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**APPROVED**  
NOV 12 1975

*Signed*  
11/12

ACTION

THE WHITE HOUSE  
WASHINGTON

Last Day: November 12

November 11, 1975

*Ported*  
11/12

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: S. 584 - National Guard Technician Retirement Benefits

*To Archives*  
11/12

This bill would allow individuals serving as National Guard technicians on or after January 1, 1969, full credit for technician service with State Guard units before 1969 in computing their civil service retirement annuities.

In 1968, P.L. 90-486 was signed into law which guaranteed National Guard technicians full Federal employee benefits except retirement credit for past service. The Congress opted to grant 55% credit to prevent "windfall" benefits for some of the technicians.

This bill would alter that decision and grant 100% retirement credit for service before 1969. The Civil Service Commission recommends that you veto the bill because it would increase the unfunded liability of the Civil Service Retirement fund by \$128 million, amortized by 30 equal annual installments of \$7.9 million, and because it has been consistently opposed to allowing non-Federal employment stand as credit for Federal service. OMB recommends that you sign it because of the relatively small budget outlays involved (\$161,000 the first fiscal year, rising to \$766,000 by the fifth year).

The enrolled bill passed both Houses by voice vote. A motion in the House to recommit the bill was defeated 261-117.

RECOMMENDATION

OMB (enrolled bill report at Tab A), Max Friedersdorf, Counsel's Office (Chapman), NSC and I recommend that you sign the bill. The Civil Service Commission recommends veto.

DECISION - S. 584

Approve MC7 (Tab B)

Veto \_\_\_\_\_





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

NOV 7 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 584 - National Guard technician  
retirement benefits  
Sponsor - Sen. Burdick (D) North Dakota and 11 others

Last Day for Action

November 12, 1975 - Wednesday

Purpose

Grants National Guard technicians full civil service retirement credit for service performed prior to 1969 when they were non-Federal employees of State Guard units.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Disapproval (Veto message attached)
Department of Defense	No objection

Discussion

The enrolled bill would allow individuals serving as National Guard technicians on or after January 1, 1969 full credit for technician service with State Guard units before 1969 in computing their civil service retirement annuities. Present law allows them only 55% credit for such past service.

Under the bill:

-- full retirement credit would be retroactive to January 1, 1969, the effective date of the 1968 law which "federalized" those National Guard technicians who were serving in that capacity on that date.

-- annuities of technicians who are entitled to State retirement benefits would be reduced by the amount of any State retirement annuity attributable to Guard service prior to January 1, 1969.

-- technicians already retired since 1969 would be required to apply for the additional retirement credit, and would begin to receive their higher annuities in the month following enactment.

### Background

The National Guard Technicians Act of 1968, P.L. 90-486, "federalized" National Guard technicians, effective January 1, 1969. These are civilians who perform support services for State National Guard units, such as clerical services and repair and maintenance of equipment.

Prior to enactment of P.L. 90-486, the employment relationship of National Guard technicians to the Federal and State governments was confused. Their duties and functions were generally prescribed by Federal regulations, and their salaries were paid by the Federal Government. On the other hand, they were appointed and supervised by State officials and therefore did not qualify as Federal employees for civil service retirement or other Federal employee benefits.

Most States did not cover technician service under their retirement systems on the grounds that they had no control of their numbers or their conditions of employment.

In 1954, technician service was covered under Social Security, with the Federal Government contributing the employer's share. In July 1961, in an effort to stimulate coverage of technicians under State retirement systems, the Federal Government was authorized to contribute the employer's share (up to 6-1/2% of payroll). Most States, however, were unable on legal or other grounds to provide State retirement coverage. State and Federal courts each disclaimed responsibility of their governments for technicians and, in 1965, the Supreme Court held they were not Federal employees for purposes of civil service laws.

The 1968 law was the culmination of several years of Administration efforts to obtain legislation to clarify the technicians' employment status. The Administration proposed

that they be given full credit for all prior State technician service under all Federal employee programs, such as leave, tenure, group health and life insurance, workers' compensation, and retirement. Such credit would apply to any technician later performing Federal service in any capacity. As enacted by the Congress, full credit for all employee programs except retirement was provided under P.L. 90-486, but only for those actually on duty as technicians on January 1, 1969. In the case of retirement, only 55% of past service was creditable.

The Administration's proposal represented a marked departure from long-standing policy to deny credit under Federal programs for non-Federal service of any kind. This exception was reluctantly agreed to within the Executive Branch because of the importance of the technicians to the National Guard program, and the compelling need to clarify their uncertain status. All the other alternatives considered would have left them in a "mixed" status, and would not have really solved the problem.

The Administration's 100% retirement credit proposal in the "federalization" legislation was rejected when the Senate Armed Services Committee objected to it because of the possibility of "windfall" benefits for those technicians who might be entitled to State retirement benefits or social security payments based on such service, financed in part by the Federal Government. Accordingly, an interagency task force was established to work out a compromise acceptable to the Senate Committee. P.L. 90-486 was the result.

The major arguments advanced for the 55% credit feature, rather than 100%, were as follows:

-- By fiscal year 1968, the Federal Government had already contributed nearly \$78 million as the employer's share of social security or State retirement benefits on behalf of technicians, which represented about 55% of the amount that would have been contributed as the employer's share if technicians had been covered by the civil service retirement system during the same period.

-- Of the 40,000 technicians to be federalized, about 20,000 had already completed sufficient service to acquire vested social security benefits by 1968, and others could acquire it through annual Reserve service. Accordingly, they would be getting dual benefits paid in part by the Federal Government.

-- Similarly, about 4,450 technicians had already acquired vested rights to benefits under State retirement systems.

