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NATIONAL GUARD RETIREMENT

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HEARING

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UNIVERSITY BEFORE THE
SUBCOMMITTEE ON
MENT AND EMPLOYEE BENEFITS
OF THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
USE OF REPRESENTATIVES
NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 5238 and Similar Bills

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

SEPTEMBER 21, 1973

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RETIREMENT FOR NATIONAL GUARD TECHNICIANS

FRIDAY, SEPTEMBER 21, 1973

HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 210, Cannon House Office Building, Hon. Jerome R. Waldie (chairman of the subcommittee) presiding.

Mr. WALDIE. Today the Subcommittee on Retirement and Employee Benefits will hear testimony on H.R. 5238 and H.R. 6502, bills to amend the civil service regulations as they apply to the retirement program for National Guard technicians. While the National Guard Technicians Act was passed in 1968, technicians in the program on or after January 1, 1969, were given full Federal employee status with one exception. That exception was that, for annuity computation and optional deposit purposes, credit was granted at a 55-percent rate for previous 1969 service.

The legislation before us today would correct this inequity by making two primary changes in the program. First, it would raise the 55-percent figure to a full 100 percent.

Second, the bill would repeal the restriction that benefits be granted only to those technicians serving in the National Guard program on and after January 1, 1969.

Finally, in considering this legislation, I think it is important to note that in no other case where an employee group was brought under Federal civil service retirement was there less than full credit granted.

The first witness will be our colleague, Mr. Davis, from the State of Georgia.

Mr. DAVIS. Thank you, Mr. Chairman. I might open by saying I enjoyed your remarks on the floor yesterday.

Mr. WALDIE. Thank you, Mr. Davis.

Mr. DAVIS. I felt they were most effective and I congratulate you on the success you enjoyed.

Mr. WALDIE. That is very kind.

STATEMENT OF HON. JOHN W. DAVIS, U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. DAVIS. I just want to emphasize I worked with the National Guard technicians for several years now and I have been profoundly impressed with the value of their work and the fact that under the laws that existed, they turned out to be neither fish nor fowl. But they

are entitled to due credit for the valuable work they have performed. I would simply say that I am 100 percent behind this bill and the purposes of the bill, and I hope it will pass. I do not wish to belabor the committee with the details because I feel that, in your opening statement, you have covered the problem rather thoroughly. There are only one or two comments I would like to make.

Mr. WALDIE. Surely.

Mr. DAVIS. One is that I think one of the central points in the bill is the fact of the issue of fairness. There is no question in my mind that to assign a 55 percent formula for credit in retirement service before 1969 is not only disheartening, it is actually demeaning, particularly to recently retired technicians.

It is also an example of discrimination. The National Guard technician obviously did not perform only 55 percent of his work prior to 1969, and the argument that he was only partially a Federal employee and, therefore, is only partially qualified for Federal retirement benefits is doubletalk at the least, and facetious at the most.

The National Guard technicians have given to the Federal Government their service and have been paid in turn with congressionally appropriated funds. The impetus for their work did not come from the separate States as some have asserted, nor did the specific legal authority which brought the National Guard technicians into existence as a separate work force. The existing law, while designed to correct certain inadequacies, has created others; the chief one being a rather nebulous status for National Guard technicians as quasi-Federal employees.

To my mind, when one is called upon to man missile bases, provide round-the-clock air defense coverage, and ferry cargo overseas into areas of conflict, he must not feel that he is only worth half as much as any other employees or any other Federal employee.

It has been my privilege to inspect the bases that we have in our district there in northwest Georgia and to see the kind of work that is going on and to recognize the quality of the services being rendered.

Mr. Chairman, I wholeheartedly support the bill under consideration. I offer you my unqualified support for it.

Mr. WALDIE. I appreciate that, Mr. Davis. It has been a constant source of interest and pleasure to me to note that this bill has an enormous amount of support among our colleagues. I think its prospects are pretty good. The only objections I have heard raised are directed toward the cost figure.

We appreciate your being here before the committee on a day when the Congress is not in session.

Mr. DAVIS. I want to congratulate the chairman for scheduling a hearing on a day like this and for his diligence.

Mr. WALDIE. Thank you again.

Our next witness is Mr. Andrew Ruddock, Director of the Bureau of Retirement Insurance, and Occupational Health, U.S. Civil Service Commission.

Mr. Ruddock, I wonder if I could ask one or two general questions.

How many people are we talking about that would be covered under this bill, do you have any figures on that?

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

Mr. RUDDOCK. Was your question, "How many are retired?"

Mr. WALDIE. No.

How many would be entitled to be covered. I would assume that prior to 1969 we have a pretty good idea of how many people would be entitled to be covered under this bill that are still in the National Guard.

Mr. RUDDOCK. I am working from memory, Mr. Waldie.

My recollection is that, when this legislation was pending back in 1968, it was estimated that there were about 43,000 National Guard technicians. They would not all still be in service today and I do not know how many of them are. But if my memory is correct, we are talking about a figure of something less than 40,000.

Mr. WALDIE. Right.

And that figure decreases each day, of course, does it not? I mean, increases each year assuming people leave. If they leave would they be able to benefit under this bill if they are not any longer in the Guard?

Mr. RUDDOCK. Only if they are eligible for annuity benefits under the Retirement Act. If they are and if they have been National Guard technicians since January 1, 1969, they would be eligible to receive credit in the computation of the annuity for 100 percent of their National Guard technician service from and after January 1, 1969, and as the law presently stands, for 55 percent of the service performed before that date.

Mr. WALDIE. So, if this bill passes, those people that have retired up to this point could have recomputation, in effect; is that correct?

Mr. RUDDOCK. Yes, sir.

On that point, we would suggest, in the manner in which these things are normally done, that, if this legislation goes through to enactment, it should contain a provision for the payment of increased benefits only prospectively after enactment. It is not normal to recompute and 2 or 3 or 4 years in back benefits.

Mr. WALDIE. Does the bill permit retroactive payment to recomputation if the bill passes?

Mr. RUDDOCK. As it passed the Senate, it would include payment back to the date of retirement.

Mr. WALDIE. I would thoroughly agree with you that that should not be permitted.

Mr. Ruddock, your statement will be entered into the record in its entirety and you may proceed as you see fit.

[The statement follows:]

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

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to give the Commission's views on H.R. 5238. This bill would liberalize current law relating to the crediting of National Guard technician service performed before 1969 in computing Civil Service Retirement annuities. H.R. 5238 is similar to S. 871 which was passed by the Senate on July 31, 1973 and to H.R. 169 upon which the Commission formally reported on June 15, 1973.

At this time I would like to discuss the major provisions of H.R. 5238 as well as the legislative background of the current law relating to the creditability of technician service. The legislative background is a major reason for the Commission's opposition to enactment of H.R. 5238.

Before January 1, 1969, National Guard Technicians were not Federal employees. In most places they were considered to be State employees. 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, National Guard Technicians are Federal employees after January 1, 1969, and their service after that date is treated the same as the service of all other Federal employees.

For 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.

H.R. 5238 would retroactively, from January 1, 1969, make the following changes in the crediting of pre-1969 technician 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 is opposed to the changes that would be made by H.R. 5238. 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. 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 the date and who would, under H.R. 5238, 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 can 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 H.R. 5238 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 states 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 employment.

"(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, part of the employment program for technicians to which the Federal Government had already contributed the employer's share of the cost. 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. 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.

Mr. RUDDOCK. Thank you. There are bills with four different numbers, H.R. 5238, H.R. 6502, S. 871, and H.R. 169. The Commission has submitted formal reports on two of those bills and I would ask that they be made part of the record.

Mr. WALDIE. The administration reports which have been received on this subject will be placed in the record at the appropriate place.

Mr. RUDDOCK. Thank you, Mr. Chairman.

The current law under which the National Guard technician receives 55-percent credit for his pre-1969 service in computing his annuity benefits, was not a matter of inadvertence or something unintended. It was a part, as you have indicated, of a compromise that came about in the process of passing the National Guard Technicians Act. It is working exactly as the Congress intended that it should work.

The position of the administration is to recommend that that compromise be permitted to stand. In view of the current fiscal situation, and the cost of this bill which would increase retirement liability by \$128 million, we recommend that action not be taken on the bill and that the compromise be permitted to stand.

Let me say this is not necessarily to indicate that the compromise, the 55 percent that was agreed to in 1968, is the direction that we would have preferred to go at that time, but that was the compromise that was reached. The report of the Senate Committee on Armed Services which was printed in July of 1968, makes that very clear. The same point is made very clear by the report of the House Subcommittee on Armed Services.

Mr. WALDIE. Can I interrupt you a moment?

Mr. RUDDOCK. Yes, sir.

Mr. WALDIE. What would you have preferred to have done at that time instead of that compromise? In what way would the Commission have differed? I presume when you say "we," you are speaking in terms of the Commission.

Mr. RUDDOCK. Yes. I think we would not have arrived at a provision for a percentage credit of service. Our view, as you know from my prior testimony before the committee, is that we should credit service in which the individual was an employee of the United States, and in that context, service is creditable or it is not creditable.

But, for reasons which the Congress considered good and sufficient in 1968, this was arrived at as a compromise. It was a compromise between one possible extreme of no credit, another extreme of full credit, and the 55 percent was arrived at and we recommend that it be permitted to stand.

Mr. WALDIE. Now, I would inquire who were the parties to that compromise as nearly as you can understand from having been around in that time and from having read the records on it?

Mr. RUDDOCK. To the best of my recollection, it was a compromise on different views held primarily by members of the Senate Committee on Armed Services.

Mr. WALDIE. The compromise was not per se then a kind of an arrangement or agreement between the National Guard representatives and the representatives of the Congress who were handling the legislation.

Mr. RUDDOCK. Not to my knowledge, although I am certain that, at the time, they accepted the compromise in order to get the main purposes of the National Guard Technicians Act.

Mr. WALDIE. In the Congress, who was urging full credit?

Mr. RUDDOCK. I do not remember.

Mr. WALDIE. Does the record reflect that?

Mr. RUDDOCK. I do not remember that, either.

Mr. WALDIE. I am told by counsel of the committee, Mr. Devlin, that his recollection is that the House Armed Services Committee wanted full compensation. The Senate wanted to compromise it.

Mr. RUDDOCK. Mr. Waldie, if I may, I have a quotation from the report of the House Committee on Armed Services. They said:

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 employment.

Still more technicians would be expected to complete the 40 quarters of Social Security credit through annual Reserve training duty as Federal civilian employees.

Another 10 percent of the technicians not covered under Social Security had acquired a vested interest in an annuity under their State retirement systems.

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.

It is clear that the committee did at least arrive at reasons for their final position.

Mr. WALDIE. One other question: Did the civil service committee have anything to do with this bill in its original passage through the House, and compromise?

Mr. RUDDOCK. As I remember it, it was not before the Post Office and Civil Service Committee of either the House or the Senate.

Mr. WALDIE. I am advised that at the time the bill was originally passed it was an omnibus bill involving all aspects of the National Guard. Now, it is simply an amendment to the Civil Service Retirement Act so it is before our committee.

Mr. RUDDOCK. I have nothing more unless you have further questions, Mr. Chairman.

Mr. WALDIE. Is it possible for you to remain for the additional testimony or do you have to attend to other matters?

Mr. RUDDOCK. Mr. Waldie, I really should get back. If any further questions come up, if you would have staff address them to me, I would be happy to furnish answers.

Mr. WALDIE. The next witness is Dr. Theodore Marrs, Deputy Assistant Secretary of Defense for Reserve Affairs. Dr. Marrs, will you introduce the gentleman accompanying you.

STATEMENT OF DR. THEODORE C. MARRS, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS, ACCOMPANIED BY RAYMOND S. WEBSTER, STAFF DIRECTOR, RESERVE AFFAIRS, OFFICE OF DEPUTY ASSISTANT SECRETARY OF DEFENSE, RESERVE AFFAIRS

Mr. MARRS. Thank you, Mr. Chairman.

