. Any other time, he could retain his State program if he had 15 years and elected to stay there?

Mr. DONNELLY. If he remained in the State system, yes, sir.

Senator BURDICK. And those under the 15 had no option other than to accept the money?

Mr. DONNELLY. If they accepted Federal service, they had no option, sir.

Senator BURDICK. I understand.

Mr. DONNELLY. Because they were not, according to them, State employees and they weren't in the retirement system.

Senator BURDICK. Then this is the question, I think. Thank you.

Mr. DONNELLY. Fine. Thank you, sir.

Senator BURDICK. Do you want to add something?

Mr. GUARRIELLO. President, Local R2-78, New Jersey, and a technician in the program. What we are talking about here is a law that was passed by the State of New Jersey. And it was at that time, what they did, they took away from us the right to collect interest on the money we had previously deposited. Then, and also the right to vest. If you had 15 years of service, I think that there was a misunderstanding here among the questions that you directed to Mr. Donnelly, saying that, if you had 15 years, you could remain with the State, if you had 2 years, you could remain with the State. It was not feasible for anyone under 15 years to remain. There were people with 15, 16, and 17 years that did leave the State program and came into the Federal program and these people were divested of their right to leave their pension there as all other State employees were allowed to do.

In other words, if you work for the New Jersey Highway, employment for 15 years, and get out and go into private industry or your own business, you can leave that money lay there until you are old enough to retire and collect the reduced annuity on the amount of years that you retired earlier.

These National Guard technicians that got out and went Federal did not have this right. The law was passed and they were divested of this right entirely. This is the point that we tried to make on the fact that New Jersey divested people of their right.

Senator BURDICK. Let's get this straight. Those who elected to go into the Federal program, their money was returned to them?

Mr. GUARRIELLO. That is correct. And the money was returned. The interest was returned after a legal suit and there still is a legal suit pending in New Jersey for the right to vest.

Senator BURDICK. Suppose the technician didn't pursue Federal service, what happened?

Mr. GUARRIELLO. They were allowed to remain in the State, because if they had 1 year, 15 or 20 years and retain all the State rights.

Senator BURDICK. But only when they elected to go into the Federal Retirement System?

Mr. GUARRIELLO. That's correct.

Senator BURDICK. Adjourned.

(Whereupon, at 12:40 o'clock, p.m., the hearing was concluded.)

APPENDIX

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C., October 7, 1971.

HON. GALE W. MCGEE,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR: I am enclosing a statement in support of S. 855, the bill which I co-sponsored with Senator Cotton to eliminate pension inequities for National Guard technicians.

I strongly urge the Committee to report this bill favorably to the Senate for consideration and I am certain that your members will show compassion for the plight of these technicians.

Please include this statement in the hearing record on S. 855.

With best wishes, I am,

Sincerely yours,

JOHN O. PASTORE,
U.S. Senator.

PREPARED STATEMENT BY SENATOR JOHN O. PASTORE OF RHODE ISLAND

Mr. Chairman, I welcome and thank you for the opportunity to urge the members of this committee to act favorably on S. 855. This legislation is urgently required to eliminate a gross inequity which now exists in the Civil Service retirement program of the National Guard Technicians.

Prior to 1968, over 40,000 technicians in the National Guard could not qualify for participation in the Federal Civil Service retirement program. Most of them were excluded, also, from the various state retirement systems.

These loyal technicians were considered neither federal nor state employees when it came to their retirement. Yet in World War II, and later in Korea and during the Berlin crisis and again in Southeast Asia, thousands of these same technicians gave their service, and some their lives, in defense of this nation.

In the 90th Congress we fully recognized the injustice of this situation but instead of granting these technicians their just due, we merely permitted them to get their foot in the door. We enacted PL 90-486 which I suppose, in a way, perpetuated the inequitable treatment of the technicians.

This law permits a National Guard Technician to claim Federal Civil Service retirement credit for service he rendered before 1969 but the credit is restricted to a discriminatory formula of 55%.

Did these technicians give only half of their talents in the service of our nation? Of course not. They gave 100% loyal and dedicated service and in retirement they should be compensated at the same rate—100%. It is only just and fair.

Nor is this merely a matter of pride. Truly, it is a question of survival for the retired technician and his family. A technician who retires under the present law after twenty years of service who cannot afford to pay back thousands of dollars in unpaid deposits to the Civil Service Retirement Fund, can receive as little as \$72 a month for his lifetime of effort. His widow would be even worse off. She could get less than \$40 a month.

The time for correcting this inequity is now, not later. Hundreds of technicians are retiring each year faced with an annuity below the poverty level.

The American tradition is one of just compensation for a job well done. No one has ever doubted how guard technicians would respond in a national emergency. They got the job done with 100% effort. Now they are faced with a personal emergency. I am sure that this committee and the Senate will respond with compassion in order that these dedicated civil servants can retire in dignity. I urge that this committee report S. 855 favorably.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., October 14, 1971.

HON. QUENTIN N. BURDICK,
Old Senate Office Building,
Washington, D.C.

DEAR QUENTIN: I was happy to hear that your Compensation and Employment Benefits Sub-Committee of the Post Office and Civil Service Committee held hearings on S. 855, the bill which I have co-sponsored.