Arguments for full credit rather than 55% credit were:

-- Only 19 States covered technicians under their retirement systems but nearly three-fourths of these technicians did not qualify for deferred annuity and would therefore derive no benefit from the Government's contribution on their behalf. Moreover, 31 States did not provide coverage for technicians under their retirement systems; the 37,000 technicians in those States would nevertheless be denied full credit for their service under the 55% formula. Thus, the vast majority would be treated inequitably in order to "prevent windfalls" to the 4,450 who had vested under such programs.

-- Most National Guard technicians who in 1968 were not fully vested under social security might never become eligible for such benefits. Moreover, technicians in Ohio and Massachusetts--7% of the entire technician workforce--were not covered by social security at all, but would still receive the reduced credit.

-- The reduced credit premised on Federal contributions would in fact apply to all technician service, including the service performed even before the Federal Government began paying the employer's share towards social security or State retirement benefits.

-- This approach to crediting past service would not conform to any known retirement principle. Service should be either creditable or not creditable, and the same service cannot be "partly good" and "partly bad."

The compromise in P.L. 90-486 was admittedly arbitrary and unprecedented, and was criticized almost immediately after enactment as inequitable. Legislation to modify the compromise agreement has been proposed in every Congress since P.L. 90-486 was approved. The Administration has opposed all the bills to move towards full retirement credit on the ground no new developments had occurred to justify nullifying the Executive Branch agreement with the Senate Armed Services Committee in 1968. However, legislation along the lines of S. 584 was passed by the Senate in 1972 and again in 1973. The enrolled bill passed both Houses this year by voice vote. A motion in the House to recommit the bill was defeated by a vote of 117-261.

### Cost and budget impact

The Civil Service Commission (CSC) estimates that enactment of S. 584 would increase the unfunded liability of the Civil Service Retirement Fund by \$128 million, which would have to be amortized by 30 equal annual installments of \$7.9 million. These annual installments are transactions which take place between various fund accounts within the Government--so-called "intragovernmental transactions." They are not included in total budget outlays or receipts, but do count in the total of budget authority.

The impact on Federal budget outlays and the deficit of liberalizations in retirement benefits, such as in S. 584, occurs when the increased annuity payments are actually made to beneficiaries. CSC estimates that increased outlays resulting from S. 584 would be \$161,000 in the first fiscal year, rising to \$766,000 in the fifth year.

### Arguments for approval

1. Given the decision to federalize National Guard technicians, and to grant them retirement credit for past service, there is no basis in principle for granting only partial credit. Approval of 100% retirement credit would bring the credit provision for technicians into conformity with past-service credit provisions for other groups brought into Federal service.

2. National Guard technicians are already entitled to full credit for past service under all other Federal employee fringe benefit programs. Approval of full retirement credit would be a logical extension of the Federal employment relationship already acknowledged before 1969 when Federal Government contributions of the employer's share were made for social security or State retirement coverage.

3. The 55% restriction creates serious inequities, by denying full retirement benefits to the vast majority of technicians who received either relatively small or no "windfall" benefits based on prior service. In any case, the enrolled bill would require that the amount of State benefits be offset against the full civil service retirement annuity.

4. The estimated increase in annual budget outlays for payment of full retirement benefits to technicians would be quite small.

### Arguments against approval

1. The 55% retirement credit compromise arrived at in 1968 was an admittedly arbitrary solution to a difficult problem. The Senate Armed Services Committee report stated that "The Committee realizes that there is no formula for achieving exact justice for every individual technician in view of the many complexities and the different retirement systems under which the program now operates." No new arguments which were not considered at that time have been advanced which would warrant liberalizing the benefit provisions and incurring the additional costs involved.

2. Approval of full retirement credit for the technicians could encourage other groups perennially seeking civil service retirement credit for their federally-connected past service. Proponents of the enrolled bill cite other groups previously brought into the civil service retirement system with full credit for previous service. In one case--County Committee employees of the Agricultural Stabilization and Conservation Service--President Eisenhower vetoed the legislation but the Congress overrode the veto. The other two cases cited involved Legislative Branch employees on which the Executive in effect deferred to the Congress.

3. Technicians who served before P.L. 90-486 was enacted were aware of their benefit entitlements at that time and nevertheless chose such employment. The compromise reached in 1968 was generous in crediting even in part the past non-Federal service of these employees. Moreover, they are all eligible for Reserve retired pay at age 60 if they complete 20 years of Reserve service.

4. Although budget outlays would not be significantly increased by approval of the enrolled bill, there would be a substantial addition to the unfunded liability of the retirement system which has to be financed by the taxpayers.

### Recommendations

Defense has no objection to approval of the enrolled bill.

CSC recommends that you veto the bill. The Commission notes that the bill would increase the unfunded liability of the civil service retirement system and that the 55% formula in existing law was generous since technicians were also entitled to other retirement type benefits for their pre-1969 service.

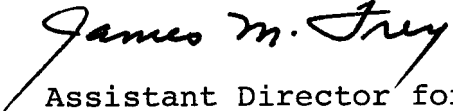
\* \* \* \* \*



As noted above, there is no basis in any known retirement principle for granting only partial service credit. As the Civil Service Commission indicated when the 1968 law was enacted, service is either creditable or not creditable and the same service cannot be partly good and partly bad.

While we can understand the reasoning which led to adoption of the 55% compromise initiated by the Senate Armed Services Committee, we also note that legislation to repeal that compromise has now passed the Senate three times without objection from that Committee.

Accordingly, in view of the relatively small annual budget outlays involved, we do not believe a veto of this legislation is warranted.

  
Assistant Director for  
Legislative Reference

Enclosures



DEPARTMENT OF THE ARMY  
WASHINGTON, D.C. 20310

5 NOV 1975

Honorable James T. Lynn

Director, Office of Management and Budget

Dear Mr. Lynn:

The Secretary of Defense has delegated responsibility to the Department of the Army for reporting the views of the Department of Defense on enrolled enactment S. 584, 94th Congress, "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 on behalf of the Department of Defense interposes no objection to approval of the enrolled enactment.