With me is Mr. Raymond S. Webster, Staff Director, Reserve Affairs, Office of Deputy Assistant Secretary of Defense, Reserve Affairs.

I do have a statement. Basically, it includes comments on the compromise which you have already discussed and it also refers to the cost factor and those are the two essential points raised in it.

Mr. WALDIE. All right. Would you just read your statement. It is a short statement, and I would like it read so I can follow it.

Dr. MARRS. Thank you, Mr. Chairman.

These bills would liberalize current law relating to the crediting of National Guard technician service rendered before 1969 in computing civil service retirement annuities. The Department of Defense is opposed to the enactment of these bills.

At this time I would like to discuss the major provisions of H.R. 6502 and H.R. 5238 as well as some of the legislative background of the current law relating to the creditability of technician service. The legislative background is a major reason for the Department of Defense opposition to enactment.

H.R. 6502 and H.R. 5238 would retroactively, from January 1, 1969, make the following changes in the crediting of pre-1969 technician service.

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

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

(3) They 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.

When considering the National Guard Technician Act of 1968, the Congress had a wide range of choices in considering the degree to which past technician service—which had been considered State service except for the District of Columbia—should be creditable for future civil service retirement.

Congress could have recommended no credit for past service on the premise that the technician was 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. After long and careful examination of all aspects of this matter, the Congress concluded that the 55 percent credit represented a fair, equitable, and generous treatment of this matter.

H. Rept. 1823, July 31, 1968, observed that since fiscal year 1955 the Federal Government had contributed as the employers' 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.

The report stated:

If these same technicians had been under the civil service retirement system during this same period of time, the Federal Government would have contributed to the civil service retirement fund as the employers' share \$142,805,000.

In terms of past Government investment, therefore, it could be stated that the Federal Government has already contributed to the civil service fund 54.59 percent, \$77,954,000 out of \$142,805,000 of the amount that would have been contributed to the civil service fund during this period. This contribution would leave a remainder of only 45.41 percent.

The record further showed that in the same report that the decision was made to not limit the contribution to 45 percent as suggested by this calculation but to allow credit for 55 percent of the past technician service.

The report then expressed a conclusion as to the fairness of the 55 percent formula and cited support for that conclusion. There were also, in that report, references to the effect of past technician service on civil service retirement fund liability.

If the 55-percent credit provision of pre-1969 technician service is repealed, and that service is credited in full, the unfunded liability of the civil service retirement fund would be increased in the amount of \$128 million, according to a 1973 statement by the U.S. Civil Service Commission.

The additional increase in unfunded liability stemming from crediting pre-1969 technician service credit for civil service retirement purposes for those technicians who left the program before that date cannot be estimated.

The Department of Defense is not aware of any developments which make the compromise solution incorporated in the National Guard Technicians Act of 1968 less appropriate today than it was on the date of enactment.

The Office of Management and Budget advises that there is no objection to the submission of this statement.

I would like to expand by fully concurring with the gentleman from Georgia's emphasis on the evaluation of the value of the technicians and the tremendous role they played in having attained combat ca-

pability for a great many of the forces. This is not lost on us at all and we greatly appreciate it.

Mr. WALDIE. On page 4 you state:

In the first paragraph, the additional increase in unfunded liability stemming from crediting pre-1969 technician service credit for these technicians who left the program before that date could not be estimated.

Do any of the bills provide for that?

The additional increase from unfunded liability—pre-1969 technicians service credit for those technicians who left the program before that date—cannot be estimated. Do they all provide—why don't we leave this off the record, Mr. Recorder.

[Discussion was off the record.]

Mr. WALDIE. Let us go back on the record.

Let me ask this question: If a man left the Guard and went into private employment prior to 1969, with the passage of this bill, would he be entitled to recompute his pension if he were drawing one?

Dr. MARRS. If he were drawing a pension, no, I think what we are referring to is the possibility of this man returning to service in the National Guard and then being able to go back and pick up that 100 percent past time—

Mr. WALDIE. If the man left the National Guard before 1969, but went into other Federal employment covered by the retirement system, and this bill passes, would he be able to recompute his time prior to 1969?

Dr. MARRS. If he returned to National Guard service—

Mr. WALDIE. No, not to National Guard service.

Dr. MARRS. To Federal service.

Mr. WALDIE. Just the Federal service?

Dr. MARRS. Yes.

Mr. WALDIE. Under the terms of the bill.

Dr. MARRS. It is our impression that that is the case. In Mr. Rud-dock's statement he points out this same factor.

Mr. WALDIE. Did Mr. Webster have a statement, too?

Dr. MARRS. No.

Mr. WALDIE. All right. Do you have anything further to offer?

Dr. MARRS. No, sir.

Mr. WALDIE. We appreciate your appearance before the committee. Thank you very much.

Dr. MARRS. Thank you.

Mr. WALDIE. Our next witness is Mr. Jim Lynch.

STATEMENT OF JAMES H. LYNCH, JR., ASSISTANT LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO), ACCOMPANIED BY GEORGE A. HOBt, DIRECTOR, WAGE SYSTEMS DEPARTMENT AND NATIONAL GUARD COORDINATOR

Mr. LYNCH. Mr. Chairman, Mr. Hobt is accompanying me today.

Mr. WALDIE. Do you have a statement?

Mr. LYNCH. Yes. I would first like to state that, due to other commitments, Mr. Webber could not attend this morning.

Mr. WALDIE. You may proceed.

Mr. LYNCH. The American Federation of Government Employees which represents over 65,000 Federal employees in exclusive recognition units is the largest union of employees in the service of the Federal Government. 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 modern reform which Congress has been successfully enacting on the basis of the bills emerging from the Senate and House 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. 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 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 to 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.

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 almost 5 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 which these technicians find themselves in the area of retirement benefits.

H.R. 5238, a bill introduced by Mr. Moakley, will once and for all correct this situation. H.R. 5238 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 past service as well. For these reasons, we urgently appeal to you for the earliest passage of this bill, H.R. 5238.

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 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.

Again, we urge the subcommittee and its members to act favorably upon H.R. 5238 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.

In concluding, we wish to thank this subcommittee for the opportunity to testify in support of this fine bill.

Mr. WALDIE. Do you have any further comments you want to make?

Mr. LYNCH. No. Mr. Hobt has a few comments. He has worked for years as a technician and would like to make a few comments.

Mr. HOBt. I want to thank you, Mr. Chairman, for the opportunity to appear today.

Two points I think need to be clarified, based on the previous statement.

With regard to technicians' eligibility for social security retirement and Reserve retirement, there is a computation of a benefit that would accrue to any guardsman, whether he were a technician or not.

It is unfair, it is an unfair compromise or computation when you look at it from the standpoint that, if a guardsman has been or happened to be an employee of the Post Office or other civil service-type employment and also happened to be a member of the Guard or the Reserve, why, he is eligible for the retirement under the Reserve program.

To penalize the National Guard technician because he draws the same benefit is inequitable.

Mr. WALDIE. Go over that again. You have lost me.

Mr. HOBT. Well, the basis for the compromise—as I understand it—was the fact that a technician in the performance of his technician duties, also was required to belong to the National Guard.

Mr. WALDIE. Wait a minute.

What is the difference between a Guard technician and the National Guard?

Mr. HOBT. Well, the technician is the full-time employee who was hired prior to 1969 by the various States, and worked on a 40-hour-a-week basis.

Mr. WALDIE. He also had to be a member of the National Guard?

Mr. HOBT. He also had to be a member of the Guard and attended the annual field training and the monthly training assemblies.

The entitlement to the Reserve retirement that was mentioned, accrues through the drill status on the weekend and field training and the hours and days over and above the normal technician service.

So, this is a benefit that all guardsmen and reservists can become eligible for upon completion of the required length of service. And this was one factor that was used, here a man at the age 60, for example, could draw maybe \$100 or \$200 a month in military reserve retirement, and therefore, it is all right to reduce his civil service retirement by a given amount when that is taken into consideration. The same thing is true of the social security benefits. It is very possible that a technician, through the annual field training or active duty for training pay that he receives as a result of his National Guard membership could become eligible for at least minimum social security benefits. By the same token, if he would happen—

Mr. WALDIE. Let me stop you there a minute. I do not understand that.

As a national Guardsman, is he entitled to National Guard military retirement? How would he be entitled to social security?

Mr. HOBT. He also is entitled to social security benefits for pay that he receives, that is considered active duty, for training. This pay is considered eligible for social security and he pays social security on that.

By the same token, if he were to have other outside employment where he was eligible for social security, there is no way of computing as to how much this social security retirement would be.

There is a great deal of weight given to the Government's contribution for the social security for the period 1962 to 1968.

I try to stay current with social security laws, but they keep changing and the benefit program changes considerably.

If he were to participate under social security and qualify, say, prior to 1968 and then you were no longer eligible for social security benefits and you no longer participated, and, as the maximum benefit income provisions increase over the years as they have, why, your contribution in the 1962 to 1968 period diminishes to where, if you are entitled to any benefit at all, it is a minimum benefit, even though most of the technicians that were participating in that pay system in 1962 to 1968 period would have qualified for maximum benefits.

So, it actually cut them out of the system and here again it is unfair as far as computing what their civil service retirement should be.

The requirements on the technicians as earlier stated, have never been a 55-percent requirement. They have always seemed to be 100 percent or something more, and their requirements on the technician force today are greater than they were 10 years ago and faced with the voluntary force concept. The requirements on the technicians and the job that they are going to be required to do is ever-increasing.

Mr. WALDIE. Will you describe for me what a technician does?

Mr. HOBt. Well, take a National Guard installation, for example. It has every function that an active Air Force base would have.

And it performs the same functions with regard to the flying activities, the medical support, supply support, motor vehicle support, and the basic difference is that they do it with less people.

Take an active, small Air Force base with one flying unit. It would have somewhere in the area of probably 1,500 to 3,000 active-duty military employees on that base.

The average Air Force National Guard base would run somewhere between 175 and 250 full-time technicians.

Mr. WALDIE. How are their expenses met?

Mr. HOBt. As far as the operating expenses? They are paid by the Federal Government.

Mr. WALDIE. Does the State have any role in it?

Mr. HOBt. I am not completely competent to speak on this but it is my understanding that the State has a requirement to maintain the physical facilities or provide the land, this type of thing, the buildings. The Federal Government provides the equipment, management of the equipment, and maintenance. The States' contribution would be very small in comparison to the Federal Government cost.

Mr. WALDIE. I gather at one time they were under State payroll because I see we made the contribution to the State employees retirement system in some respects. What was that, and does that still exist?

Mr. HOBt. Well, the payroll, as I understand it, was always paid from Federal funds that were allocated to the States and I know, in my case, in my experience, the salary checks came from a Federal payroll office.

Mr. WALDIE. Is that still the case?

Mr. HOBt. Yes.

Mr. WALDIE. Why were we making contributions to the State employees retirement system?

Mr. HOBt. Well, as memory serves me, there were either 20 or 21 States that had various forms of State retirement systems. Some of the technicians at various times were allowed to participate in these programs. In my case, I was an air technician in Des Moines, Iowa,

and in the period from 1953, I believe it was until 1968, why, we were eligible for the Iowa public employees retirement system and the Federal Government did contribute a share of that. But, once the bill in 1968 passed, technicians were no longer eligible to participate in the retirement system and their contribution was refunded.

Now, it is my understanding the Government's contribution was not refunded and there would be some difficulty in getting that back from the States.

But the State retirement in Iowa—someone computed it at one time and said, if you retire as a National Guard technician at age 60, that when you were age 94 you might be getting something back other than your own money. Most all of these were unsatisfactory programs, and to my knowledge, most of them terminated once the technicians became Federal employees.

Mr. WALDIE. How do you get your appointment as a National Guard technician?

Mr. HOB. The basic requirement for the technicians is that you are qualified in the military—have a qualified MOS or occupational specialty for the position for which you are being considered and most of the technicians come from the drill status unit.

Mr. WALDIE. Come from what?

Mr. HOB. The military National Guard unit in that particular location.