I would very much appreciate if you would include in the hearing record of S. 855 my statement in the support of this much needed legislation.

Warm regards,

Sincerely,

CLAIBORNE PELL.

PREPARED STATEMENT BY SENATOR CLAIBORNE PELL OF RHODE ISLAND

Mr. Chairman, I would urge the Committee on Post Office and Civil Service to report favorably S. 855, a bill to provide Civil Service annuities for National Guard technicians.

As the members of the Committee are aware National Guard technicians were brought into the federal service in 1968 after many years of dickering between the States and the Federal government as to what level of government had the financial responsibilities for maintaining the benefits of technicians.

Unfortunately, due to some misunderstandings in Congress and in the Executive Branch regarding the level of annuities which technicians were expected to receive from state governments, National Guard technicians were only allowed retirement credits at a level of fifty-five percent.

It seems to me that if we in the Congress have made a commitment to bring Air National Guard technicians into the federal service, then that commitment should not be half-hearted.

In my own State of Rhode Island there are many citizens who have worked, long, hard, and dedicated years as technicians in the Air National Guard. They have been forced to bear the burden of unusually difficult working conditions. They are the group that most frequently suffers as the result of federal reductions in force. Due to their work they must endure not only the rigors of public service employment, but the sometimes arbitrary terms of employment under the military service. It seems to me that equity requires that we fulfill our commitments to the Air National Guard technicians by providing one hundred percent retirement credits for all technicians no matter what branch of the federal service in which they may now be employed.

That is the simple purpose of the bill which I have cosponsored and which is pending before you at this time. It will provide an equitable level of annuities for technicians who in many cases as the result of forced retirement at age fifty five are not eligible for either Social Security benefits or military retirement benefits.

While I realize this bill may require increased federal contributions to the Civil Service annuity fund, I believe that not only from a viewpoint of equity, but from a viewpoint of federal economic policy such expenditure would be justified. At this point in time when we are in the midst of a severe economic recession, steps need to be taken to spur consumer demand and to relieve the burden of inflation on new pensioners. I can think of few better means of achieving this goal than by providing full retirement credits to our deserving Air National Guard technicians.

Mr. Chairman, if the Committee does move to a mark-up of S. 855, it would be my hope that the Committee would consider adding as an amendment my bill, S. 1962. This is very minor, but significant bill to the 361 technicians it covers. This bill simply provides that those technicians who were on service contracts as a result of federal budgetary cutbacks be included under the retirement credit system provided for the other Air National Guard technicians of whom I have discussed.

I appreciate this opportunity to submit testimony to the Committee. I would once again urge the Committee to report favorably S. 855 and S. 1962.

PREPARED STATEMENT BY SENATOR STROM THURMOND OF SOUTH CAROLINA

Mr. Chairman, as a co-sponsor of S. 855, it is a pleasure for me to submit a statement for the Committee Record to support this important legislation. This bill will help correct inequities in the crediting of National Guard technician service in connection with civil service retirement.

In my judgment, when dedicated Americans serve their country in the same manner and identical capacity, as other federal employees, then there should not be great discrepancies in compensation benefits authorized by their government. Unfortunately, this is the case with over 40,000 National Guard technicians throughout the country because our laws are not consistent in providing for retirement and other benefits for the same service rendered our nation. These technicians are, in effect, being penalized because they served their country in uniform as well as federal employees.

Mr. Chairman, many of our National Guardsmen who served in recent wars have in essence been advised that they have only given fifty-five percent service in maintaining the readiness to fight their nation's wars. This is due to the unfair method of allowing only fifty-five percent retirement credit for technician service with the National Guard when they retire from their federal positions.

This injustice must be corrected. S. 855 will go a long way to correct this inequity and provide retirement benefits, which are comparable to retirement benefits for other federal employees of equal service. However, it is suggested that the Committee consider the recommended changes submitted for the Departments of Defense and Army in a letter dated October 7, 1941, to the Committee from the Secretary of the Army. Some modifications may be necessary to insure no one is penalized.

Mr. Chairman, I strongly urge the Committee to report this legislation favorably to the Senate.

STROM THURMOND.

PREPARED STATEMENT BY SENATOR WILLIAM V. ROTH, JR., OF DELAWARE

Mr. Chairman, I was happy to associate myself with the senior Senator from New Hampshire in the introduction of S. 855, a bill which is designed to give National Guard technicians full retirement credits for work performed prior to the effective date of the National Guard Technician Act of 1968. For several years prior to the enactment of this legislation there was a considerable amount of discussion regarding the status of National Guard technicians—were they Federal or State employees for the purpose of coverage under the Federal Civil Service Retirement program? The 1968 Act resolved this question in favor of coverage under the Federal program on the same basis as other Federal employees. However, the coverage, for all practical purposes, was prospective only.

I am in full agreement with the purpose of the 1968 legislation. I feel, however, that in some of the details the Act misses the mark. The reason why I say that coverage, for all practical purposes, is prospective only is because of the way partial, retroactive coverage is provided. Under the law, a technician can get credit for up to 55 percent of his service prior to the effective date only if he pays civil service contributions to cover the prior service. For most technicians (men who may earn \$8,000, or so, a year) the cost of the retroactive coverage may be as much as \$6,000. This amount, clearly, is more than most can afford.