The enactment of this measure was made more acceptable by the amendments to the original proposal which reduces the impact on the civil service retirement system.

Approval of the enactment will cause no apparent increase in budgetary requirements of the Department of Defense.

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

Sincerely,

A handwritten signature in black ink, reading "Martin R. Hoffmann", is written over a horizontal line. The signature is fluid and cursive, with a long, sweeping underline that extends to the left and then curves back under the name.

Martin R. Hoffmann  
Secretary of the Army



UNITED STATES CIVIL SERVICE COMMISSION

IN REPLY PLEASE REFER TO

WASHINGTON, D.C. 20415

November 6, 1975

YOUR REFERENCE

Honorable James T. Lynn  
Director, Office of Management and Budget  
Executive Office of the President  
Washington, D. C. 20503

Attention: Assistant Director for  
Legislative Reference

Dear Mr. Lynn:

This refers to your request for the Commission's views on enrolled bill, S. 584, "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 National Guard Technicians Act of 1968 granted Federal employee status to National Guard technicians effective January 1, 1969. Additionally, those individuals serving as technicians on or after January 1, 1969 were allowed credit for retirement purposes for prior technician service. For annuity computation purposes, however, credit for pre-1969 technician service was limited to 55% and technicians were allowed to make optional deposits on only the 55%. Enrolled bill, S. 584, proposes to allow 100% credit, for annuity computation and optional deposit purposes, for pre-1969 technician service to those individuals serving as technicians on or after January 1, 1969. However, the Commission would be required to deduct the amount of any state retirement annuity, earned by the individual prior to January 1, 1969 based on technician service, from his civil service annuity.

The provisions of S. 584 would be retroactive to January 1, 1969; however, technicians retired since 1969 but prior to enactment of S. 584 would be eligible for the increased benefits only upon written request to the Commission. Increased benefits would apply to annuities payable on the first day of the month following enactment.

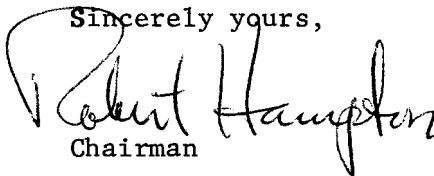
Enactment of S. 584 will increase the unfunded liability of the Civil Service Retirement and Disability Fund by an estimated \$128 million which would be amortized by 30 equal annual installments of \$7.9 million.

The Commission has consistently opposed allowing credit as Federal employment for service which was not performed for the Federal Government. When Public Law 90-486, the National Guard Technicians Act of 1968, was enacted, Congress clearly recognized that this service was State service and not Federal service. As a compromise and in order to obtain favorable action on the other provisions contained in the legislation, the 55% formula was placed in the law. This was generous in view of the fact that those employees were also entitled to other retirement type benefits for this service.

Considering all the facts involved, we would recommend that the President veto the enrolled bill. The attached draft message may be used for this purpose.

By direction of the Commission:

Sincerely yours,

A handwritten signature in cursive script that reads "Robert Hampton". The signature is written in dark ink and is positioned to the right of the typed name "Robert Hampton".

Robert Hampton  
Chairman

TO THE SENATE:

I am returning to the Congress, herewith without my approval, a bill, S. 584, ". . . to correct certain inequities in the crediting of National Guard Technician service in connection with civil service retirement. . ."

The current provisions for crediting National Guard Technician service 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 degree and extent to which pre-1969 non-Federal technician service would be creditable for civil service retirement purposes. I am not aware of any new developments since adoption of the compromise solution which makes 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.

In making this decision, I am not unmindful of the very valuable contributions National Guard Technicians have made and are making to the nation. However, the principle that the Federal retirement system should be made applicable only in those situations where the employment relationship is clearly one involving the Federal Government as opposed to any other employer must be retained if the system's effectiveness and financial viability is to be maintained.

When Public Law 90-486, the National Guard Technicians Act of 1968, was enacted, Congress clearly recognized that this service was State service and not Federal service. The compromise reached then was generous in view of the fact that these employees were also entitled to other type retirement benefits.

To Casper  
11/7/75



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

NOV 7 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 584 - National Guard technician retirement benefits  
Sponsor - Sen. Burdick (D) North Dakota and 11 others

Last Day for Action

November 12, 1975 - Wednesday

Purpose

Grants National Guard technicians full civil service retirement credit for service performed prior to 1969 when they were non-Federal employees of State Guard units.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Disapproval (Veto message attached)
Department of Defense	No objection

Discussion

The enrolled bill would allow individuals serving as National Guard technicians on or after January 1, 1969 full credit for technician service with State Guard units before 1969 in computing their civil service retirement annuities. Present law allows them only 55% credit for such past service.

Under the bill:

-- full retirement credit would be retroactive to January 1, 1969, the effective date of the 1968 law which "federalized" those National Guard technicians who were serving in that capacity on that date.

-- annuities of technicians who are entitled to State retirement benefits would be reduced by the amount of any State retirement annuity attributable to Guard service prior to January 1, 1969.

-- technicians already retired since 1969 would be required to apply for the additional retirement credit, and would begin to receive their higher annuities in the month following enactment.

### Background

The National Guard Technicians Act of 1968, P.L. 90-486, "federalized" National Guard technicians, effective January 1, 1969. These are civilians who perform support services for State National Guard units, such as clerical services and repair and maintenance of equipment.

Prior to enactment of P.L. 90-486, the employment relationship of National Guard technicians to the Federal and State governments was confused. Their duties and functions were generally prescribed by Federal regulations, and their salaries were paid by the Federal Government. On the other hand, they were appointed and supervised by State officials and therefore did not qualify as Federal employees for civil service retirement or other Federal employee benefits.

Most States did not cover technician service under their retirement systems on the grounds that they had no control of their numbers or their conditions of employment.