Mr. WALDIE. Who makes the appointment? How are you hired?

Mr. HOB. The appointment authority initially rests with the adjutant general, but this would be delegated down—

Mr. WALDIE. Of the State?

Mr. HOB. Right.

Mr. WALDIE. I cannot get in my mind whether you are a State employee, a Federal employee, a member of the military, or a civilian.

Mr. HOB. Yes.

Mr. WALDIE. That is the problem.

Mr. HOB. This has been one of the additional problems, the retirement credit thing is probably the largest single problem that the technician force feels they are faced with.

Mr. WALDIE. Right now, you are considered for almost every facet of your employment as a Federal employee.

Mr. HOB. Right. The largest majority of the benefits, method of pay, and the pay systems used, are for Federal employees.

Mr. WALDIE. Then your checks come from the U.S. Government?

Mr. HOB. Right.

Mr. WALDIE. Are you entitled to the civil service system protection?

Mr. HOB. There are some moving provisions of the law which certain appeal or appellate rights on certain actions do not extend beyond the adjutant general of the States which has caused our organization and the other labor organizations no end of problems.

To make a comparison I would say that for most cases the authority that is normally vested for civil service employees in the regional commission of the Civil Service Commission is vested in the adjutant general and—

Mr. WALDIE. Do you have a rank as a National Guard air technician?

Mr. HOBt. Yes.

Mr. WALDIE. Are you paid the same as the military rank equivalent?

Mr. HOBt. No. As far as your civilian service, you are covered under the Federal wage system as the other 500,000 or so or 450,000 Federal blue-collar workers, or the general schedule system. There are both. There are approximately 50 percent wage grade and 50 percent general schedule.

Mr. WALDIE. Are you subject to military discipline?

Mr. HOBt. Well, you are subject to the fact that the technicians in the service, with rare exceptions, are required to wear the military uniforms for the performance of their civilian jobs.

And, by virtue of the fact that you are required to wear the military uniform, you are subject to military courtesy requirements while in this wear. It is not unusual to see a National Guardsman—

Mr. WALDIE. When the National Guard Act was revised, the National Guard technicians became subject to the National Guard Act provisions.

Is that why you are part of this compromise? In other words, it seems to me that you are civilian employees essentially.

Therefore, the jurisdiction of your subject matter ought to be in this committee. If you had military commitments, then the jurisdiction should be in the Committee on Armed Services.

Mr. HOBt. Well, I would agree with you 100 percent, Mr. Chairman. It is our very strong feeling that the technicians are civilian civil service employees and that this should be the governing factor.

We have had, as I say, a great many problems with the military aspect of this program. One other point that I would like to make is that the American Federation of Government Employees never was a party to the compromise for the simple reason that until the act of 1968 was passed, the National Guard technicians were not eligible for membership or representation by a Federal employee unit.

At the time that the bill was being considered, there was no organization that was really eligible to speak for the vast majority of the technicians that were on board. So, there was no one to be a party to a compromise for these employees.

Mr. WALDIE. I have no further questions.

I appreciate your coming. I think your statements have been very helpful.

Mr. LYNCH. Thank you.

Mr. HOBt. Thank you.

Mr. WALDIE. Before the next witness proceeds, I want to read into the record a letter from Mr. Moakley, a member of this committee.

DEAR JERRY: Mr. Charles Hickey of the National Association of Government Employees, will be testifying on my bill, H.R. 5238 before the subcommittee on Friday.

I will not be able to be there because of Banking and Currency business and I would appreciate your extending my greetings to Mr. Hickey and showing him all the courtesies extended to the multitude that have appeared before your subcommittee.

I will be submitting to the subcommittee, testimony to be inserted into the record in support of this much needed legislation.

Sincerely,

JOHN JOSEPH MOAKLEY,
Member of Congress.

Mr. HICKEY. Thank you.
Mr. WALDIE. You may proceed.

STATEMENT OF CHARLES E. HICKEY, JR., NATIONAL VICE PRESIDENT, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY NORMAN ROY, VERMONT NATIONAL GUARD LOCAL, AND CHARLES MAGARIAN, PRESIDENT OF NAGE LOCAL, ARMY NATIONAL GUARD

Mr. HICKEY. Mr. Chairman, thank you for this opportunity to appear here. I am accompanied by Norman Roy, from the Vermont National Guard Local and Mr. Charles Magarian, who is president of NAGE Local, Army National Guard.

Mr. Chairman and members of the subcommittee, the National Association of Government Employees (NAGE), as the exclusive bargaining agent for 10,500 civilian technicians of the National Guard, appreciates being granted this opportunity to testify in support of proposed legislation to grant technicians full credit toward retirement for employment prior to 1969.

Several bills have been introduced in recent years to accomplish this purpose, including measures introduced in 1970 and 1971 at the request of the NAGE by the majority leader of the House, Representative Thomas P. O'Neill of Massachusetts. One of the bills for your consideration today was introduced by Representative Joseph Moakley of Massachusetts on behalf of the NAGE.

In the last Congress, the NAGE and other interested organizations testified at length on this subject before subcommittees of both the House and the Senate. Our testimony today will be necessarily repetitive to some degree, but its basic points bear restating.

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. Credit for years of service performed prior to 1969 is limited to 55 percent. Technicians, therefore, are faced with the prospect of entering retirement, the so-called golden years of life, on seriously 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 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 this bill is enacted into law.

An important element which must not be overlooked in considering this measure is that, while technicians technically were 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 operational 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, such delegation being specifically authorized by the Technician Act itself.

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 our view, 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 in 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 Guard 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 a vested interest in social security. 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-insurance principle quite different from the individual-equity principle of the civil service retirement system. Social security 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 House Armed Services 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 foregone their entitlement to a State annuity in favor of Federal retirement. And, in at least one State—New Jersey—legislation was enacted which deprived technicians of their vested right to a 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, Bell Telephone or any other employer to deduct or limit pensions paid by those employers based on any Reserve pension that one of its employees 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 \$236 million is available to finance 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 contributions of \$58,348,000.

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 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 research and found to be feasible.

Mr. Chairman, National Guard civilian technicians are subject to numerous restrictions in regard to pay practices, personnel policies and working conditions. No other category of Federal civilian employees labors under such a broad array of demoralizing exceptions to normal civil service rules and regulations, with practices ranging from the paternalistic to downright despotic.

Enactment of the legislation you are now considering would do much to make them legitimate members of the Federal civil service family.

Thank you for your attention.

Mr. Waldie.

Mr. WALDIE. Maybe you could just give me a little preliminary information on this. What exactly is the technician—is he a military being, a civilian being, or a hybrid that nobody fully defines?

Mr. HICKEY. You are probably right on the latter. His civilian position, in most cases, requires him to be a member of the National Guard. Because he is a member of the National Guard, he has limitations on rank and what positions he may hold.

There are a good number of positions the enlisted man can never obtain no matter what his background is. He is specifically limited to his job because he is an enlisted man in the National Guard.

I might add to Mr. Hobt's statement about the statement as to retirement systems, there were 21 States involved with technicians in their retirement systems. In most cases they did require the technicians to get out when they became Federal employees.

Some States gave them an option of staying in this system. New Jersey went one step further and passed legislation after the enactment taking away the vested rights of the technicians in the New Jersey State retirement system.

So these men were actually stripped of the rights they had gained over a period of years. There are some 19 million in State retirement funds that were contributed by the Federal Government.

We think there would be a possibility of recouping some of this money if not all of it by the Federal Government helping to fund this legislation, because the money is being used right now to pay pensions to their own State employees, I would assume, because the money is in their State retirement funds.

But the technician for years did not know what he was. I see the chairman was a little confused at whether we were Federal or State.

When we were so-called State employees paid from Federal funds, you should have been in our position when we went to apply for a home mortgage and try to explain to the man across the table what we were, because nobody even understood and sometimes we did not.

Mr. WALDIE. Do they understand now?

Mr. HICKEY. I think so.

Mr. WALDIE. What do you think you are.

Mr. HICKEY. Well, we think we are Federal employees with some limitations. The limitations are the fact that the law that made us Federal employees also denied us many of the rights that a full civil service employee has.

Mr. WALDIE. What are some of those rights other than this retirement credit?

Mr. HICKEY. We cannot appeal to the Civil Service Commission for anything other than a classification appeal, and if a man is disciplined or intimidated as a technician, he has no appeal any further than his State adjutant general.

Mr. WALDIE. Do you take a competitive examination for entry?

Mr. HICKEY. No, sir.

Mr. WALDIE. Do you take a competitive examination for promotion?

Mr. WALDIE. How do entry and promotion come about?

Mr. HICKEY. The normal process for entry is simply one requirement, you have to be a member of the National Guard in most cases and once a man becomes a technician——

Mr. WALDIE. No, how does he become one. That is entry.

Mr. HICKEY. Well, all States have job announcements. When we have vacancies in the technician program, and they give wide distribution——

Mr. WALDIE. That is by examination then, is it not?

Mr. HICKEY. No, sir.

Mr. WALDIE. What does it mean—you just apply?

Mr. HICKEY. You apply.

Mr. WALDIE. Who decides? Is it political?

Mr. HICKEY. Well, in some cases; yes, sir.

Mr. WALDIE. All right. I have heard of that.

Mr. HICKEY. It depends on what side of the fence you are on at the time.

Mr. WALDIE. I agree. But, if you are a political appointee, I guess that is not——

Mr. HICKEY. In a sense when you come on board—I suppose in some cases there have been political appointees, maybe not in the true sense of the word. But once you are on board, you cannot be removed other than for just cause or unless you lose your military membership.

Mr. WALDIE. If they move you by other than just cause, since you cannot appeal, what does that mean?

Mr. HICKEY. That means you are out in the street.

Mr. WALDIE. So, in effect, they can remove you.

Mr. HICKEY. They can get at you by the back door. I will try to explain. If an enlisted man flunks a physical, he is out. He might not necessarily be a really disabled person in the eyes of the civil service. He could hold a civil service position but, if he flunked the military physical, he would have to go out on retirement.

If an enlisted man was refused reenlistment, but given an honorable discharge and no reason given—and we run into this, I imagine all the unions have—then there is no appeal because the adjutant general is judge, jury, and hangman.

This is another aspect of our employment we would like to see changed at some future date, so we would have an appeal beyond the adjutant general.

Mr. WALDIE. Is the adjutant general a political appointee in every State?

Mr. HICKEY. I believe there is one State where they are elected.

Mr. WALDIE. The adjutant general is elected?

Mr. HICKEY. I believe so, that is what I have been told.

Mr. WALDIE. What State is that?

Mr. HICKEY. South Carolina.

Mr. WALDIE. By whom?

VOICE. The people.

Mr. WALDIE. At large in the State?

VOICE. Yes, sir.

Mr. HICKEY. In some States, they are appointed by the Governor. In some States the legislature is required to approve the appointment.

Mr. WALDIE. There are forty-some thousand, I gather, technicians, is that correct?

Mr. HICKEY. It is more than that now, sir. I believe it is somewhere in the nature of 47,500.

Mr. WALDIE. Well, we will say under 50,000 or over 45,000.

Mr. HICKEY. Right.

Mr. WALDIE. How many National Guardsmen are there in the country?

Mr. HICKEY. Congress set the ceiling at 400,000. I do not believe our strength is anywhere near that now.

Mr. WALDIE. So, better than 10 percent of the force are technicians.

Mr. HICKEY. Yes.

Mr. WALDIE. Considerably better, I would assume. The numbers of technicians are increasing, are they not, as the number of guardsmen are diminishing, is that right?

Mr. HICKEY. Yes, sir. The technician role has increased because of the greater emphasis on the National Guard as part of defense.

Mr. WALDIE. Who sets the salaries for Guard technicians.

Mr. HICKEY. Well, as Mr. Hobt said, we are covered either under the general schedule or the wage rate schedule.

Mr. WALDIE. I see. Can you tell me what the salaries are? Does it depend on your rank?