Mr. Chairman, S. 855 was introduced to eliminate this defect in the law. Under the bill, National Guard technicians would be provided with full retroactive coverage without cost to the individual technicians involved. Over the years, these people stood ready to pay contributions out of their pay like other Federal employees. Had they been permitted to, there would be no problem today. They came to Congress, hat in hand, begging for the legislation that would cover them under the Federal Civil Service Retirement program. Congress, however, was slow to act. Years passed and the cost of the retroactive coverage mounted. Now the cost is more than most individual technicians can afford. Therefore, I feel that we have a moral duty to provide them with this retroactive coverage they so richly deserve. They are after all a vital part of our National Guard; they are the people who keep the organization greased and oiled and ready to respond to any emergency at any time. Moreover, those who would be most affected by enactment of S. 855 are the older technicians—the younger ones who started working after the enactment of the 1968 act will get full credit for their service—who are reaching the age when they will soon need the full retirement benefits provided under the civil service program if they are to have a decent retirement income.

Therefore, I urge this committee to report the bill promptly so that the full Senate may have an opportunity to work its will. The justice of and the need for the bill are clear.

PREPARED STATEMENT BY COL. JOHN T. CARLTON, EXECUTIVE DIRECTOR,
RESERVE OFFICERS OF THE UNITED STATES

Mr. Chairman and members of the committee, we appreciate having this opportunity to present our views on the bill before you, S. 855, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes. We address ourselves particularly to clauses (a) and (d) of the bill.

The purpose of these two clauses is to amend the law to provide that former National Guard technicians who had served for varying periods of time as such but had, prior to the enactment of the National Guard Technician Act, PL 90-486, left those positions and were working as Army or Air Force Reserve technicians, or in other federal civil service positions.

These individuals had served honorably as Guard technicians; most were transferred to other positions in the federal service for the convenience of the government. Yet because of the restrictive provisions of PL 90-486 which was written to apply only to those who were serving as National Guard technicians on the effective date of the Act they are denied earned benefits.

It is unclear as to why such provisions were written into the Act but its effect was to deny earned credit for civil service retirement, leave, death or injury compensation, group insurance and severance pay, which were provided to all other National Guard technicians for the same periods and types of service.

In our mind this is clearly unjust. Thus your committee will perform a worthy service if it would recommend favorable action on clauses (s) and (d) of S. 855. We respectfully urge that you do so.

U.S. SENATE,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C., October 13, 1971.

Mr. DAVID MINTON,
*Staff Director, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.*

DEAR DAVE: Enclosed are additional expressions of support I would like included in the record of the hearings on S. 855.

With kind regards, I am,
Sincerely,

QUENTIN N. BURDICK.

AUGUST 6, 1971.

Senator QUENTIN BURDICK,
*U.S. Senate Office Building,
Washington, D.C.*

HON. SENATOR BURDICK: As a technician of the Montana Air National Guard I again solicit your support of S. 855, a bill giving full credit for retirement, for technician service prior to 1 January 1969.

I cannot overemphasize how important it is for this bill to pass. Besides correcting the obvious inequities in the technician retirement system, S. 855 will, by encouraging earlier retirement of older personnel, provide a revitalization program within the Guard by offering incentives to the younger Guardsmen and technician.

Sincerely,

LARRY R. HAFFERMAN.

CHEYENNE, WYO.,
September 27, 1971.

Hon. QUENTIN N. BURDICK,
*U.S. Senate,
Washington, D.C.*

DEAR SIR: A recent newspaper article came to my attention concerning hearings on S. 855, relating to the crediting of National Guard service (technicians) in connection with civil service retirement.

Although I cannot be present for the hearings I would solicit any favorable consideration you may give to this proposal. For many years National Guard Tech-

nicians worked closely with Civil Service employees who held similar positions yet were denied the civil service retirement credits.

Of particular interest is the fact that many of former National Guard Technicians are presently civil service employees. Should the bill be given favorable consideration I trust that the wording would not inadvertently omit former National Guard technicians who are now civil service employees outside of the National Guard from receiving credit for technician service.

Sincerely,

NORMAN N. TYSER.

WARMINSTER, PA.,
September 28, 1971.

QUENTIN N. BURDICK,
Committee on Post Office and Civil Service.

DEAR SEN. BURDICK: Thank you very much for allowing me this opportunity to present my views on S. 855.

The National Guard Technicians were brought into the Civil Service system by the enactment of P.L. 90-486. This Law represented the cumulative effects of over thirty years of effort by the Technicians and the Caretakers who preceded them, and the handful of men in the Congress who unstintingly gave their support for these many years. Unfortunately, past service as a Technician was only recognized at 55%. The Technician is also subject to the Civil Service ruling that unpaid annuities are increased by 3% per year until retirement, and then 10% of the resulting amount is subtracted from the yearly retirement figure. This ruling, because of its applicability to all Civil Service members, can be lived with. But, added on to the present 45% reduction on Technician service, the Technician finds himself being penalized twice for not paying his share into a retirement system that he wasn't allowed to join. The Technicians were always ready, willing, and anxious to join the Civil Service system, all that was needed was the opportunity. P.L. 90-486, gave them a limited opportunity to join; S. 855 will go a long way to make them full-fledged members.