In 1954, technician service was covered under Social Security, with the Federal Government contributing the employer's share. In July 1961, in an effort to stimulate coverage of technicians under State retirement systems, the Federal Government was authorized to contribute the employer's share (up to 6-1/2% of payroll). Most States, however, were unable on legal or other grounds to provide State retirement coverage. State and Federal courts each disclaimed responsibility of their governments for technicians and, in 1965, the Supreme Court held they were not Federal employees for purposes of civil service laws.

The 1968 law was the culmination of several years of Administration efforts to obtain legislation to clarify the technicians' employment status. The Administration proposed

that they be given full credit for all prior State technician service under all Federal employee programs, such as leave, tenure, group health and life insurance, workers' compensation, and retirement. Such credit would apply to any technician later performing Federal service in any capacity. As enacted by the Congress, full credit for all employee programs except retirement was provided under P.L. 90-486, but only for those actually on duty as technicians on January 1, 1969. In the case of retirement, only 55% of past service was creditable.

The Administration's proposal represented a marked departure from long-standing policy to deny credit under Federal programs for non-Federal service of any kind. This exception was reluctantly agreed to within the Executive Branch because of the importance of the technicians to the National Guard program, and the compelling need to clarify their uncertain status. All the other alternatives considered would have left them in a "mixed" status, and would not have really solved the problem.

The Administration's 100% retirement credit proposal in the "federalization" legislation was rejected when the Senate Armed Services Committee objected to it because of the possibility of "windfall" benefits for those technicians who might be entitled to State retirement benefits or social security payments based on such service, financed in part by the Federal Government. Accordingly, an interagency task force was established to work out a compromise acceptable to the Senate Committee. P.L. 90-486 was the result.

The major arguments advanced for the 55% credit feature, rather than 100%, were as follows:

-- By fiscal year 1968, the Federal Government had already contributed nearly \$78 million as the employer's share of social security or State retirement benefits on behalf of technicians, which represented about 55% of the amount that would have been contributed as the employer's share if technicians had been covered by the civil service retirement system during the same period.

-- Of the 40,000 technicians to be federalized, about 20,000 had already completed sufficient service to acquire vested social security benefits by 1968, and others could acquire it through annual Reserve service. Accordingly, they would be getting dual benefits paid in part by the Federal Government.



-- Similarly, about 4,450 technicians had already acquired vested rights to benefits under State retirement systems.

Arguments for full credit rather than 55% credit were:

-- Only 19 States covered technicians under their retirement systems but nearly three-fourths of these technicians did not qualify for deferred annuity and would therefore derive no benefit from the Government's contribution on their behalf. Moreover, 31 States did not provide coverage for technicians under their retirement systems; the 37,000 technicians in those States would nevertheless be denied full credit for their service under the 55% formula. Thus, the vast majority would be treated inequitably in order to "prevent windfalls" to the 4,450 who had vested under such programs.

-- Most National Guard technicians who in 1968 were not fully vested under social security might never become eligible for such benefits. Moreover, technicians in Ohio and Massachusetts--7% of the entire technician workforce--were not covered by social security at all, but would still receive the reduced credit.

-- The reduced credit premised on Federal contributions would in fact apply to all technician service, including the service performed even before the Federal Government began paying the employer's share towards social security or State retirement benefits.

-- This approach to crediting past service would not conform to any known retirement principle. Service should be either creditable or not creditable, and the same service cannot be "partly good" and "partly bad."

The compromise in P.L. 90-486 was admittedly arbitrary and unprecedented, and was criticized almost immediately after enactment as inequitable. Legislation to modify the compromise agreement has been proposed in every Congress since P.L. 90-486 was approved. The Administration has opposed all the bills to move towards full retirement credit on the ground no new developments had occurred to justify nullifying the Executive Branch agreement with the Senate Armed Services Committee in 1968. However, legislation along the lines of S. 584 was passed by the Senate in 1972 and again in 1973. The enrolled bill passed both Houses this year by voice vote. A motion in the House to recommit the bill was defeated by a vote of 117-261.

### Cost and budget impact

The Civil Service Commission (CSC) estimates that enactment of S. 584 would increase the unfunded liability of the Civil Service Retirement Fund by \$128 million, which would have to be amortized by 30 equal annual installments of \$7.9 million. These annual installments are transactions which take place between various fund accounts within the Government--so-called "intragovernmental transactions." They are not included in total budget outlays or receipts, but do count in the total of budget authority.

The impact on Federal budget outlays and the deficit of liberalizations in retirement benefits, such as in S. 584, occurs when the increased annuity payments are actually made to beneficiaries. CSC estimates that increased outlays resulting from S. 584 would be \$161,000 in the first fiscal year, rising to \$766,000 in the fifth year.

### Arguments for approval

1. Given the decision to federalize National Guard technicians, and to grant them retirement credit for past service, there is no basis in principle for granting only partial credit. Approval of 100% retirement credit would bring the credit provision for technicians into conformity with past-service credit provisions for other groups brought into Federal service.
2. National Guard technicians are already entitled to full credit for past service under all other Federal employee fringe benefit programs. Approval of full retirement credit would be a logical extension of the Federal employment relationship already acknowledged before 1969 when Federal Government contributions of the employer's share were made for social security or State retirement coverage.
3. The 55% restriction creates serious inequities, by denying full retirement benefits to the vast majority of technicians who received either relatively small or no "windfall" benefits based on prior service. In any case, the enrolled bill would require that the amount of State benefits be offset against the full civil service retirement annuity.
4. The estimated increase in annual budget outlays for payment of full retirement benefits to technicians would be quite small.

