

November 30, 1955

L-55-586

M-164

The Board

The Associate General Counsel

Effect of Proposed Changes in the Old-Age and Survivors Insurance Reporting Procedures on the Railroad Retirement Program.

(My memoranda to the Board dated March 24, April 5 and May 26, 1955; the Chairman's letter to the Secretary of the Department of Health, Education, and Welfare dated June 3, 1955; the memorandum of the Secretary of the Board to me dated August 25, 1955; the bill H.R. 7770, 84th Congress, 1st Session, and the letter to me from Mr. Robert M. Ball, Acting Director, Social Security Administration, dated October 17, 1955.)

The last sentence of the Chairman's letter to the Secretary of the Department of Health, Education, and Welfare, dated June 3, 1955, transmitting proposals of the Railroad Retirement Board for amending section 301 of the "draft bill" for combining employer reports for income tax withholding and old-age survivors insurance, stated as follows: "Some of these proposed amendments would be necessary by reason of the proposals in the 'draft bill', while the others would be included for reasons of equity and good administration." In view, however, of section 201 of the bill H.R. 7770, supra, which contains the only amendment to the Railroad Retirement Act, the draft bill below, submitted for the Board's consideration, would amend the Railroad Retirement Act only in such respects as appear necessary if the bill H.R. 7770 is enacted. The remaining proposals in the Chairman's letter which were not necessary by reason of the proposals in H.R. 7770, but were "included for reasons of equity and good administration", have already

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been incorporated in the draft bill which I submitted to the Board with my memorandum of November 17, 1955.

Since it may be desirable to incorporate the Board's proposals in H.R. 7770 (the bill which would amend the Social Security Act), the draft below is in two alternatives.

Alternative I.

A BILL

To amend the Railroad Retirement Act of 1937, as amended, to take account of recent amendments to the Social Security Act insofar as they would affect provisions of the Railroad Retirement Act, and for other purposes.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That section 1(q) of the Railroad Retirement Act of 1937, as amended, is amended by striking out "1954" and inserting in lieu thereof "1956". 1/

Sec. 2. Section 3(e) of the Railroad Retirement Act of 1937, as amended, is amended by inserting after the phrase "quarters of coverage" the following: "with respect to employment in any calendar year before 1957"; by striking the comma after the words "such employment" in the second sentence of paragraph (iv) thereof, and in the first sentence of paragraph (v) thereof, and inserting in lieu thereof the following: "(in any calendar year before 1957)"; and by inserting "before 1957" after the words "in any calendar year" in the third and fourth sentences of said

1/ This proposed amendment would make unnecessary the enactment of section 201 of H.R. 7770.

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paragraph (iv) and in the second and third sentences of said paragraph (v). 2/

Sec. 3. Paragraph (5) of section 5(1) of the Railroad Retirement Act of 1937, as amended, is amended by inserting after the phrase "quarter of coverage" the phrase "and any coverage credit".

Sec. 4. Subparagraph (i) of paragraph (7) of section 5(1) of the Railroad Retirement Act of 1937, as amended, is amended, effective for calendar years after 1956, by substituting for the word "quarter" wherever this word appears before the parenthetical expression, the words "calendar year"; and by inserting at the end of, and within, the parenthetical expression in said subparagraph (i) the following: ", except that for any calendar year after 1956, there shall not be excluded that number of quarters as equals the number of coverage credits, as defined in the Social Security Act, credited to him for such year".

Sec. 5. Paragraph (9) of section 5(1) of the Railroad Retirement Act of 1937, as amended, is amended by changing the period at the end of the second proviso thereof to a comma and inserting thereafter the following: "except that for any calendar year after 1956, there shall not be excluded from the divisor that number of calendar quarters as equals the number of coverage credits, as defined in the Social Security Act, credited to him for such year:". 3/

2/ All proposals in this section, except the first, assume the prior enactment of the "disability freeze" amendment to section 3(e) of the Act, proposed in my memorandum to the Board dated November 17, 1955.

3/ The punctuation changes here proposed assume the prior enactment of the amendment to paragraph (9) proposed in my memorandum to the Board dated November 17, 1955.