I would be in attendance at your sub-Committee hearings on S. 855, but a prior commitment to my Air National Guard military duties prevents this. Again, thank you very much for this opportunity to express my views. If there is anything else that I can do, please do not hesitate to call on me.

I am enclosing a copy of our Union newspaper, *The Technician*, which features the testimony our National President, Mr. Paterno, presented to the House Committee on their companion Bills to S. 855.

Sincerely,

JOHN KEATING,
President, WGACTION.

[From the Technician, September 1971]

ACT 45 HEARINGS HELD

Hearings on 45% legislation in the subcommittee on RETIREMENT, INSURANCE AND HEALTH BENEFITS, Post Office and Civil Service Committee of the House were attended by 150 ACT members who upon hearing Congressman Stratton, NY, Congressman Melcher, MT, and Congressman Hagan of GA, lend support through direct testimony as well as the stirring statement by ACT's National President, WHO WAS THE LEAD WITNESS, could not restrain themselves and broke the formal circumstances of normal hearing by enthusiastic loud applause on many occasions.

Congressman Chappell, FL, who chaired the session asked penetrating questions and heard ACT's spokesman and the congressional speakers strongly endorse passage of the law to give Technicians full retirement. ACT's long aims and technician leadership were served.

Mr. Paterno's Statement Follows:

STATEMENT BEFORE THE SUB-COMMITTEE ON RETIREMENT AND HEALTH BENEFITS OF THE HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE CONCERNING LEGISLATION TO CREDIT PAST SERVICE OF NATIONAL GUARD FOR RETIREMENT PURPOSES BY MR. VINCENT J. PATERNO, PRESIDENT OF THE ASSOCIATION OF CIVILIAN TECHNICIANS, ON SEPTEMBER 17, 1971

Dear Mr. Chairman and Members of the Sub-Committee: It is with the sincere gratitude of an individual who will be personally rewarded, as well as the pleasure of being able to serve the membership, that I thank the Chairman and Members

for this opportunity to relate the needs of most of the National Guard civilian employees for an equitable retirement. Our organization, composed only of Guard employees, has been deeply involved for better than a decade in gaining just and equitable treatment for this category of civil servant. That we exist today, as an independent union with thousands of members in eighteen states, is testimony to the dedication of my fellow members and officers and to the intensity of our "crusade". When we speak, it is not only for technicians, but as National Guard technicians. When Guard employees are hurt—we feel the pain. When they are treated unfairly—we are wronged. When they anger—it is our fight. When they gain equity, justice, and appropriate reward—we gain and exalt. It is in this spirit of involvement, expertise, and emotion that our position is presented.

The legislation that has been proposed as HR 2530 and fourteen other bills in the House, S. 855 in the Senate with eight sponsors, is a fair and appropriate way to adjust one of the inequities resulting from P.L. 90-486. That being the singular and discriminatory 55% formula for retirement credit for service before 1969. This legislation would recognize past service credit in full under the normal and existing formula for all others. The National Guard employee would suffer no stigma of difference from other Federal employees. His past, unfairly lived with as an orphan in the gap between the Federal State relationship, would no longer haunt him for the rest of his days. Cut rate annuities for full time service would disappear. The acceptance into the Federal Employee Program, at least in the retirement portion, would not deprecate his previous service.

He could look forward to the uncommonly early retirement forced upon National Guard employees, because of their military status, without the fears of large scale economic deprivation. His widow could be somewhat better off in the event of death. If disabled his income would not be abnormally low. The security and equitable rewards of long term government service would deservedly be gained.

Historically we can note that legislation that would have given National Guard employees full credit for past service passed the House in 1966 and 1967. It was in the Senate that action was delayed. We can remark that the recommendations of the President's Cabinet Committee on Federal Staff Retirement Systems, which were referred to the House Post Office and Civil Service Committee, and had gained the approval of the Civil Service Commission, and the Bureau of Budget, on March 7, 1966 included the following:

Since National Guard technicians perform essentially Federal functions, necessary procedural changes should be effected by statute to provide formally for their Federal appointment and supervision. Their resulting formal designation by statute as Federal employees would entitle them to Civil Service Retirement Act Credit and related Federal benefits. As Federal employees thus designated, they should concurrently be granted a statutory entitlement to civil service retirement credit for all past National Guard technician service.

I do not find it inconsistent that the present Civil Service Commission and Office of Management and Budget think differently. I would be surprised were they to back any benefit or gain for employees. But at least they have not held out, and then withdrawn, the carrot of "comparability" before our retirees. They have determined with the efficiency, heart, and soul of an adding machine that fifty-five per cent computed retirement benefits for National Guard employees gives a "comparability" they can live with, even if our retirees must sacrifice. As I watch the economic "game plan" unfold I hear from a widow, living in a condominium retirement village home that she invested almost all of her savings into a few years ago so that she could live on her two hundred dollar a month income as a retired GS-4, as she reports to me that the real property taxes have gone up more than double. If her monthly payment is increased in the same proportion, she will surely have to sell her retirement home just to exist. This widow is not a National Guard retiree at fifty-five per cent computation, but a full civil service annuitant.