### Cost and budget impact

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### Arguments for approval

1. Given the decision to federalize National Guard technicians, and to grant them retirement credit for past service, there is no basis in principle for granting only partial credit. Approval of 100% retirement credit would bring the credit provision for technicians into conformity with past-service credit provisions for other groups brought into Federal service.
2. National Guard technicians are already entitled to full credit for past service under all other Federal employee fringe benefit programs. Approval of full retirement credit would be a logical extension of the Federal employment relationship already acknowledged before 1969 when Federal Government contributions of the employer's share were made for social security or State retirement coverage.
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4. The estimated increase in annual budget outlays for payment of full retirement benefits to technicians would be quite small.

## Arguments against approval

1. The 55% retirement credit compromise arrived at in 1968 was an admittedly arbitrary solution to a difficult problem. The Senate Armed Services Committee report stated that "The Committee realizes that there is no formula for achieving exact justice for every individual technician in view of the many complexities and the different retirement systems under which the program now operates." No new arguments which were not considered at that time have been advanced which would warrant liberalizing the benefit provisions and incurring the additional costs involved.

2. Approval of full retirement credit for the technicians could encourage other groups perennially seeking civil service retirement credit for their federally-connected past service. Proponents of the enrolled bill cite other groups previously brought into the civil service retirement system with full credit for previous service. In one case-- County Committee employees of the Agricultural Stabilization and Conservation Service--President Eisenhower vetoed the legislation but the Congress overrode the veto. The other two cases cited involved Legislative Branch employees on which the Executive in effect deferred to the Congress.

3. Technicians who served before P.L. 90-486 was enacted were aware of their benefit entitlements at that time and nevertheless chose such employment. The compromise reached in 1968 was generous in crediting even in part the past non-Federal service of these employees. Moreover, they are all eligible for Reserve retired pay at age 60 if they complete 20 years of Reserve service.

4. Although budget outlays would not be significantly increased by approval of the enrolled bill, there would be a substantial addition to the unfunded liability of the retirement system which has to be financed by the taxpayers.

## Recommendations

Defense has no objection to approval of the enrolled bill.

CSC recommends that you veto the bill. The Commission notes that the bill would increase the unfunded liability of the civil service retirement system and that the 55% formula in existing law was generous since technicians were also entitled to other retirement type benefits for their pre-1969 service.

\* \* \* \* \*

As noted above, there is no basis in any known retirement principle for granting only partial service credit. As the Civil Service Commission indicated when the 1968 law was enacted, service is either creditable or not creditable and the same service cannot be partly good and partly bad.

While we can understand the reasoning which led to adoption of the 55% compromise initiated by the Senate Armed Services Committee, we also note that legislation to repeal that compromise has now passed the Senate three times without objection from that Committee.

Accordingly, in view of the relatively small annual budget outlays involved, we do not believe a veto of this legislation is warranted.

(Signed) James M. Frey  
Assistant Director for  
Legislative Reference

Enclosures

## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 906

Date: **November 7**Time: **130pm**

FOR ACTION: Dick Parsons  
 NSC  
 Max Friedersdorf *oh*  
 Ken Lazarus

cc (for information): Jack Marsh=  
 Jim Cavanaugh  
 Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date:

**November 10**

Time:

**11:00am**

SUBJECT:

S. 584 - National Guard Technician retirement benefits

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

\_\_\_\_\_  
 K. R. COLE, JR.  
 For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 906

Date: November 7

Time: 130pm

FOR ACTION: Dick Parsons  
NSC  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jack Marsh  
Jim Cavanaugh  
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date:

November 10

Time:

11:00am

SUBJECT:

S. 584 - National Guard Technician retirement benefits

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh  
For the President

Date: November 7

Time: 130pm

FOR ACTION: Dick Parsons  
 NSC  
 Max Friedersdorf  
 Ken Lazarus

cc (for information): Jack Marsh  
 Jim Cavanaugh  
 Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date:

Time:

November 1011:00am

SUBJECT:

S. 584 - National Guard Technician retirement benefits

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection, Ken Lazarus by Dudley Chapman. 11/10/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh  
 For the President



THE WHITE HOUSE

WASHINGTON

November 10, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *m. l. f.*  
SUBJECT: S. 584 - National Guard Technician retirement  
benefits

The Office of Legislative Affairs concurs with the agencies that the bill be signed. Congressmen Sonny Montgomery and Senator Burdick expressed interest that bill be signed.

Attachments

THE WHITE HOUSE  
WASHINGTON

Jim Cavanaugh: I retyped  
Lynn May's memorandum to  
indicate that OMB enrolled  
bill report is at Tab A.

Judy

*JS*  
~~THANKS!~~  
*[Signature]*

THE WHITE HOUSE

WASHINGTON

November 10, 1975

ACTION

Last Day:  
Wednesday,  
November 12

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON ~~12~~

SUBJECT: Enrolled Bill S. 584 - National Guard  
Technician Retirement Benefits

This bill would allow individuals serving as National Guard technicians on or after January 1, 1969, full credit for technician service with State Guard units before 1969 in computing their civil service retirement annuities.

In 1968, P.L. 90-486 was signed into law which guaranteed National Guard technicians full Federal employee benefits except retirement credit for past service. The Congress opted to grant 55% credit to prevent "windfall" benefits for some of the technicians.

This bill would alter that decision and grant 100% retirement credit for service before 1969. The Civil Service Commission recommends that you veto the bill because it would increase the unfunded liability of the Civil Service Retirement fund by \$128 million, amortized by 30 equal annual installments of \$7.9 million, and because it has been consistently opposed to allowing non-Federal employment stand as credit for Federal service. OMB recommends that you sign it because of the relatively small budget outlays involved (\$161,000 the first fiscal year, rising to \$766,000 by the fifth year).

The enrolled bill (Tab A) passed both Houses by voice vote. A motion in the House to recommit the bill was defeated by 117-261.

RECOMMENDATIONS

Friedersdorf, Lynn, Buchen, NSC and I recommend that you sign the bill.

The Civil Service Commission recommends veto.