Mr. HICKEY. Yes, in a sense it does because, for instance I mentioned enlisted men are limited in most States and you will seldom find an Army National Guardsman technician, above the grade of a GS-7 on the GS side. The jobs above that are usually limited to officers.

Mr. WALDIE. If he is a GS-7, would that mean his rank would have to be, then, always enlisted man rank, whatever? Could he be any enlisted man rank at a GS-7?

Mr. HICKEY. In your civilian job description as technician, in some cases, they specifically pinpoint you to a military assignment. You have to be a certain grade, a certain MOS, a certain career field and you are limited to that military career field. But this is not true right down the line. There are quite a few exceptions where a man could possibly gain more rank by going into a different unit. But there are a good many technicians limited to being a member of the military unit that they work for, and therefore they are limited in their rank.

Now, the Army Reserve technician does not have the same limitation.

Mr. WALDIE. Can a National Guard technician become an officer in the National Guard?

Mr. HICKEY. Yes, he can.

Mr. WALDIE. What are the restrictions on his becoming such?

Mr. HICKEY. Age requirements for one. They raised the age for initiating commissions to age 32, where the limit was normally 28 years of age. If you are older than that, you have no hope of ever becoming an officer.

Mr. WALDIE. I have no further questions, Mr. Hickey. We appreciate your coming very much.

Our next witness is Maj. Gen. Donald G. Smith, National Guard Association of the United States.

General, we have your statement here which we will include in the record in its entirety following your oral presentation. You may proceed as you desire.

STATEMENT OF MAJ. GEN. DONALD G. SMITH, NATIONAL GUARD
ASSOCIATION OF THE UNITED STATES

General SMITH. Mr. Chairman, I am aware you have invested considerable time in earlier hearings on this legislation. I am prepared to highlight and summarize for you, and then of course answer questions.

Mr. WALDIE. Yes; go ahead.

General SMITH. I would like to say in the opening that National Guard technicians are not unaware that in pursuing passage of this bill, it may appear that we are fighting the congressional hand that has fed us, the retirement program already in effect.

We are, I assure you, most grateful for this. The figure, however, that has been quoted of \$128 million that is necessary to support this legislation, if it is enacted, when amortized over a period of about 15 years which would be about the time expected to retire out the eligible technicians in the system, would only equate to approximately \$8 million per year.

This is equivalent to approximately the cost of two F-4 fighter aircraft per year and does not appear too high a price to pay to a group of dedicated individuals who have faithfully performed their duties in support of national defense for up to 40 years with a blind faith that our Government would eventually provide appropriate retirement.

The bill would provide more than the retirement desired. It would afford the commanders within the system the opportunity to use some flexibility.

Now, we have an aging technician force. We have senior technicians in the program that, for one reason or another, may want to retire and maybe should retire because they have passed their most effective years.

However, because the reduced retirement now available to this technician is equivalent to approximately one-half of that of other Federal employees, with the same amount of service, he is forced to hang on. He clings to the job because at age 50 or 55, he is reluctant to go out into the market with his specialty, which is peculiar to the Guard, and try and find a new job to supplement the income that would be necessary to support his family.

Now, you hear from time to time the comment that technicians are eligible for social security. In some cases certain select individuals may qualify for social security. However, they would not draw social security prior to age 62, and then it would be a portion of full social security. Normally, it would be 65.

In the meantime, if he leaves the technician employment, he does not have any coverage prior to age 65. Also, there are frequent references to the military retirement to which technicians are normally entitled by virtue of their dual military-civil service status. However, a title III military retiree must first live to age 60 to draw the first dollar.

This is true of any member, of course, of the Reserve Forces. They must live to age 60 to draw military-retirement pay. If a technician does retire any time before that, he is still going to draw an annuity

which is less by approximately one-half that of any other Federal employee with like service due to the present retirement bill that discounts, for purposes of computing the annuity, 45 percent of all the years prior to January 1, 1969.

I think these points are very important because, when we use the term or make reference to social security or military retirement, it is assumed that a technician simultaneously with their civil service retirement is going to also draw military retirement and social security to supplement his income. They would not, of course.

Now there is separate procedure for all other Federal employees who may have years where they did not contribute to the retirement program. These individuals who have noncontributory years under provisions of subchapter S-4-1 FPM supplement dated January 22, 1973, when they retire must have their annuity reduced by only 5 percent of the balance due for those noncontributory years.

I only mention that to show there is another system in addition to the present system that is applied to technicians. Of course, I now reiterate that 45 percent of the total years service of the technician is discounted for computing final technician annuity. Those were the main points that I wanted to convey, Mr. Chairman. The position paper here more or less speaks for itself. I would entertain any questions that you may have at this time.

Mr. WALDIE. Why were the National Guard technicians categorized as excepted?

General SMITH. They were already on board. They had been for approximately 40 years and they had been performing the task.

As being excepted they were not subject to the testing procedure because to have tested them, of course, would have greatly delayed the implementation.

I suspect, possibly, that the fact that they had already demonstrated their qualification permitted them to come aboard as excepted employees rather than competitive. Competitive employees are subject to the initial employment testing and upgrading.

Mr. WALDIE. Are they political appointees?

General SMITH. No sir. Not if the program is implemented as it is written and published by the National Guard Bureau.

Mr. WALDIE. Is it generally the case that it is implemented as written by the Bureau? What I am saying—

General SMITH. It would be presumptuous for me to speak for any other State.

Mr. WALDIE. You are representing the National Association, why would it be presumptuous? I would assume you would have information on it. I am not trying to be critical, I am really trying to find out. Are National Guard units in most States political units?

General SMITH. I would say "No."

Mr. WALDIE. Are they in some?

General SMITH. I would say "No," as far as technicians are concerned.

We have had some excellent testimony by various astute people, representing unions. The perspective of the union and the employee and the perspective of the management of the system do not see eye to eye on that and I very strongly support the fact that, human nature

being what it is, politics enters everyone's life somewhere along the line. I am talking not about some nitty-gritty politics, I am talking about an overall program.

Mr. WALDIE. You are a political appointee, aren't you?

General SMITH. The criteria for appointment of a technician——

Mr. WALDIE. No; are you a political appointee?

General SMITH. As a military member of the Guard?

Mr. WALDIE. No, as the head of the Illinois Air National Guard, you are a political appointee, are you not?

General SMITH. The Governor of the State of Illinois nominated me under the criteria for the position and the rank that is established by the Air Force. This is also true of the Army Guard.

Mr. WALDIE. If the Governor appoints you, you are a political appointee, are you not?

General SMITH. You cannot obtain Federal recognition as a Federal officer in the Guard or an NCO in the Guard without meeting the Federal criteria.

The Governor nominates and appoints in the State. But each individual officer and airman has a dual status. He has status as an officer in the State and as a Reserve of the Air Force and in my case, I hold a similar companion commission in the Air Force Reserve.

They have a dual status. Now, the Governor does appoint, but that is not the basis on which this man is paid. He is paid as a military man on the basis of Federal recognition and criteria as established by the Federal Government.

Mr. WALDIE. How do the technicians come into employment?

General SMITH. They are employed under the criteria established by the Bureau which is a reflection of the Civil Service Commission procedure. Forms and reports are all identical.

Mr. WALDIE. What do you mean, "a reflection"?

General SMITH. Well, the criteria for promotion, or employment, pay increases, merit promotion, the entire civil service program.

Mr. WALDIE. Except for testing.

General SMITH. Well, we have 5 percent of our force who are not military people, that are females, in most cases, that do have to take the necessary testing.

Mr. WALDIE. What about the technician?

General SMITH. The other 95 percent qualify by virtue of the fact of employment as a technician after he is a qualified military member of the organization and the prerequisites of the job descriptions that are similar to that of the Civil Service Commission, in fact, they are supposed to be identical.

Mr. WALDIE. Suppose three people have similar qualifications, how is the choice made?

General SMITH. It is made on the best qualified and best available.

Mr. WALDIE. Who makes that decision, without an examination?

General SMITH. Under the procedure, if properly implemented by the States, he is selected on the best qualified, the identical procedure of the CSC.

Mr. WALDIE. The identical procedure is a test. Is he given a test?

General SMITH. Well, the identical procedure for selection, we do no testing; only the selection.

Mr. WALDIE. So, you have the identical procedure except no test.
General SMITH. Well, again he must meet the qualification for a specific job.

Mr. WALDIE. Yes, but the question is: The only time it is valid is if you have equally qualified people submitting themselves for appointment and the Civil Service Commission rules if it is identical, they take a test.

The man with the highest test is generally the one appointed. I presume there is no test here. If there is no test, I presume then his appointment is made by some authority and what I am trying to define here, is this man or beast we are talking about, that is what I am not able to define, is he a political cat?

General SMITH. No, sir.

Mr. WALDIE. I know, not if it is done according to the rules. What I am trying to find out is, if it is done according to the rules, if the rules do not provide for a test—

General SMITH. Before he can be employed as a technician, he must be a military member. Before he can move into the technician ranks, he must be qualified in the military speciality.

He is required to have a homogenous assignment. If he is a supply clerk, military, he has a test he takes as a supply clerk and he is qualified under the Air Force criteria of testing and training and formal schooling.

Then he can be employed as a technician and that is the reason for the excepted status. He does qualify first in military membership and he does qualify in his—

Mr. WALDIE. I guess your point is that there is never more than one applicant for one opening.

General SMITH. There are many applicants in many cases.

Mr. WALDIE. If there are more than one, how do they choose between the ones who seek the job?

General SMITH. The procedures we follow require us to advertise the job for a period of time. They are interviewed by the supervisor and he selects them, not the adjutant general.

Mr. WALDIE. The supervisor makes the selection.

General SMITH. Yes, at the working level.

Mr. WALDIE. No test. It is an interview. They have to give interviews. He does not have to do that if the fellow has buddies. Can he hire his buddy without responding to anybody?

General SMITH. Not if he follows the procedure.

Mr. WALDIE. All right. Let me suggest he does not follow the procedures. What happens then?

General SMITH. I do not know.

Mr. WALDIE. The answer is nothing because there is no right of appeal.

General SMITH. There is a right of appeal.

Mr. WALDIE. To whom?

General SMITH. Up through the technician channels to the adjutant general.

Mr. WALDIE. There is?

General SMITH. Yes, sir.

Mr. WALDIE. So, the aggrieved applicants who did not get appointed can appeal?

General SMITH. Yes, sir. For example, if they are aboard already——

Mr. WALDIE. Would they say, I am as qualified as he, and they did not select me?

General SMITH. They could claim unfair labor practices.

Mr. WALDIE. Well, I guess they could, but in the military it would be a little tough.

General SMITH. They are civilians.

Mr. WALDIE. Are they?

General SMITH. Yes. Their pay records say "Mr."

Mr. WALDIE. They have to say "lieutenant" and wear uniforms, "Misters" do not have to salute and wear uniforms.

General SMITH. Right.

Mr. WALDIE. I am not criticizing, General.

General SMITH. I understand.

Mr. WALDIE. It is a strange group. I do not think anybody——

General SMITH. It is a relatively new program yet. We are still evolving. We have room for improvement.

Mr. WALDIE. I think there probably is. The technicians, I presume, have positions of authority.

General SMITH. They have a dual status. They are military and civilians.

Mr. WALDIE. You are a civilian right now?

General SMITH. Yes, sir.

Mr. WALDIE. But you do not really believe that, do you. You are a general, are you not?

General SMITH. When I am in civilian clothes, I am a civilian.

Mr. WALDIE. That is like my saying, yes, you are a civilian but I am a Congressman.

General SMITH. We have Congressmen in the Reserves. Yet, when they are here, now, in their own area, they are civilians. Yet, if they were to report to their unit——

Mr. WALDIE. But when you are on the base, you are a civilian, are you not? Your pay is that of a civilian.

General SMITH. When we are functioning as technicians on a 40-hour week, wearing uniforms, we are civilians; yes.

Mr. WALDIE. Now, when you are in your 40-hour week, your paycheck as a civilian, wearing a general's uniform, do you feel like a civilian?