I sometimes wonder why National Guard employees stay with such a program as we have. Not only is their time before 1969 partially credited, but they are, for the most part, outside the competitive service, can be fired at will, do not get paid for overtime, are restricted in promotional possibilities by sex and military rank, are required to belong to the military to hold their jobs, and in most instances are forced to wear military uniforms to hide their civilian status from the world. If there is a worse public employee system in this nation I have not heard of it. I think it is a faith that things would get better that has kept them to this point. I now feel that if the program does not improve drastically that, with the next upturn in the economy, there will be a huge exodus. The productive ones will leave with only the high graded clubmen and their circle of bootlickers remaining.

The repair job on the imperfections of Public Law 90-486 can start in this Subcommittee with affirmative consideration of the proposed legislation. It is where we must begin because hundreds of our long term employees face retirement soon and many have retired already on amounts not sufficient to maintain dignity and reasonable life standards.

We have a man, now age 59, who retired on disability after almost twenty-five years of service with the final grade of GS 7 step eight, receiving \$2208 per year in retirement pay. Another who retired at the mandatory age of 60 receives \$2172 per year. A fine technician, WG 12, who retired on disability at age 50 and died ten months later has a widow receiving \$2145 per year.

It was argued in the Senate Armed Services Committee hearings in 1967 that these employees were covered by Social Security benefits. Little recognition was given to the fact that the mandatory age of retirement is 60 and that benefits under that Act cannot begin before age 62, and then only at a reduced amount. It was stated that our type of employee was also covered by reserve military retirement. However, some are not, and those with the lower grades and income can hardly expect large payments. Further, as I testified in 1967, any Federal employee who served twenty or more years in the Guard or Reserves would get the same thing. The military retirement is for separate time and separate duties.

The big issue at the time was the argument that some 4500 employees had a vested interest in state retirement systems that would give them a "windfall". As a result we gave this ten percent of the working force only a 55% "windfall" but succeeded in divesting the other ninety percent of a full 45% of their prospective retirement for past service.

At this point I would like to include a question and answer dialogue from pages 275-6 of the official transcript of the Senate Armed Services Committee Hearings on HR 2. The date was October 3, 1967. I was the witness and the Honorable Senator Miller was questioning.

Senator MILLER. May I say that if a person has been taking something out of his paycheck in order to get into a State retirement system, I have some sympathy with that person if he wishes to go under the State retirement system. After all, he has been paying for it, along with the State.

But what I am concerned about especially is this penalty of only 10 percent. If you have 20 years of service, you may have a very substantial payback to make in order to get the full civil service retirement. You might well—my guess is you could sit down with a sharp pencil and figure out that it would be a lot better for you not to make any payback and only take a 10 percent cut and use the money that you otherwise would have had to take to pay it all back to invest in something else.

Now I am wondering if this penalty should not be scaled according to the amount that is paid back? If a person has to pay a certain amount to bring himself up to date, fine. If he only pays back half of that amount, then his benefits will be scaled accordingly, instead of just an arbitrary 10 percent figure. Would not this be a little more equitable way to figure this out? I am looking at equity within the group itself.

Mr. PATERNO. I am quite happy that you brought up this question, because I think there may be some misunderstanding here.

The 10 percent we are discussing is 10 percent that was set up as a standard in the Civil Service Retirement Act, as I understand it. But the 10 percent is not a reduction of the pension by 10 percent; it is a reduction of the annuity you get by 10 percent of the amount of money you owe.

In my case, I can project that I would owe them \$10,000. Therefore, my pension would be reduced by, say \$98 a month, or something in that area, which would almost equate what I would get out of Social Security. The thing does balance out.

Some people are going to end up owing, because of accrued interest and because of the term of service, up to \$12,000 or \$15,000. Their pensions will be reduced by \$120 or \$100 a month. We are not discussing reducing a \$400 pension by \$40, we are discussing reducing a \$400 pension by one-quarter. This is a different set of figures than has been understood.

Senator MILLER. I am glad you brought that point out, I do not know what the mathematics are, but it would seem to me that in fairness to the Civil Service Retirement Fund which, as you know, is in pretty rough shape right now, this ought to be calculated out on how much one can pay back in order to get full benefits, and if he pays back a lesser amount, how much those benefits would be reduced. So it is on an actuarial basis, taking the interest and all of that into account, so that there is an equitable result.

Now, would you have any objection to that approach? I do not know whether the 10 percent will do this or not. If it does, fine. But, I have a feeling it may not. And if it does not, would you have an objection to using that approach?

Mr. PATERNO. Yes, sir, I have certain other objections relative to equity.

The equity of the circumstances that for all of these years, we for instance, have not received a Government contribution to buy health insurance. We receive no Government contribution to our life insurance, as they presently do. There have been basically no fringe benefits other than annual leave and sick leave.