DECISION - S. 584

Sign (Tab A) \_\_\_\_\_


Veto \_\_\_\_\_

MEMORANDUM

NATIONAL SECURITY COUNCIL

7449

November 10, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: JEANNE W. DAVIS   
SUBJECT: National Guard Technician  
Retirement Benefits S. 584

The NSC staff has no objection to S. 584.

## NATIONAL GUARD TECHNICIANS' RETIREMENT

JUNE 11 (legislative day, JUNE 6), 1975.—Ordered to be printed

Mr. McGEE, from the Committee on Post Office and Civil Service, submitted the following

### REPORT

[To accompany S. 584]

The Committee on Post Office and Civil Service, to which was referred the bill (S. 584) 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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

### AMENDMENT

The Committee amendment is technical in nature, changing subsection references to conform to the law as presently drawn.

### BACKGROUND

Since 1924 civilian technicians have been employed by the National Guard. Their duties have been primarily related to the National Guard's Federal defense mission. They have drawn their pay from the Federal government, and the Secretaries of the appropriate military departments have been empowered by law to set their salary levels and prescribe other conditions of employment.

For nearly 50 years the technician has worked to enhance the military readiness and capability of the National Guard as a first-line element in the National defense establishment.

National Guard Technicians were not covered under the Civil Service Retirement Act before January 1, 1969. Under the provisions of the National Guard Technicians Act of 1968, P.L. 90-486, Federal employee status was granted to civilian technicians. Under its unique service credit provisions, P.L. 90-486 allowed full credit for all pre-1969 technician service in determining length of service for pur-

poses of Federal employee benefits, e.g. leave, group life and health insurance, severance pay, tenure and status.

For civil service retirement however, P. L. 90-486 allowed only 55 percent of such service to be used in computing annuities, with the regular 10 percent reduction in annuity for non-deposit for past service applied against 55 percent of the required amount. No credit is now allowable for National Guard technician service prior to January 1, 1969, unless the employee served in that capacity after that date. An employee, for example, who served as a National Guard Technician prior to January 1, 1969, and then moved to another identical position with the government but not with the National Guard would receive no Federal retirement credit at all for his National Guard Technician service.

The 55 percent figure is unique in computation of individuals under the retirement system. This was a compromise reached in the Senate Armed Services Committee and the 45 percent figure is intended to approximate the difference between the government's contribution to social security and State retirement programs in behalf of these employees and the amount the government would have received if they had been covered by the Civil Service Retirement Act.

The Senate Committee on Post Office and Civil Service reported an identical bill, S. 855, without objection in early May, 1972. It passed the Senate, also without objection, on May 3, 1972. The bill failed to gain House approval in the waning days of the 92d Congress and was reintroduced at the outset of the 93d Congress as S. 871. That bill was approved by the Committee in June of 1973 and passed the Senate on July 31, 1973. It was not considered on the floor of the House of Representatives.

#### PURPOSE

The Committee believes, as it did in the 92d and 93d Congresses, that full retirement credit should be accorded National Guard Technicians. S. 584 would accomplish this, retroactively from January 1, 1969, by making the following changes pertaining to credit for 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, including those who have retired and whose annuities therefore would be subject to recomputation.

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 otherwise owed as a deposit for pre-1969 technician service.

#### HEARINGS

Public hearings were held on identical legislation on October 13, 1971, and again on June 7, 1973.

#### COST

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 fund by \$128 million. This amount would be amortized by 30 equal installments of \$7.9 million. The additional unfunded liability resulting from pre-1969 technician service by individuals separated by the technician program prior to January 1, 1969, but who are or will be employed in civil service positions and thus gain retirement credit for past service is not ascertainable.

#### SECTIONAL ANALYSIS

Section 1 repeals the last sentence in 8332(b) of title 5, which has the effect of granting retirement credit to all former technicians serving in any civil service retirement covered position on or after January 1, 1969.

The final sentence of section 8334(c) is deleted by subsection 1(b). This would operate to allow eligible technicians to pay the full amount of the optional deposit due for their pre-1969 technician service.

Subsection (c) repeals 8339(m) of title 5, United States Code, which provides that 45 percent of each year of such technician service is to be disregarded. Elimination of this subsection would have the effect of allowing 100 percent retirement credit for pre-1969 technician service for annuity computation purposes. Former subsection (n) is redesignated (m).

Deletion of the last sentence of 3(c) of the National Guard Technician Act of 1968 allows former technicians in government service on or after January 1, 1969, to receive service credit for their pre-1969 technician service for the purposes stated.

Section 2 makes the provisions of this act effective as of January 1, 1969.

#### AGENCY VIEWS

The following views of the Civil Service Commission were submitted in the 93d Congress on S. 871 and remain pertinent.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., June 6, 1973.

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

DEAR MR. CHAIRMAN: The Commission has been asked to testify on S. 871 at a hearing to be held on June 7, 1973, before the Subcommittee on Compensation and Employee Benefits of the Senate Post Office and Civil Service Committee. We are, accordingly, voluntarily submitting to the full Committee our 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."

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.

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 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 S. 871 receive retirement credit for their past technician service. We cannot therefore estimate the cost of providing retirement credit to these people for their past technician service.

In any event, the Commission does not concur in the enactment of S. 871. The National Guard Technician Act of 1968 represents a com-

promise 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.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
*Washington, D.C., June 9, 1975.*

HON. GALE W. MCGEE,  
*Chairman, Committee on Post Office and Civil Service, U.S. Senate,  
Room 6206 Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on S. 584, "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.

S. 584 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.

S. 584 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 S. 584.

Sincerely,

JAMES M. FREY,  
*Assistant Director for Legislative Reference.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., April 21, 1975.*

B-137506.  
B-152420.

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

DEAR MR. CHAIRMAN: In your letter of February 13, 1975, you requested our views and comments on S. 584, 94th Congress, a bill: "To amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes."

It is our view that there are certain cogent reasons which militate against enactment of legislation such as that proposed by this bill.