General SMITH. Let me put it this way: When a weekender first walks onto the base, he is a civilian. When he comes within the jurisdiction of that military installation and puts on a uniform, he is a member of the military organization.

The same is true of any technician. When he is in the working jurisdiction area, he is actually a technician and military member; he cannot be separated when he is in his working environment.

Mr. WALDIE. Right.

General SMITH. But, if he goes off the base across the street, this would change.

Mr. WALDIE. Sure. Once they are off the base; I agree with you. But on the base, though, they are civilians and drawing civilian salaries; they are subject to all military orders and other rights.

General SMITH. When we say "orders" and "authority," some people would think that possibly the Universal Code of Military Justice would be applied here, but it does not apply to them when they are working in technician status on the base.

Mr. WALDIE. Actually, that probably has nothing to do with the bill at all, it is just a curiosity on my part to figure out where these people are.

Your statement has been very, very helpful to me. And I think most informative in your pointing out that every other class of people that we have brought in, we have not penalized in any way.

General SMITH. Yes, sir.

Why there should have been this exception is something that is difficult to understand. But the record at least, if you have cited it in its entirety, would not have warranted that discrimination that was imposed in this compromise. Thank you.

Mr. WALDIE. Thank you, sir. It has been very helpful and I appreciate your tolerance of my efforts to better understand the nature of the employment we are dealing with here.

[The prepared statement follows:]

STATEMENT OF MAJ. GEN. DONALD J. SMITH, NATIONAL GUARD ASSOCIATION OF THE UNITED STATES

BIOGRAPHY

Major General Donald J. Smith was born in Chicago, Illinois on 20 September 1916. He is presently assigned as Chief of Staff, Illinois Air National Guard and ANG Base Detachment Commander, O'Hare Air Reserve Forces Base, Chicago, Illinois.

General Smith attended Curtis Wright Aeronautical University, Chicago, Illinois 1938, Air Force Aircraft Engine and Instrument Specialist Course 1941, Aviation Cadet 1942, Air Command and Staff School 1950, and Tactical Air Command Air Ground Operations School 1951.

General Smith enlisted in the 108th Observation Squadron, Illinois National Guard on 7 April 1938, and entered active duty with that squadron on 3 February 1941. He was accepted for aviation cadet training while on duty in the Panama Canal Zone. On completion of cadet training he was commissioned a 2nd Lieutenant on 3 November 1943. In April 1944, he was assigned to the European Theater of Operations and flew combat missions in B-24 aircraft. Upon his return to the United States, he was assigned as a B-24 Instructor Pilot, and released from Active Duty on 31 October 1946.

He returned to the Illinois Air National Guard and was assigned as Operations and Training Office in Headquarters, 56th Fighter Wing. He resigned from the Illinois Air National Guard on 10 July 1947 to accept a regular commission in the United States Army Air Corps. He later resigned his regular commission to accept a new appointment as Commander 108th Bomb Squadron, Illinois Air National Guard in 1948.

During the Korean War he again entered active duty on 1 April 1951 and commanded the 108th Bombardment Squadron in France until released from active duty in December 1952. He was reassigned as Commander, 126th Fighter Bomber Group. On 3 September 1960, he was assigned as Chief of Staff, Illinois Air National Guard, and on 27 August 1962, he was federally recognized as Brigadier General. Promotion and federal recognition as Major General was received on 9 December 1964.

Decorations and awards include the Air Medal with 1 Oak Leaf Cluster, Distinguished Unit Citation WWII, American Defense Service Medal, American Campaign Medal, European-African-Middle Eastern Campaign Medal with 2 Bronze Service Stars, World War II Victory Medal, National Defense Service Medal, Air Force Longevity Service Award with 1 Oak Leaf Cluster, Armed Force Reserve Medal with Hour Glass and Distinguished Service Award of the National Guard Association of the United States.

STATEMENT

The Chairman and members of the 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 rescinds 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 either H.R. 5238, introduced by Congressman Moakley of this Committee or H.R. 6502 sponsored by Congressmen William Ford and Davis of Georgia. It has been said by other sponsors of similar bills that this represents "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 fulltime by the National Guard since 1924. From the beginning, they were Federal employees in all but a narrow legal sense. Their duties where, and are, primarily related to the National Guard's Federal defense mission. They have drawn their pay from the Federal Government, and the Secretary of the appropriate military departments had been empowered by law to set their salary levels and prescribe other conditions of employment. They had worked to enhance the military readiness and capability of the National Guard as a first-line element in the National defense establishment.

The Department of Labor had proclaimed the technicians to be Federal employees for purposes of the Federal Employee's Compensation Act (Workmen's Compensation), and the United States 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, Congress enacted the National Guard Technician Act of 1968, granting legal status as Federal employees to the National Guard technicians, with the benefits long enjoyed by other Federal employees. There were two important exceptions however.

First, the technicians on board at enactment of the present Law were credited with only 55 per cent of their past technician service for purpose of computing their retirement annuities.

Second, Civil Service Retirement credit, was limited to those technicians who were employed in the technician program on or after 1 January 1969; the effective date of the retirement Act.

It has long been the view of this Association that the large scale reduction in annuities for service prior to the enactment of the present law in 1968, and the limitation on who was to be qualified for retirement was not warranted.

The significant point that should be made in reference to these two restrictions were that they were unprecedented in the history of the Civil Service retirement system. Numerous other groups had previously been brought under Federal Civil Service retirement. In no case was less than full credit toward retirement given. In no case were any individuals within a group denied credit for past service. In some of those earlier conversion groups the Federal Government had also been paying the employer's share into Social Security prior to their acceptance into the Federal retirement system. But in no case prior to that of the National Guard technician was full credit for past service withheld or eligibility given to one category and not to another.

Most nearly parallel to the case of National Guard technicians, perhaps were the several thousand of employees of County Committees established by the Soil Conservation and Domestic Allotment Act.

They, like the National Guard 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.

In another similar case, the 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.

The 45 per cent reduction in retirement annuities presently prescribed for National Guard technicians in the 1968 Act was applied indiscriminately, across the board, for all past technician service even though the Federal Government had been contributing to Social Security in their behalf only since 1954. Many technicians had been on board as far back as 1930.

The Federal Government currently contributes the employers' share to Social Security on thousands of other Federal workers. These are individual employees hired for one year or less, such as teachers overseas, and employees hired on a fee or contract basis for terms not to exceed five years. Considerable numbers of these "temporary" employees gravitate into permanent Federal employment under Civil Service, and are then given full credit, without reduction of annuities, for the periods in which Federal payments were being made into Social Security on their behalf.

Additional arguments against the present 45 per cent reduction in technician annuities are supported by the following observations:

Fewer than half the technicians in the program at the time the retirement Act was adopted in 1968 had completed the qualifying 40 quarters, or 10 years, under the Social Security program as a result of their technician service. That means that a majority of the technicians as they then existed, will probably never become eligible for Federal Old Age and Survivors Benefits. For them, their Federal contributions into Social Security will also be lost.

Even those who had completed the necessary 40 quarters, and thus were insured, will suffer a great reduction in the Social Security payments that eventually are paid because further contributions ceased for both employee and employer, on the day they entered the Federal retirement system in 1968.

As pointed out earlier this restriction had not been imposed on other similar groups incorporated in the Civil Service system, only on the 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.

"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 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 it is believed that, in all fairness, it should be observed in respect to the National Guard technicians.

It is important to note here that when National Guard Technicians ask for full credit for all past technician service in computing retirement pay, that they do not expect to receive retirement pay comparable with other Civil Service Employees who have fully contributed during like years, into the Retirement Fund. We accept that all non-contributing years should be subject to the standard ten percent reduction factor, as presently provided for in Sub Chapter S4-1 FPM supplement dated 22 January 1973 for all other Federal employees with non-contributory years.

Finally, it appears that the imposition of such unprecedented retirement terms on the National Guard technicians subjected them to far more than their fair share of restrictions because they are, by other conditions of their employment, burdened with critical constraints that do not apply to any other Federal employees. They must, for example, maintain military membership in the National Guard and thus an exposure to frequent mobilization as a condition of their continued technician employment. This means they must continue to meet the strict physical and educational standards for military service else they lose their technician jobs. There are good and valid reasons to justify these requirements but it nevertheless is a special condition which only they among all Federal employees, must meet.

It should be of interest to this Committee to note that National Guard Technicians are not normally hired until they are fully qualified in their military

specialty directly related to their civilian position. The average age in the National Guard Technician force is thirty seven. Many technicians are being forced out of their positions at age 55 by virtue of their military retainability. This is five years before eligibility for their military reserve retirement and ten years before those few who would be eligible for a small Social Security annuity, can claim them. In this regard, it should also be especially noted that National Guard technicians as Federal employees are not sheltered by the Provisions of the "Age Discrimination in Employment Act" PL 90-202, reference paragraph 630 (b).

Ninety-five per cent of the National Guard technicians are categorized as "excepted," (military membership required). This deprives them of the opportunity, available to most other Federal employees, of seeking better-paying jobs in other Federal agencies. Nearly all of the remaining five per cent are female civilians who are not otherwise eligible for any collateral military requirement annuity.

In summary I would emphasize one point of special significance, that is that—National Guard technicians who are now eligible to retire at age 55 with between 20-25 years technician service, must be prepared to meet their family obligations with approximately one-half of the retirement of any other Federal employee with like service time. This overriding financial strain at age 55 makes other suitable new employment most inopportune, forcing the technician to cling to his present position sometimes after his most effective years. This is especially critical for that group of technicians who are directly engaged in hazardous duty jobs such as aircrew instructors, who work continuously in high performance aircraft. Many have dedicated their entire working life to the technician program. These dedicated technicians whose exceptional service have helped bring the National Guard from the World War II period to today's "READY NOW" Total Force Policy are, because of family responsibilities, locked into a retirement system that now requires many of them to complete approximately twice the number of technician employment years to realize the same retirement annuity as that available to other Federal employees. A commander now has only the cold choice of discarding dedicated technicians thru forced retirement and rewarding them with substandard retirement annuities or maintaining them within the system with the inherent age safety factors involved.

Mr. Chairman, Members of the Committee, a great inequity would truly be eliminated and the ideals of justice properly satisfied by the passage of this legislation. To this end we respectfully submit this detailed recommendation and solicit your support.

Mr. WALDIE. The next witness is Mr. Vincent Paterno, president of the Association of Civilian Technicians.

We will put your entire statement in the record following our oral discussion.

STATEMENT OF VINCENT PATERNO, PRESIDENT, ASSOCIATION OF CIVILIAN TECHNICIANS

Mr. PATERNO. Thank you, Mr. Chairman.

Mr. WALDIE. What is the difference between a civilian technician and National Guard technician?

Mr. PATERNO. There is no basic difference. I am very happy not to read my statement at this point because, having heard the questions and having heard the prior testimony and probably being the only man in the room who testified at the hearings in the House Armed Services Committee, Senate Armed Services Committee and been on all these things, the derivation and history of this program, also having been a technician from 1950 to 1973, I was on leave of absence for 3 years, I think what we had here basically—by the way I would like to state this because we seem to get off the subject, that this retirement bill is direly needed by people who do not have enough money to live on. And if we are going to eliminate certain people because of years of entry or no entry, then I think we are failing the human values in a certain sense.

Some of these people do not pay dues to my organization any more because they are retired, that does not mean that I should not be interested in them. They do need the money. They are not getting enough money to live on and this bill is direly needed.

We were organized in 1960 and at the time of the hearings and while they were holding the hearings I did testify and I can attest to this.

I made no compromises with anyone. It was suggested earlier this year or late last year in Mike Causey's column that the union on board at that time had, in fact, compromised.

I can speak to you unalterably, I did not and I was the only union spokesman that I know of.

To get back into the technician program, I entered it in 1950, interestingly enough, without a requirement to belong to the National Guard. I received a Federal paycheck. I was always in receipt of a Federal paycheck all the time I was a technician from 1950 to 1970.

Only around the midfifties, I think it was around 1955, did they begin to advance this total requirement for military membership into the program.