So if you are going to discuss this as a financial equity, then all of these things should be brought into effect, too. I have never been, in the State of New York, under the opinion that I was anything less than a Federal employee. The State of New York has never recognized me per se, by statute or any other way as a State employee. The State courts have upheld this. The only reason for my existence is the fact that the Department of Defense makes certain regulations that the National Guard should be run by; the Congress of the United States has appropriated certain money to create me.

I do not know that we started, before some 6 or 7 years ago, to influence any legislation in this area, because we have never had any association of our type of employees. We have been in this association now for 7 years. We have come down to Washington two times in groups. Our experience is necessarily limited, because we are all full time technicians. We are not in any sense professional union people, or anything like this. (Note: Four years and the Executive Order have changed this.)

I do feel that the equity here, the measure of equity is to this man who has been putting in the dual service all these years, this man who has worked overtime without compensation, this man who has given more service, I believe, to his community, his State, and his Government than any other civil service man in this country. He is not actually asking more than any other group who has come into the civil service retirement program.

I do not argue with the premise that there could be some windfalls in particular instances, but we have assumed that this could only result to some 10 percent. I do not want to deprive them of anything they have possibly contributed or can get. I do say, though, that I can speak for the other 36,000 adequately and say there is nothing in this bill that will give us anything inequitable, sir.

Senator MILLER. I think your point on fringe benefits is well taken.

The position taken in the above recorded dialogue is valid today. I would answer now, much as I answered then. Although I received the pen used by President Johnson to sign "The National Guard Technician Act of 1968" into law, and was grateful, I could not regard this Act as anything more than a short distance down the road to justice and equity. Pride in a limited accomplishment, if allowed to end there, would have given lie to previously announced principles and goals. There are no 55% people—only poorly constructed legislation that attempted to create them.

Behind all of the purportedly meritorious positions that denied National Guard employees the full light of day, and days past, as civil employees of their national Government, there existed Adjutant's General of various States, jealous in their prerogatives within a non-legislated system of Federally paid employees and fighting bitterly against efforts to gain civil service status for these employees. Suffering no need to answer to appeals or grievance systems, defying merit standards, making mockery of civil rights, practicing nepotism, cronyism, and personal favoritism, there was no desire to see an identity as public servants emerge. Retirement they were not against as long as the arbitrary rule could remain. Effort after effort was made to stem the prevailing tide. The Congress was assured that if the Federal Government would pay the State share the technicians would all be put in State retirement systems, and so they passed the law in 1961. It did not happen. Laws were then proposed that would have placed technicians under the cover of the civil service retirement system without their becoming Federal employees. This did not happen. When we finally did become Federal servants, the entry law, P.L. 90-486, gave us so few of the normal rights that it is no wonder that even credit for past service was cut in half. One of these State Generals said to me in 1964, before a large group, "You will never be Federal employees as long as I am around." We have since gotten the label and most of the benefits, but I think he was right.

That some employees have completed the minimum quarter coverage under Social Security should not be importantly regarded. This coverage available only from 1954 to 1968, will rapidly diminish in value providing only minimum benefits in most instances. It can also be considered coverage contributed to by both

employee and employer that will tend to balance out the unpaid deposit deduction from the annuity. Too, current coverage within five years is required for other benefits. Only two more years exist for that coverage due to Federal employment.

Coverage for employees who were not on board as technicians on the initial date of the Act, should be extended. Many have become Federal employees in other agencies and activities and deserve no penalty for honest service, honestly given. Exclusions of this sort are discriminatory.

Reasonable retirement income, adequate survivor benefits, and above poverty level disability benefits are not possible for a generation of National Guard technicians without the passage of this legislation. It will cost the government money without doubt, but it is only proper back wages for a group of the finest employees this Nation has ever had. The service and standby readiness of these men and women during World War II, Korea, the Berlin Crisis, and Vietnam, has already served the Nation well. Give them their due.

I wish to thank the Chairman and Members of the Sub-Committee for their interest and stand ready to answer any questions to the best of my ability.

BISMARCK, N. DAK., *September 30, 1971.*

HON. QUENTIN N. BURDICK,
*U.S. Senator,
Washington, D.C.*

DEAR SENATOR BURDICK: Thank you for your letter of 27 September 1971, regarding S. 855.

As a civilian technician in the North Dakota National Guard for the past thirty years, I am very much concerned with passage of the bill regarding Civil Service retirement regulations.

At the present, National Guard technician service prior to 1 Jan 69 is creditable for retirement purposes at the rate of ONLY 55 percent.

We would all urge and appreciate early passage of the bill granting 100 percent credit for all service for National Guard technicians.

Sincerely,

MRS. R. O. LAGESON.

ANNANDALE, VA., *October 1, 1971.*

HON. QUENTIN N. BURDICK,
*Post Office and Civil Service Committee,
U.S. Senate, Washington, D.C.*

DEAR SENATOR BURDICK: I am pleased to respond to your letter of 27 September and consider it a singular privilege to be afforded the opportunity to comment on S. 855. Your recollection of my interest in this bill, expressed to you last Spring, is surprising, gratifying and reassuring. Your constituents in North Dakota are indeed most fortunate to be represented by an individual having your approach to the duties of the office of United States Senator.