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

The limitations imposed on crediting National Guard technician service performed prior to January 1, 1969, for civil service retirement purposes and for other Federal employee benefits were discussed at

length in the reports of the Senate Committee on Armed Services (S. Rept. No. 1446, 90th Cong., 2d Sess.) and the House Committee on Armed Services (H. Rept. No. 1823, 90th Cong., 2d Sess.) with regard to the National Guard Technicians Act of 1968.

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

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

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

If S. 584 is approved, a 100 percent formula would replace the 55 percent formula now in effect. Under this condition, and assuming the same pay and price index increases as above, the report shows the cost would increase as estimated below:

Average age of retirement	If appropriated to CSR fund immediately	If appropriated as retirement is paid
55	\$1,217,637,000	\$3,741,580,000
60	913,228,000	2,886,185,000

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

The cited reports stated that since fiscal year 1955 the Federal Government has contributed as the employer's share \$58,348,000 to the social security fund and \$19,606,000 to State retirement funds (fiscal years 1962 through 1968) totaling \$77,954,000. If these technicians had been under the civil service retirement system during this same period of time, the Federal Government would have contributed



\$142,805,000. Therefore, in terms of past Government investment, the benefit of which the technicians retain, it could be stated that the Federal Government has already contributed 55 percent of the amount that would have been contributed to the civil service fund during this period. This contribution would leave a remainder of only 45 percent. Rather than limit the contribution under this concept to 45 percent, however, the Senate Committee recommended that 55 percent of past technician service be creditable.

In view of the above information supporting the 55 percent annuity computation formula and the increase in cost to the Federal Government under the proposed legislation, we believe the National Guard Technicians Act of 1968 provides a fair and equitable retirement program for personnel employed as technicians on or after January 1, 1969, who had prior technician service. We believe the proposed amendment would result in benefits to technicians who have already acquired a vested interest in social security and State retirement programs through Federal contributions, therefore, giving them greater retirement annuities than other similar Federal employees. In our report to you on July 1, 1969, concerning S. 2031, a bill which proposed substantially the same amendments as S. 584, the subject of this report, we found that S. 2031 would increase the estimated cost of financing the civil service retirement program by approximately \$1 billion.

Enclosed are some technical changes which we believe should be considered by the Committee in its consideration of S. 584. These suggestions are made in view of recent amendments made to the Civil Service Retirement Act.

Sincerely yours,

ROBERT F. KELLER,  
Deputy Comptroller General  
of the United States.

Enclosure.

#### S. 584, 94TH CONGRESS—SUGGESTED TECHNICAL CHANGES

1. The reference to subsection (1) of section 8339, title 5, United States Code, in subsection 1(c) of the bill should be changed to "(m)" because former subsection (1) was redesignated "(m)" by section 6(1) of Public Law 92-297, 86 Stat. 144. Since subsection 1(c) of S. 584 would amend section 8339 of title 5, United States Code, by striking out subsection (1) [(m)], we suggest that subsection (a) be redesignated subsection (m).

#### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

#### TITLE 5 OF THE UNITED STATES CODE

##### § 8332. CREDITABLE SERVICE.

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based on the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

\* \* \* \* \*

[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.]

\* \* \* \* \*

##### § 8334. DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.

(a) (1) The employing agency shall deduct and withhold 7 percent of the basic pay of an employee, 7½ percent of the basic pay of a Congressional employee, and 8 percent of the basic pay of a Member. An equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

\* \* \* \* \*

[Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332 (b) (6) of this title performed before January 1, 1969, shall be an amount equal to 55 percent of a deposit computed in accordance with such provisions.]

\* \* \* \* \*

##### § 8339. COMPUTATION OF ANNUITY.

(a) Except as otherwise provided by this section, the annuity of an employee retiring under this subchapter is—

\* \* \* \* \*

[(m) 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.]

[(n) (m) In computing any annuity under subsections (a)-(e) of this section, the total service of an employee who retires on an imme-

diate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by subsection (f) of this section, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter.

NATIONAL GUARD TECHNICIANS ACT OF 1968

\* \* \* \* \*

SEC. 3. (a) A claim accrued under section 715 of title 32, United States Code, before the effective date of this Act by reason of the act or omission of a person employed under section 709 of title 32, United States Code, may, if otherwise allowable, be settled and paid under section 715 of title 32, United States Code.

\* \* \* \* \*

(c) All service under section 709 of title 32, United States Code, or prior corresponding provision of law, performed before the effective date of this Act shall be included and credited in the determination of length of service for the 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.]

○

[Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8333 (d) (2) of this title performed before January 1, 1968, shall be an amount equal to 25 percent of a deposit computed in accordance with such provisions.]

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RETIREMENT CREDIT FOR NATIONAL GUARD  
TECHNICIAN SERVICE

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SEPTEMBER 5, 1975.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. WHITE, from the Committee on Post Office and Civil Service,  
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 584]

The Committee on Post Office and Civil Service, to whom was referred the bill S. 584 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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill.

EXPLANATION OF AMENDMENT

The Committee amendment to S. 584 substitutes an entirely new text for the text of the Senate-passed bill. The explanation of the provisions of the substitute text is contained in the explanation of the bill as set forth hereinafter in this report.

PURPOSE

The purpose of this legislation is to grant full credit for pre-1969 National Guard technician service for retirement annuity computation purposes to persons who have served in technician positions on or after January 1, 1969.

COMMITTEE ACTION

The Subcommittee on Retirement and Employee Benefits held hearings on H.R. 100, a bill similar to S. 584, on June 11, 12, 24, 25, and

26, 1975 (Serial No. 94-32). On July 28, 1975, the Subcommittee approved H.R. 100, with an amendment, for full Committee consideration.

H.R. 100, as approved by the Subcommittee, was further amended by the full Committee and the text of H.R. 100, as amended, was substituted for the text of S. 584, as passed by the Senate.