Some segments had had it as a practice and requirement. Other administrative segments of the program did not have it. Those phases of the program organized under the U.S. Property and Fiscal Officer had not had the requirement that anyone working for them belong to the military.

This thing was slipped into it. The whole program grew from very few people tending horses in the 1920's, to a few more people taking care of trucks and tending horses in the 1930's, on a per diem basis.

They were at that time getting \$5 a day, during the depression, I believe, and when a holiday came, they did not get paid for that day. But these were technicians, they were federally paid and got Federal checks.

At the end of World War II, the World War II technology brought about the fact that you could not keep a Reserve organization going under the old concept of parade grounds and having a few rifle teams. There was a need for technology, there was a need to adopt some of the sophisticated systems of supply, accounting, maintenance, and everything else, so we gradually began to hire technicians.

If they were not guardsmen, we hired them and told them to become guardsmen if we could. But many of them adopted this purely voluntarily because they enjoyed work, being in the Guard, getting separate paychecks for their drill status and field training. But they were in fact getting a classified-type grade from the Federal Government in the form of a Federal paycheck.

New York and California, I guess have roughly 20 percent of the entire technician force, something in that area. We were never under a State retirement system. This was attempted by me personally, early in the 1950's, and it did not work.

I know that the adjutant general of my particular State, General O'Hara, particularly went down to the Senate and Congress in 1960 to tell them how—if they agreed to give Federal money, that they would take us into the State retirement systems.

The Senate did not give the Federal money to the extent that they wanted. It would have required some 13 percent to end up in the New York State retirement system which is an actuarially sound retirement system. The Senate was only willing to give the same contribution that the Federal Government was giving. At the same time, part of that had to come out for social security. In effect, the Federal contribution would have been about 2 percent, or less.

So, despite the fact that the adjutant general may have wanted it and a lot of the adjutants general wanted it, it did not come to be. At the time they put the limitation on. I think it was 6 or 6.5 percent.

This is about the stage our organization started and we had felt that, since the program was primarily Federal, that they were going to push for complete Federal identity.

Things went slow in the beginning. To get into the political phase of it other than the type that you were talking about, I can remember very well the maneuver that took place on the part of the Adjutants General Association to move it into the jurisdiction of the Armed Services Committee and out of the jurisdiction of the Civil Service Commission, and I can remind this committee that in 1966 President Johnson had a Federal Cabinet-level Committee on Retirement Systems and in 1966 President Johnson recommended in that study that the National Guard technicians be made Federal employees for all purposes including all retroactive service.

Well, this became very, very desperate for the group of people running the program, basically, the adjutants general and the people who they have managed to get in the National Guard Bureau. I do not now intend to pull any punches here.

Mr. WALDIE. What is the National Guard Bureau?

Mr. PATERNO. It is the Joint Bureau of the Department of Defense. It has a leader who is Maj. Gen. Francis Greenleaf, who is responsible to both the Department of the Army and the Department of the Air Force for the administration of this program. Normally, its hierarchy of command comes out of the National Guard, itself.

Mr. WALDIE. How does he get appointed?

Mr. PATERNO. By Presidential appointment and Senate confirmation.

Normally, for a 4-year term, if I remember correctly. So, when it seemed to be moving well, when we had the Cabinet-level decision that we should be Federal employees in fact and for all purposes, then came in the statements that we will have to belong to the Guard in order to hold our jobs.

In fact, you had to belong to the Reserve to hold a job in the Federal civil service in the Reserve program, with certain exceptions, to allow lateral transfer to a job that did not require it—things like that.

But the same basic requirement was there. The Army technician program in the Reserves did not have this requirement. But primarily the thing came about, how do they run these people and get them to do what they want them to do so they do not have any appeal rights to the CSC because that horrible Civil Service Commission would interpret something on them they do not want at all.

I wish Mr. Ruddock were still here because I remember very specifically when I testified in 1967 before the Senate Armed Services Com-

mittee that the CSC was in 100 percent support of 100 percent retirement. And it in fact made that statement openly and definitely.

Mr. WALDIE. I think he implied that. He implied that the Commission was not in fact in accord with the compromise, it was my understanding that was his statement.

Mr. PATERNO. He tended to indicate that they entered the compromise.

Mr. WALDIE. No, just the contrary.

I have a full recollection, in fact, I asked him, I said, "What was your difference," and he said, "We felt they ought to be brought in," I thought he said "on an equal basis."

Mr. PATERNO. They did have some problem presenting their case, particularly on the 10-percent deduction for unpaid annuities. And I think I have clarified that at the Senate hearing.

Many of these people who have the past service, if given the 100 percent, would still owe roughly, say, \$12,000 to \$15,000 to the retirement system and 10 percent of that would come off their annuity each year which would substantially reduce their annuity and probably equate what they were getting from the social security system otherwise.

Basically, they were a bunch of people protecting their political and managerial prerogatives, they had those little empires there that were not too accountable to anybody. They had this ungodly system of civilian jobs being related to military rank. Despite the best of all qualifications, enlisted men were not able to achieve promotions beyond GS-7 or GS-8 because they did not have the rank.

There has been the personal choice, personal intrusion and failure of any merit system. I am not sure whether the civil service technician or whatever you want to call him, has reached the stage of the Pendleton Act yet.

Mr. WALDIE. Are all adjutants general retired military people?

Mr. PATERNO. No, in fact it is rare that they are. They usually come up through the ranks of the National Guard itself.

Mr. WALDIE. I see. They are not normally equivalently ranked people in the military?

Mr. PATERNO. There have been cases like General Drum who was the commander of the New York Guard for awhile and he had been retired from the Army and there have been other instances of this, but it's not the primary source.

Mr. WALDIE. So, when the Governor is selecting an adjutant general, he selects him from a general in the National Guard in his State?

Mr. PATERNO. Not in all cases. In a recent case they selected a man from the Army Reserve in Pennsylvania to take over the adjutant general's slot. I would have to conclude, without viable evidence other than circumstances, that in many cases these are political appointments and the result of political favors.

Mr. WALDIE. Do they have to be ranked as generals before they can receive the appointments?

Mr. PATERNO. In order to get Federal status. However they can serve as an adjutant general without Federal status and recognition.

There are criteria established by regulation and law on the Federal service but this does not necessarily require the Governor to appoint a person of that particular rank.

In passing, could I say one thing? The law requires these jobs be classified by the general service schedule and wage grade schedule. The law only makes the exception that most appeals go to the adjutant general, grievances go to the adjutant general not to the Civil Service Commission as a final step.

If there has been a cleansing effect on the program at all, I attribute this to the fact that in a very short span of time the National Guard technician chose unions as his methodology of fighting. They have not been tremendously successful in making improvements but they have, to some degree, kept it clean and for this we can take a proud part.

Mr. WALDIE. Any further comments?

Mr. PATERNO. No, sir.

Mr. WALDIE. All right. That was a very good statement.

[The prepared statement follows:]

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

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 former National Guard civilian employee. Our organization, since its founding thirteen years ago, has been dedicated to the improvement of the status of National Guard civilian employees. For many years these National Guard technicians lived as orphans in the gap between the Federal-State relationship. They were paid from Federal funds but worked under the immediate direction of State authorities. They had no accepted status as Federal employees and neither were they accepted as state employees.

Congress was long aware of this inequity and finally in 1968 passed the National Guard Technician Act (P.L. 90-486) which brought these thousands of employees into the Federal retirement system. I am proud to have been presented the pen used by President Johnson to sign the National Guard Technician Act of 1968 into law. But where this Act ended one inequity it created others. Particularly, the Act allowed only 55 per cent of their past Federal service to be credited for annuity retirement purposes.

This legislation, introduced by Senator Norris Cotton of New Hampshire and many Senators—paralleled in the House by H.R. 169 introduced by Mr. Davis of Georgia with 26 others—is a fair and appropriate way to adjust one of the inequities resulting from Public Law 90-486. That being the singular and discriminatory 55% formula for retirement credit for service before 1969. S-871, already passed by the U.S. Senate, 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. Cut-rate annuities for full-time service would disappear. The acceptance into the Federal employee program, at least in the retirement portion, would not depreciate 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 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.

We must make every effort to achieve justice for these thousands of loyal Federal employees who keep our Army and Air National Guard in a constant state of readiness. Once accepted into the framework of Federal employment—it should have been with whole heart. To have done less is to fault 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% formula was constructed. The pluses and the minuses are from our view point.

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. (Not always equitably.)
4. They received credit for past service, computed at a 55% 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% are competitive because of a non-military membership requirement.)
3. They were denied overtime pay for overtime worked. (A serious fault.)
4. 95% 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, that should serve to protect the National interest.
7. The Adjutant General of a state is the sole agent for employment and administration, despite the fact that he is a state employee.
8. The final level of appeal in Adverse actions, grievances, and reductions-in-force is the Adjutant General of the State. (A source of great problems.)
9. All who are military members, (95%), must terminate their employment upon loss of military membership. Age 60 is final termination in all instances with earlier terminations very frequent because of military physicals and age/rank barriers.

It is obvious, at least to this witness, that the insistence of the Adjutants General upon 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 Viet Nam, and all of whom kept our reserves in order and awaited call, were ill-served by legislation that gave them 55% credit for retirement and far less actual Federal employee status than that. Public servants who manned missile bases "at the ready", provided twenty-four hour air defense coverage, flew cargo to overseas sites including Viet Nam, and kept a Strategic Reserve Force within days of possible combat involvement deserved better rewards for Federal service actually given.

S-871 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.

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. In the last session of Congress legislation (S-855) passed the Senate, was approved by the House Post Office and Civil Service Committee, and finally lost out because Congress adjourned before it could be brought to a vote in the House. Early approval may prevent that from happening in this session.

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 the 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 full 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 more horrible 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 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 Sub-committee with affirmative consideration of the proposed legislation. It is where we must begin because hundreds of our long term employees face retirement soon and may 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 \$2340 per year in retirement pay. Another who retired at the mandatory age of 60 receives \$2300 per year. A fine technician, WG-12, who retired on disability at age 50 and died ten months later has a widow receiving \$2275 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 or earlier 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 1971, 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. Widows of men who die before age 60 get nothing from this military retirement.

At 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 per cent of the working force only a 55% "windfall" but succeeded in divesting the other ninety per cent of a full 45% 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 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, 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. Their monarchies have remained and are daily enhanced by an inept and wrongly motivated National Guard Bureau.

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. Five years have almost passed.

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 a doubt. But it is only proper back wages, in terms of a legislated settlement, 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 Viet Nam, has already served the Nation well. Give them their due.

That this legislation will return each session until finally made law, or until all possible affected retirees have died, seems probable. But I plead that this is not only a request for retirement monies—it is a part of the search for dignity and identity that has eluded the National Guard employee for decades. It is paramount to his need for recognition of a job well done and recognition as an equal in the family of Federal employees.

Mr. WALDIE. Mr. Mike Forcey, legislative director, National Federation of Federal Employees is our last witness.

Mr. Forcey?

STATEMENT OF MICHAEL FORCEY, LEGISLATIVE DIRECTOR, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. FORCEY. Thank you, Mr. Chairman.

I would first like to acknowledge the fact that Dr. Wolkomir was unable to be here today. He was called as a witness in a trial in Baltimore. Otherwise he would have been here with us.

Mr. WALDIE. You may present your statement.

Mr. FORCEY. The NFFE represents National Guard technicians in a number of States, including Alabama, Arkansas, Arizona, Colorado, Illinois, Louisiana, Maryland, Massachusetts, New Mexico, Oklahoma, Puerto Rico, Wisconsin, and others. This makes NFFE the representative of one of the largest blocks of National Guard technicians in the country. It is on behalf of these employees that we today speak in support of legislation which would grant 100 percent retirement credit to National Guard technicians for service prior to January 1, 1969.