Just for comparison, I might add that a similar letter sent last year to one of my own elected representatives resulted only in a letter from the Civil Service Commission. It was of little value since it told me merely what I already knew. Since then there has been no further communication from him and probably won't be perhaps until "campaign" time again.

With respect to S. 855, it is my deeply held conviction that the adoption of its provisions would correct an obvious inequity which arises as a result of the passage of P.L. 90-486.

For example, a National Guard technician who resigns his position with the National Guard today to accept employment with another bona fide Federal agency can have a substantial portion of his prior National Guard employee service credited for retirement benefit purposes. In my case, where the resignation took place in 1953 in order to accept employment with a Federal defense activity, none of that service is creditable. The question arises as to why in one case it can be credited, yet merely because of an arbitrary cut-off date in another, the law prohibits such credit.

Congressman Dulski, in response to a letter from me last Winter, explained that "... provisions granting retirement coverage and partial credit for prior service [as a National Guard employee] to incumbent and prospective technicians were designed not as a reward for such services, but as an aid toward their retention and recruitment . . . and to remove them from a legal 'no man's land,' wherein many were bereft of any retirement entitlement or survivor protection." Congressman Dulski, I fear, misses the point.

The criteria for service which earns Federal retirement benefits should *first* and foremost be whether the service is in fact Federal service, not whether one is "bereft of any retirement entitlement or survivor protection." Unfortunately, many persons find themselves in this position, yet the U.S. Government does not extend Federal retirement benefits.

In 1948, I was offered a position as a National Guard administrative technician in a unit of the Massachusetts National Guard. To qualify for Federal payment of those services, the unit had to be a "Federally recognized" unit; it had to be commanded by a "Federally recognized" commanding officer; and I had to be a "Federally recognized" officer in the NGUS. Federal recognition was granted in each case only when the unit and its officers met certain qualifications established by the Department of Defense including an oath of service to the US Government and obedience to the orders of the President. I was paid by the United States Property and Disbursing Officer of Massachusetts—a Federal officer—and virtually all my duties and responsibilities were governed by Federal Directives of the US Army and the National Guard Bureau.

That this civilian employment, within a component of the US Armed Forces, was in fact Federal employment—*de facto* if not *de jure*—was never doubted. The basic criteria of Federal Service were fulfilled, it seems to me.

The question of whether P.L. 90-486 was intended as a "reward" or as an "aid" is not really germane. It should be regarded, rather, as a question of equity. Why should a period of service be qualifying for Civil Service retirement benefits to one class of Government employees, and the same period of the same service be denied another class? A more judicial approach suggests that the standard should impinge upon your qualification for Civil Service benefits *at the time* of retirement and not based upon some date in the past when you happened to change employment from one Federal agency to another. I can assure you that retirement benefits played no part in my decision to leave National Guard employment in 1953.

I find it hard to believe that the Congress authored P.L. 90-486 to intentionally establish this inequity created by the "7 January 1969" National Guard employee status requirements. I cannot conceive of the Congress endorsing the concept that National Guard employee service performed by a Federal employee who separated to accept other Federal employment before 7 January 1969 is of less value than the same service performed by a National Guard employee who chooses to accept other Federal employment at some date after 7 January 1969.

Rather, I would imagine the intent was to disqualify those who had separated from National Guard civilian employment before 7 January 1969 for reasons other than acceptance of permanent career employment with the Federal Government, and who otherwise might qualify for deferred annuities. It is particularly perplexing in cases such as mine where resignation from National Guard employment was to accept employment with a Federal agency more involved in day-to-day Federal matters of national defense and security than the National Guard.

Being aware of your record of interest in and support of equitable administration of benefits for civilian employees of the Federal Government, I urge you to support S. 855, amending P.L. 90-486. This would permit an individual who, at any time since 1948 (the date of initiation of Federal sponsorship of the National Guard civilian specialist employee program), left a position as a National Guard civilian employee in order to accept a position with the Federal Government and who, in the future, retires from the Federal Government qualified for a retirement annuity under Federal Civil Service retirement law and regulations, to be credited with prior National Guard civilian employment service in the same manner that a National Guard civilian employee who now accepts employment with a Federal agency can be so credited.

Sincerely,

PAUL H. HILDEBRAND.

BISMARCK, N. DAK.,
November 4, 1971.

Hon. QUENTIN N. BURDICK,
U.S. Senator, Washington, D.C.

DEAR SENATOR BURDICK: It is always gratifying to hear from you on any issue whether it is good for me or someone else.

In regard to the Bill S. 855 on technicians receiving full credit for past service, I hope we do get full credit as we are going to give up some social security retirement because of this program. If we receive only 55% of civil service retirement we are going lose on both counts as the social security retirement would also be

cut. I have always been of the opinion that social security paid by technicians prior to January 1969 should be credited to our civil service retirement, this would release funds to help unburden the liability of the civil service retirement system.

With highest respect and regards,

ELMER H. OPP.

BISMARCK, N. DAK.,
October 4, 1971.

Hon. QUENTIN N. BURDICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BURDICK: I was very pleased to receive your letter of 27 September 1971 informing me that on 13 October 1971 the Subcommittee on Compensation and Employment benefits will hold hearings on S. 855.