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Alternative II

Amend section 201 of H.R. 7770 by inserting "(a)" after "Sec. 201.", by striking "1955" and substituting in lieu thereof "1956", and by adding at the end thereof the following four subsections:

"(b) [Repeat the proposed section 2 above]

"(c) [Repeat the proposed section 3 above]

"(d) [Repeat the proposed section 4 above]

"(e) [Repeat the proposed section 5 above]

Explanation of Draft Bill Above

Section 1 of the draft bill above would make the Social Security Act as amended in 1956, instead of the Social Security Act now in effect, applicable for purposes of the Railroad Retirement Act (such as the over-all minimum provision in section 3(e), and the survivor benefit provisions in section 5).

Section 2 would limit the use of the "quarters of coverage" concept to the period before 1957. For the period after 1956, "coverage credits" would take the place of "quarters of coverage". This would follow from the provision in section 3(e) of the Railroad Retirement Act that, for the purposes of that section, the employee's service as an "employee" after 1936 would be considered "employment", as defined in the Social Security Act. It is unnecessary to add that, for the purposes of section 3(e), an individual's "compensation" should be considered "wages", as defined in the Social Security Act, because the remuneration for "employment" is defined

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as "wages" (see section 209 of the Social Security Act). Such addition was considered unnecessary in section 3(e) in effect now. While "quarters of coverage" (mentioned in section 3(e) now) include "wage" quarters of coverage, such inclusion is only for the purposes of section 5. If it had not been for the difference in method under the two Acts for determining the number of quarters of coverage in a calendar year (required by the difference in pay-reporting procedures), the present "quarters of coverage" provision in section 3(e) would have been unnecessary, and it is unnecessary to provide any substitute for the special quarters-of-coverage provision by reason of the change to the "coverage credit" basis since, as indicated above, the term "employment" carries with it the conversion of "compensation" to "wages" and, so, to "coverage credits".

On the same theory, section 2 would also change "quarters of coverage" to "coverage credits" for calendar years after 1956 for the purpose of the disability freeze provisions (proposed in my memorandum to the Board dated November 17, 1955).

Section 3 would include in the definition of "wage quarter of coverage" in paragraph (5) of section 5(1) of the Railroad Retirement Act, the term "coverage credit". This would enable the Board to use the "quarter of coverage" concept for periods before 1957 and the "coverage credit" concept in survivor benefit cases for periods after 1956.

Section 4 would permit the determination of a completely insured status, effective for periods after 1956, by determining the beginning and ending of the elapsed period in terms of calendar years instead of

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calendar quarters. The additional language proposed for the parenthetical expression would limit to periods before 1957 the exclusion from the elapsed quarters any quarter which is not a "wage" quarter of coverage during any part of which a retirement annuity was payable to the employee. For any calendar year in the period after 1956, the number of the quarters to be excluded from the elapsed period would not exceed the number of "coverage credits" which would be credited under the Social Security Act to the employee in such calendar year. Except for the fact that for the period before 1957 the exclusion from the elapsed period is in terms of "quarters of coverage" and for the period after 1956 such exclusion would be in terms of "coverage credits", the net effect would be that no substantive change would be made for the Railroad Retirement Act with regard to the exclusion from the elapsed period. In both instances, the excluded quarters during which a retirement annuity was payable, do not include "compensation quarters of coverage" because the term "quarters of coverage" can mean only "wage quarters of coverage" since under the table in section 5(1)(4) of the Railroad Retirement Act, used to determine compensation quarters of coverage, there is no way of identifying such a quarter as being in any particular calendar quarter of the year. For the period after 1956, "coverage credits" under the Social Security Act will also be so unidentifiable. 4/

4/ Note that no changes would be made in paragraph (8) of section 5(1) of the Railroad Retirement Act with respect to a "partially insured" status since the "quarters of coverage" referred to in that section would necessarily include "coverage credits". (See paragraph (3) of section 5(1) now in effect, and paragraph (5) of section 5(1), as it would be amended by section 3 of this bill.

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Section 5 would amend paragraph (9) of section 5(1) so that, in determining the "average monthly remuneration", the number of calendar quarters to be excluded from the divisor in any calendar year after 1956 would be no more than the number of "coverage credits" under the Social Security Act with which the employee would be credited in such year. Here, also, there would be no substantive change for the Railroad Retirement Act with regard to the exclusion of calendar quarters from the divisor. The effective date for each section of the bill is incorporated within such section.

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