The National Guard Technician Act of 1968 granted Federal employee status to National Guard technicians. Accordingly, technicians employed on or after January 1, 1969, were granted the same rights as all Federal employees with regard to leave, death and disability compensation, life and health insurance, severance pay, and tenure. Full

retirement credit was granted prospectively but those who remained technicians on or after January 1, 1969, received only 55 percent credit for their pre-1969 technician service. In order to receive this credit the technician must pay 55 percent of the amount otherwise owed as a deposit for the period during which no retirement deductions were made.

The bills under consideration today would delete the 55 percent credit allowance and permit the full 100 percent credit for pre-1969 service for annuity computation purposes. The optional deposit provision would also be extended to cover 100 percent of pre-1969 service. In addition, the bill would repeal the restriction that benefits and annuities be granted only to those technicians serving in the Guard program on and after January 1, 1969. Thus, former technicians performing other Government service on or after January 1, 1969, would receive full service credit for their pre-1969 technician service.

The opponents of this legislation have raised a number of arguments designed to create the impression that enactment would confer an underserved benefit upon the technicians. Careful analysis will reveal each of these arguments to be transparent and unsupportable.

First, it is argued, many National Guard technicians have a vested interest in the social security system and that, accordingly, full credit under civil service retirement conveys a benefit unavailable to other Federal employees. The theory here is that each employee is entitled to only one retirement annuity. This ignores the fact that any guardsman entitled to social security benefits has paid for that right through FICA deductions.

Further, in order to obtain civil service retirement credit, a deposit for pre-1969 service would be required.

Beyond that, not all guardsmen are eligible for social security retirement. It has been estimated that some 20,000 technicians do not have a vested interest in the system at present.

We should not forget, all excepted technicians must retire at age 60. This means a possible 5 years without social security income.

Even if a covered technician elected to receive social security at age 62, the payment would be reduced by 20 percent and he would still have no income for 2 years.

Another argument advanced by those who oppose this legislation is the extensive coverage of technicians under State retirement systems.

During the last session of Congress the provisions of the bill we are considering today were covered in S. 855. And in an August 1, 1972, letter to Chairman Dulski of the Post Office and Civil Service Committee, Chairman Hébert of the House Armed Services Committee stated that 4,500 Guard technicians would receive a windfall by virtue of their coverage under State retirement systems.

This becomes an extremely unyielding position. However, when we consider that 42,000 technicians who do not have vesting rights in a State program must settle for nothing as a result. We consider this a gross injustice.

It is further argued by opponents of the bill that most technicians will be eligible for reserve retired pay if they complete 20 years of satisfactory Reserve service. The argument is without merit. Technicians receive Reserve retirement not because of technician service,

but because they devote their weekends to participation in National Guard training. Pursued to its logical conclusion, this argument would require a similar penalty for any Federal employee who spends his weekends at National Guard training drills.

The last refuge of those opposed to S. 871 is its alleged inordinate cost. We would point out that some find almost any Federal program in which they have no direct interest to be excessively expensive. But in response, we would make two points.

First, the legislation is not extremely expensive. It is reliably estimated that the overall cost will be in the area of \$128 million.

Second, determining whether this expenditure is justified calls for a subjective judgment on the merits of the legislation. Obviously, some will find the expenditure unwarranted and we believe that when the cost is weighed against the clear inequity of denying 100 percent coverage, the weight of the argument favors enactment.

Mr. Chairman, this legislation has passed the Senate twice. Late in the last session it was approved by the House Post Office and Civil Service Committee only to die before reaching the House floor.

We urge the subcommittee to rapidly approve this measure to insure that we not face a disappointment similar to that encountered last year.

I want to express to you and to the members of the subcommittee the appreciation of the National Federal of Federal Employees for your initiative on and concern with the issues brought before you this morning. I know that I speak for all of the National Guard technician members of NFFE in extending our thanks for your consideration of this urgently needed legislation.

Mr. WALDIE. I appreciate that very much, Mr. Forcey.

I have no further questions. Thank you for your attendance here.

The meeting is adjourned.

[Whereupon, at 11:40 a.m., the subcommittee adjourned.]

[The statements which follow were received for inclusion in the record:]

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

Mr. Chairman, I am delighted that your Subcommittee is holding this hearing today on S. 871, a bill that I introduced on behalf of the National Guard Technicians to assure them full equity in the matter of their retirement. This bill passed the Senate on July 31, 1973. Your promptness in scheduling this hearing and initiating your Committee's consideration of this legislation is appreciated not only by myself and the seventeen Senators who are cosponsoring S. 871, but by the more than 42,000 technicians whose welfare is of the highest concern to us all.

Last session, with your assistance, S. 855, as this bill was designated in the 92nd Congress, was reported favorably by our Committee on Post Office and Civil Service and passed the Senate; your Committee on Post Office and Civil Service ordered the bill reported but the House failed to act upon it before the adjournment of the Congress. Knowing of your strong interest in the provisions of this measure, I am confident that we shall obtain early consideration by the Committee so that there will be ample time for the House to act to secure just consideration for the technicians who are so essential to our National Guard.

As you well know, 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 was so aptly stated here at your hearings on S. 855, "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 services 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 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, which 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.

Thank you again for arranging for this hearing, Mr. Chairman, and 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 House at the earliest possible date so that we may provide equity for the technicians who have maintained the military readiness and capability of the National Guard as a first-line element in the National defense establishment for almost 50 years.

STATEMENT OF HON. JOHN JOSEPH MOAKLEY, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MASSACHUSETTS

As you may know, I have sponsored H.R. 5238, a bill that would 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.

As people do not generally know, the service of our 42,000 able and dedicated National Guard technicians goes back nearly six decades. The National Defense Act of 1916 provided funds "for the purchase and issue of forage, bedding, shoeing, and veterinary services . . . and for the compensation of competent help for the care of material, animals, armament, and equipment."

Our contemporary technicians of today were originally clerks and caretakers for our now obsolete weapons and animals way back then.

How their jobs have changed with the passage of time! With the technological sophistication of weaponry and machinery our national security demanded, the National Guard technicians grew and equipped their numbers with invaluable expertise in the care and maintenance of complicated and sensitive mechanical devices.

Modes of defense have come and gone, to be sure. Our calvary may have disbanded, but our National Guard stands as a lasting tribute to our nation's security and strong defense. Our individual States can enjoy a feeling of pride as well as the knowledge of stability in realizing that trained and equipped personnel will be ready in any emergency. Likewise, the Nation strongly relies on the Guard. The United States has never fought a war without mobilizing at least part of the National Guard.

And while both our Federal and State Governments can feel secure in knowing they can rely on the National Guard and their technicians, as far as employee and patron status, the States thought Guardsmen were Federal employees and the Federal Government had a tendency to look upon them as State employees. Therefore, there were never explicit rulings about this issue applied uniformly throughout all the States and Federal Government.

Perhaps this state of limbo helped create a critical situation when industrial developments in aviation, electronics and space exploration put a premium on the skills our National Guard Technicians, and many thousands of them left the Guard because of company-sponsored incentives such as life insurance programs and liberal retirement plans. Industry recognized and needed the talents of these technicians, and the Guardsmen were eager for the family protection and security that private companies offered to them.

After many years of study Congress passed legislation which included the National Guard technicians in our Federal Civil Service Retirement system—P.L. 90-486. This law, known as the National Guard Technician Act of 1968, established National Guard technicians as employees of the United States and was designed to preserve the basic premise of the military nature of their employment. It became effective January 1, 1969.

Converting National Guard Technicians to Federal status was a massive task which has not yet been completed. The "up-grading" and "down-grading" of individuals in their respective job classifications has created much resentment that has not been resolved. My legislation does not concern itself with this highly technical and sensitive area. Rather it concerns itself with the inequities that were caused by limiting retirement credit for these deserving men.

A National Guard technician's prior service was limited to 55% credit toward his retirement. This 45% reduction was intended as rough approximation of the ratio between the Government's contributions to social security and State retirement program on behalf of these employees during the years 1955-68, and the amount that would have contributed to the Federal Civil Service and Disability fund during the same years had they been covered under the Civil Service Retirement Act.

The deficiencies and inequities that were caused by this step are easily demonstrable, and even cruel, as we look at the facts. Case in point: Technicians in 31 states that were not covered by local retirement systems have been penalized because of Federal contributions to the 20 States that did provide coverage.

Likewise, technicians in Massachusetts, Ohio, and Nevada were not covered by social security and are penalized because of Federal contributions in other states. Moreover, many technicians who were covered by social security will derive no benefits from that system because they did not have the necessary quarters of coverage at the time they became covered by civil service retirement. Those who are covered will be mandatorily separated before they can begin to claim reduced social security benefits at age 62.

The inequities go on and on. Three-fourths of the technicians will derive no benefits or annuities from their local retirement systems because they did not have the service required to be vested in their State systems. And finally, the 55% limitation applies only to service from 1955 to 1968, during which time the Federal Government contributed to social security and during 1962-68 to State retirement, but also to service before 1955, when the Federal Government made no contributions whatsoever.

If the system is allowed to remain the way it is a National Guard technician, who may have risked his life for our country, may receive as little as \$72.00 a month for his lifetime of effort. His widow might, tragically, only receive \$40.00. These loyal technicians have served in World War II, the Korean conflict, the Berlin crisis and again in Southeast Asia.

If their record of loyalty and devotion is not enough to afford them relief, then how about the existing public record that shows we have given 100 percent credit to other similar groups?

The Cooperative Agricultural Extension employees were brought under Federal civil service in 1945 by administrative ruling with full credit 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.

In 1960 several thousand employees of county committees established by the Soil Conservation and Domestic Act were brought into the Federal Civil Service System because, like the National Guard technicians, their work was thought to be Federal in character.

They were brought in 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.

This is a blatant injustice that must be corrected. I urge my colleagues on the Retirement and Employee Benefits subcommittee of the House Committee on

Post Office and Civil Service to join with me in an effort to provide needed and deserved relief to the many National Guard technicians who have served our country so loyally with their devotion and their expertise.

STATEMENT OF HON. JOHN MELCHER, A REPRESENTATIVE FROM THE STATE OF MONTANA

Mr. Chairman, members of the subcommittee, I am glad for the opportunity to support once again legislation to correct certain inequities in crediting National Guard technician service for purposes of civil service retirement. My bill, H.R. 5460, is similar to the measure passed in July by the Senate, S. 871, and under consideration today.

Almost to the day, it has been two years since I last testified in favor of this legislation. It was needed then. It is no less needed now. The only difference is that two years have passed while technicians have awaited the rectification of an inequity of the National Guard Technician Act of 1968, which arbitrarily left them with a 55 percent credit scheme for annuity computation for pre-1969 technician service when they were employed by individual state guards rather than regarded as federal employees.

In these past two years another important development has occurred which makes full equity all the more significant. We have asked the Army and Air National Guards to shoulder even a greater portion of America's defense burden. The end of the draft and the implementation of the volunteer forces approach have meant heightened reliance on the ability of the Guards "to hop to it" at moment's notice. Let me say that under these kinds of conditions it probably is tougher in some respects to be a technician operating a multi-million dollar layout with a skeleton crew day to day than to be involved in regular military procedure with full support services every day. When the citizen soldiers which fill our Guard ranks are not around, which is about 90 percent of the time, the technicians are the Guard.

Mr. Chairman, I do not think it is necessary for me to repeat my 1971 testimony, so I will recap briefly major points:

The legislation would grant retirement credit to all former technicians serving in any civil service-covered position on and after January 1, 1969, 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 allow all former technicians in federal service on or after January 1, 1969, to receive credit for pre-1969 service.

The National Guard Technicians Act appropriately granted these one-time state employees federal status with full credit for their pre-1969 technician duties in ascertaining the length of service for leave, federal employee death and disability compensation, group life and health insurance, severance pay, tenure and status. This bill will add annuity computations to that 100 percent list.

The National Guard Bureau has said nearly 95 percent of the technicians do not have transfer rights to other agencies or career jobs because of their "excepted" status under law. In pre-1969 years as state employees they suffered many on-the-job drawbacks, including lack of pay for overtime work and travel expenses.