Naturally, I feel very strongly on this bill as it would make it possible for me to move up my retirement date. I realize this is a selfish motive.

I have always felt that an inequity existed, in that the technician of the Army Reserve have always held Civil Service Status, whereas technicians in the National Guard have not. Perhaps, because of their dual status as both State and Federal, this is the reason been denied this benefit.

Any consideration you may see fit to exercise to accomplish passage of this bill, will be greatly appreciated.

Sincerely,

JOSEPH J. THOMAS.

BISMARCK, N. DAK.,
October 5, 1971.

Hon. QUENTIN N. BURDICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BURDICK: I recently received your letter informing me that the Subcommittee, of which you are Chairman, will hold hearings 13 Oct 71 on S. 855, Compensation and Employment benefits.

As I have nearly 20 years credited to me with the Federal Government and Civil Service, I am naturally concerned about the passage of subject bill. I feel the many years that I have been employed with the NDak Army National Guard as a Technician under Federal status and converting to Civil Service approximately 3 years ago, that this should be combined and upon retirement receive Civil Service benefits.

Any consideration you give to accomplish the passage of this bill will be appreciated.

Sincerely,

MARIE E. HARR.

BISMARCK, N. DAK.,
October 5, 1971.

Hon. QUENTIN N. BURDICK,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BURDICK: Thank you for your letter of 27 September 1971 indicating a Subcommittee hearing will be held on 13 October 1971 to consider the Civil Service retirement regulations for National Guard Technicians (S. 855).

I, as one of the thousands of National Guard technicians would greatly appreciate your support to change the existing regulations so as to afford us 100 percent credit for all technician service.

In my opinion this would remove the inequities between the National Guard technicians and the Army Reserve technicians, who are receiving 100 percent credit for all technician employment.

For 21 years, National Guard technicians were in a state of limbo for retirement purposes, not claimed by either the federal or state government.

The additional credit for retirement gained if the Subcommittee favorably considers this bill would afford a realistic and equitable remuneration for long and faithful service and comparable to other Civil Service retirees.

Again, I will be grateful for your kind support.

Sincerely yours,

FRANK WEISGERBER.

FORT WORTH, TEX.,
October 5, 1971.

Hon. QUENTIN BURDICK,
Chairman, Subcommittee on Compensation and Employment Benefits,
New Senate Office Building, Washington, D.C.

Fifty-eight Texas ARNG technicians urge favorable consideration by your committee on S. 855, retirement for NG technicians. We are vitally interested in early passage of legislation that will put us on the same level as other civil service employees for retirement benefits.

Therrell Dodson, Paul Applewhite, Jewell Harris, Alfred Houser, Lawrence Luckett, David Willis, Roy McAlester, John McPherson, Elmer Parkhill, Eugene Sheehan, Edgar Wilson, John Caraway, Bobby Allen, Howard Blackstock, Warren Britton, Aubrey Clemente, Carroll Curtis, Jerry Demby, Fred Durham, Ray Elliott, Byron Mills, Antonio Mondragon, George Nabors, Norvell Wilson, Tommy Scott, Bobby Stevens, Ernest Thompson, Frank Tibbit, David Tidwell, Walter Tucker, Elbert Ward, Arthur White, Prentis Wickliffe, Charles Wood, Cleo Evans, J. W. Harrison, Dewey Hearne, George Ingram, Brantley Jones, L. C. Knowles, Young Langston, James Lolley, Malcolm Mann, Othar McCurry, Ronald McDonald, Bobbie McKnight, Samuel McPherson, Homer Middleton, Ersel Doss, Romie Graham, Roger Ramsdell, Lavaughn Wingate, Edward Lukowski, William Wilson, Adrian Sissney, James Tow, Vernon Edgmon, Doudio Martinez, Tom Herring.

LAFAYETTE, LA.,
October 7, 1971.

DEAR SENATOR BURDICK: In your hearings on S. 855 I feel that you should have information on at least some of the former National Guard technicians who received no benefits from the law, as enacted in 1969.

From Nov. of 1940 to Dec. of 1945 I served on active duty in an infantry rifle company, participating in five campaigns in the ETO. This included the Battle of Hurtgen Forest and the Battle of the Bulge.

In 1946 I started working as a National Guard Administrative officer for an infantry regiment. This was under state pay. I immediately went into the technician program upon its inception in 1948 and was so employed until my position was eliminated on 5 Feb. 1965. On 3 Mar. 1965 I started working with the U.S. Post Office and have been in their employment since that time.

I have two sons.

My oldest son volunteered for 3 years of active duty. He was awarded the Army Commendation Medal for service in Vietnam. My other son is in the Army, has just completed his AIT and is being sent to the Far East. This is 100% participation for my family and of this I am very proud.

Now, everybody knows that the majority of the members of the National Guard, who joined after the Korean War, have joined to evade the draft and many of these are now National Guard Technicians. These technicians have retirement benefits of which I was deprived as the law now stands.

Please consider these facts in your hearings.

Sincerely,

MELVIN J. BARRILLEAUX,
Lieutenant Colonel, AUS, Retired.