The Civil Service Commission reports the legislation would create a new retirement system liability of about \$128 million for the pre-1969 adjustment for present technicians, which could be amortized over a 30-year period.

Mr. Chairman, this legislation is deserved to correct an inequity. It is within our resources as a nation, and it will help us to maintain a policy of equity and fairness for all federal service employees.

On behalf of Montana's technicians, I appreciate the Subcommittee's interest in the legislation and hope the House will have an opportunity to give it floor consideration soon.

STATEMENT OF HON. WILLIAM L. DICKINSON, A REPRESENTATIVE FROM THE STATE OF ALABAMA

Mr. Chairman and distinguished members of the Subcommittee, it is a privilege to appear before you today in behalf of the National Guard technicians of my district to testify in support of legislation to correct certain inequities in the

crediting of National Guard technician service in connection with civil service retirement.

I have received hundreds of letters concerning this legislation during the past two years from National Guard technicians who do not understand why they are being discriminated against. We have asked them to give 100 percent in their work, and they have given 100 percent, but when we voted to bring them under the Civil Service Retirement System, we were not willing to offer them the same 100 percent for their efforts.

We have brought other groups under the Civil Service Retirement System since its conception and have not denied these groups full credit for their services. There is no justifiable reason to deny full credit to National Guard technicians, and I urge the members of the committee to see that this injustice is corrected immediately. Furthermore, we have not denied credit for past services to members of groups which we have brought under the system because they were not employed by the same Federal agency any longer, and we should eradicate this injustice against former National Guard technicians as well.

Mr. Chairman, the members of this Subcommittee are certainly aware of the inequities of the retirement situation in which the National Guard technicians find themselves. Today more and more emphasis is being placed on the National Guard and Reserve Forces as our number one line of defense, and we must have a strong technician force to carry out this program. As a sponsor of legislation to bring justice to those who contribute so much to maintain our national defense establishment, I count on you to report a bill to correct these inequities and allow the House of Representatives to vote, as the Senate has already done, to give full credit for National Guard technicians service prior to January 1, 1969.

Thank you, Mr. Chairman.

STATEMENT OF JOHN A. McCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES COUNCIL, AFL-CIO

Mr. Chairman and members of the subcommittee, the Government Employees Council, whose 30 affiliated AFL-CIO unions represent more than one million classified, wage grade, and postal workers in Federal service, desires to offer to the Subcommittee its endorsement of H.R. 5238 and H.R. 6502. We recommend that the Subcommittee approve a bill incorporating the proposals in those measures as promptly as possible.

We extend our gratitude to Representatives William Ford and John J. Moakley, who are members of the Committee, for introducing the bills under consideration. The Council appreciates also the interest of numerous other House members, who have sponsored similar measures. If the number of sponsors of bills on a particular subject is any criterion of general interest in the House, the pending legislation scores highly in this respect.

You will recall that a similar proposal (S. 855) was approved by the Senate on May 3, 1972, but that it was impossible to secure like action in the House before adjournment of the 92nd Congress.

The problem is not complex. In 1968, Congress enacted Public Law 90-486 entitling National Guard Technicians to certain benefits of the Federal personnel system. In so doing, the statute permitted retirement credit for 55% of past service as a technician only if the individual was employed in the program on or after January 1, 1969. Further, technicians who had moved to other jobs in Federal agencies were denied Civil Service retirement credit for their previous service as technicians. The bills the Subcommittee is considering will correct these deficiencies in the existing law.

It is interesting to note that the public law cited above specifically provides consideration of past technician service in determining the rights of the individuals involved with respect to annual and sick leave, compensation for injury, life and health insurance, severance pay, and status. This means that it is deficient only to the extent that retirement credit is omitted.

Opponents of the bills have contended that approval of the proposal would furnish other groups with an unwise precedent and that the legislation would be too costly.

As for cost, we must emphasize that the bills do not confer on employees a gift. Recognizing the responsibility of the individuals who will benefit to share a fair portion of the cost entailed, the legislation requires that each worker

receiving the extended credit pay retroactively with interest to the Civil Service Retirement Fund the amount he would have contributed had the coverage been available in earlier years.

The precedent argument is equally unpersuasive. Should other groups of employees desire in the future to obtain retirement coverage in a manner similar to the technicians, they would have to fully justify their cases to Congress because of the necessity of amending the law.

The basic problem confronting the technicians in the past is their dual status in performing their functions. On the one hand, they were employees of the various states; on the other, their work was performed in behalf of the Federal Government. In addition, their compensation came from Federal sources.

Public Law 90-486 did much to clarify the status and rights of the technicians under this peculiar State-Federal system. The bills you are examining actually have the nature of perfecting legislation, because they will close the existing gap in retirement credit.

The Council strongly advocates approval of the pending legislation.

STATEMENT OF COL. JOHN T. CARLTON, EXECUTIVE DIRECTOR, RESERVE OFFICERS
ASSOCIATION 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, H.R. 169, 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.

We believe that the intent of these two clauses is to amend the law to include in its provisions, 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.

We understand there is an objection to the language of these two clauses on the part of the Department of Defense and of the Civil Service Commission because of the unknown, but possibly large number of people who left their Guard Technician positions of their own volition and are now employed elsewhere, and who could benefit under the current proposed language.

However, there is this small group (estimated in the magnitude of 100 more or less) who, prior to the effective date of the provisions of Public Law 90-486, were transferred, primarily for the convenience of the government, to like technician positions in the Army or Air Force Reserve.

It seems unjust and inequitable that these individuals should not share in the same degree the compensation and other benefits provided in the bill for those who were National Guard Technicians at the time of the effective date of the National Guard Technician Act.

We would, therefore, recommend to the committee that clauses (a) and (d) of H.R. 169 be amended accordingly.

[The administration reports which follow were received and ordered placed in the record by the subcommittee.]

ADMINISTRATION REPORTS

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 5, 1973.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on H.R. 169, "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, governing credit for 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 who were employed in the program on that date. Such employees were 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.

H.R. 169, retroactively to January 1, 1969, would grant 100 percent retirement credit for all pre-1969 technician service. In addition, the bill would permit former technician personnel employed in other Government service on January 1, 1969, to receive credit for technician service for civil service retirement purposes, as well as for entitlement to status, tenure, and the other employee benefits noted above.

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. Its service-credit provisions, designed by the Senate Armed Services Committee, represent an agreement reached after a considerable period of negotiations in order to ensure enactment of the legislation.

H.R. 169 would have the effect of nullifying that agreement. We are aware of no new developments which would make that compromise less acceptable today than it was at the time of its enactment.

Accordingly, in light of the views set out above, we recommend against enactment of H.R. 169.

Sincerely,

WILFRED H. ROMMEL,

Assistant Director for Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., June 15, 1973.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 169, 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 otherwise 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.

H.R. 169 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 retirement 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(m) 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 H.R. 169 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 H.R. 169. 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 H.R. 169.

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., June 8, 1973.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on H.R. 169 and H.R. 4832, 93d Congress, similar bills "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 these bills.

The purpose of these bills is to amend the civil service retirement provisions which authorize credit for National Guard technician service prior to January 1, 1969, under the National Guard Technicians Act of 1968 (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 bills would remove the 55 percent limitation on deposits for creditable service for which retirement deductions or deposits have not been made. The bills 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.

The Department of the Army, on behalf of the Department of Defense, has considered the bills.

It is recognized that the proposed legislation involves a matter of policy determination by the Congress, nevertheless there are certain cogent reasons which militate against enactment of such legislation. The National Guard Technicians Act of 1968 represents a compromise among a wide range of choices which were available to the Legislative and Executive branches of the Government in considering the persons who would benefit from the Act, and the degree and extent to which service prior to January 1, 1969, by technicians would be creditable for civil service retirement purposes. Any new developments since adoption of the compromise solution which makes it less acceptable today than it was at the time of enactment are not known. In addition, the proposals would increase the unfunded liability of the Civil Service Retirement and Disability Fund by \$128 million.

For the foregoing reasons, the Department of the Army on behalf of the Department of Defense recommends that the bills not be favorably considered.

The enactment of this legislation would 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, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., September 20, 1973.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on S. 871, 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." S. 871 passed the Senate on July 31, 1973.

Effective January 1, 1969, the National Guard Technician Act of 1968, Public Law 90-486, statutorily grants Federal employees 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 otherwise 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. 871 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 tech-

nician 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 retirement 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 8339(m) 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 mortgaged 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 their past technician service. We cannot therefore estimate the cost of providing credit to these people for their past technician service.

In any event, the Commission does not concur in the enactment of S. 871. 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. 871.

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.*

[A copy of H.R. 5238 follows:]

[H.R. 5238, 93d Cong., 1st sess.]

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 thereof which reads as follows: "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968."

(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 thereof which reads as follows: "Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332(b) (6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be an amount equal to 55 per centum of a deposit computed in accordance with such provisions."

(c) Section 8339 of title 5, United States Code, relating to computation of civil service retirement annuities, is amended by striking out subsection (1) thereof which reads as follows:

"(1) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b) (6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded."

(d) Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; Public Law 90-486), 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 thereof which reads as follows: "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."

SEC. 2. The foregoing provisions of this Act shall become effective as of January 1, 1969.

[The statement which follows was presented to the subcommittee by Hon. William D. Ford and was ordered placed in the record:]

STATEMENT BY HON. WILLIAM D. FORD, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MICHIGAN

Mr. Chairman and Members of the Subcommittee, I thank you for the opportunity to present to you today testimony in support of H.R. 6502, which I am co-sponsoring.

H.R. 6502 would give National Guard Technicians full credit for all past technician service in computation of retirement annuities and rescinds an existing restriction which denies retirement credit for past technician service to employees of Federal agencies who once served as National Guard Technicians.

Similar legislation was adopted last year by the Senate, but we ran out of time here in the House, and the legislation died at the close of the 92nd Congress. This year, once again the Senate has passed legislation virtually identical to my bill, and I hope that we can act more promptly this time and report this bill out to the floor as quickly as possible.

Mr. Chairman, there seems to me to be no reasonable basis for opposition to this legislation. It is merely an attempt to obtain equity for a very dedicated, loyal and hard-working group of Federal employees.

While National Guard Technicians have been considered Federal employees since 1924, they have not always had access to many of the benefits which automatically accrue to other Federal employees.

In spite of the fact that their duties related foremost to the National Guard's Federal defense mission, they were legally considered Federal employees only for purposes of workmen's compensation and of the Federal Tort Claims Act. They had to fight for their right to be recognized under the latter in Federal Court.

It was not until passage of the National Guard Technician Act of 1968 that they became eligible for and were granted full credit for their past service in determining leave status, death and disability compensation, health and life insurance—in fact, just about every benefit most other Federal employees had taken for granted for years.

However, with respect to retirement, they were short-changed in two important ways. First, those who were employed at the time this law was enacted were given credit for only 55 percent of their past technician service in determining their retirement annuities. Secondly, only those technicians who were employed on or after January 1, 1969, were given retirement credit.

Never before had less than full credit been granted to any other group brought into the Federal Civil Service retirement system.

What does this indiscriminate action mean in real human terms? It means that many National Guard Technicians will lose their Federal contributions into Social Security, since fewer than half of those in the technician program in 1968 had completed their forty quarters under Social Security.

It means that, since National Guard technicians must retire at age 60, those who are eligible for a Social Security annuity must wait five to ten years to claim them.

It means that those who are eligible for retirement now after 20 to 25 years of service at the age of 55 must meet their financial obligations with about one-third their annual income.

But, most of all, to me it means that we must end this blatant discrimination affecting some 42,000 professional Federal employees—many of whom are engaged in hazardous duty jobs and who have dedicated their entire working lives to this program.

Mr. Chairman, I urge you to act promptly on this bill. Let's not let another session of Congress end without making National Guard technicians truly full-fledged Federal employees. I can assure you that, if this bill is reported out to the full Post Office and Civil Service Committee, I will devote my most vigorous efforts to assist you in getting it through both the full committee and the House.

Once again, thank you for the opportunity to present this testimony to you on behalf of our National Guard Technicians.