S. 584, as amended, was ordered reported by the full Committee on July 31, 1975, by a voice vote.

#### SUMMARY

Under S. 584, as amended by the Committee, full credit for pre-1969 National Guard technician service is granted for annuity computation purposes to those employees who have served under the technician program on or after January 1, 1969. As is the case under existing law, no credit for pre-1969 technician service is granted to individuals who have not served, or do not serve, under the technician program on or after January 1, 1969. The additional service credit will apply to both active and retired eligible technicians. In the case of retired technicians, any additional annuity benefits will commence after the date of the enactment of the legislation.

#### BACKGROUND

National Guard technicians constitute the full-time maintenance and clerical work force which keeps National Guard units of the Army and Air Force operational and ready to meet the needs of the national defense.

Prior to January 1, 1969, the technicians were not Federal employees, although their salaries were paid entirely by Federal funds. They served as employees of National Guard units under the command of the adjutant general of each state. In some states these employees were covered by the state retirement system, and after 1956, they were covered by social security. Their employment status remained subject to state law, however, and their prospects for retirement benefits varied according to the laws of 50 different states. Only 19 states actually extended retirement programs to technicians even though the provisions of Public Law 87-224 permitted the Federal Government to make some of the employer's contribution to state retirement systems.

In 1967 and 1968, Congress considered legislation to resolve the status of National Guard technicians. Under the provisions of the National Guard Technicians Act of 1968 (Public Law 90-488; 82 Stat. 486), technicians were made Federal employees and were made subject to most of the same laws relating to pay, retirement, and fringe benefits that apply to other employees in the Executive Branch.

The provisions [5 USC 8332 (b)] relating to civil service retirement credit for these employees, however, differed significantly from the provisions for retirement credit which have been approved for other groups of employees outside the Federal establishment who have been brought under the civil service retirement program. The key differences are as follows:

(1) For service performed prior to the effective date of the Act, January 1, 1969, technicians receive only 55 percent credit for annuity computation purposes; and

(2) Only those who have served as technicians on or after January 1, 1969, are permitted to receive any credit for such prior service.

Thus, an individual who served twenty years in a technician position in the State National Guard between January 1, 1949, and January 1, 1969, is credited with only 11 years of service for annuity computation purposes when he retires from that position after January 1, 1969. To the committee's knowledge, no other group of employees brought under the civil service retirement system has been penalized in this manner.

The Civil Service Retirement Act of May 22, 1920, created a retirement system for the classified employees of the Executive Branch. At the outset the Act granted 100 percent credit for all Federal service performed prior to the effective date of that law, August 1, 1920, and did not require employees to make any deposit to the Civil Service Retirement and Disability Fund or to take any reduction in annuity because they made no deposit to cover the prior service. Since that law was enacted, other groups have been brought under the provisions of the retirement program, and the general policy applicable to the inclusion of such groups within the system has been to grant full credit for all previous service of the kind made creditable but to require the employee to make a deposit to the Fund or to take a reduction in his annuity if he fails to make the deposit. Included in the groups who have been brought under the retirement system and given full credit for past service are:

(1) Employees of the Senate and House of Representatives, who became subject to the civil service retirement system under the Act of July 13, 1937, and received full credit for all previous Congressional employee service;

(2) Employees who work in the County Committee offices of the Agricultural Stabilization and Conservation Service [16 U.S.C. 590h(b)], who are not Federal employees but who were extended the benefits of the civil service retirement system under the Act of July 1, 1960 (Public Law 86-568; 74 Stat. 296); and

(3) Employees of the U.S. Capitol Guide Service who, prior to the Legislative Reorganization Act of 1970, were independent individuals engaged in a public activity not subject to any laws relating to Federal employment. When the Capitol Guide Service was incorporated into the Legislative Branch by the provisions of Section 442 of the Legislative Reorganization Act (Public Law 91-510; 84 Stat. 1140), these individuals became employees of the Congress and received full credit for all previous recorded service for civil service retirement purposes.

These three examples demonstrate that the policy of granting full retirement credit has been followed regardless of the number of employees involved or the pay system applicable to such employees. Only a handful of employees operate the Capitol Guide Service, while more than 15,000 people work in county ASCS offices.

#### THE 1968 NATIONAL GUARD TECHNICIANS ACT

The Department of Defense, the Office of Management and Budget, and the Civil Service Commission have recommended against repeating the 55 percent credit limitation on the basis that the 1968 Act represented a "compromise" between those who advocated full credit and those who advocated no credit at all.

Between 1956, when National Guard technicians were given social security coverage, and 1967, it became evident that efforts to establish a consistent nationwide retirement policy for these employees had not been successful. In 1966, H.R. 10457 was introduced in the House of Representatives to establish a separate retirement program for National Guard technicians similar to the civil service retirement system. The Civil Service Commission objected to the creation of a new system and, instead, recommended that technicians be made Federal employees for all purposes. The Commission's recommendation was based on a recommendation resulting from the most comprehensive study of Federal retirement programs ever undertaken: *The Cabinet Committee on Federal Staff Retirement Systems* (H. Doc. 402, 89th Congress). The Cabinet Committee had recommended that National Guard technicians be made Federal employees and receive full retirement credit for all past military and technician service.

On August 29, 1966, the bill, H.R. 17195, which was based upon a recommendation by the Department of Defense, was reported favorably by the Committee on Armed Services. That legislation included the recommendations of the Cabinet Committee and the Civil Service Commission.

At the beginning of the 90th Congress, the Department of Defense again recommended making National Guard technicians Federal employees and giving them full credit for past service. A bill, H.R. 2, which included that recommendation, passed the House on September 20, 1967. After lengthy consideration, the Senate disagreed to those provisions of H.R. 2 that related to National Guard technicians. Following an agreement by the Senate conferees that separate legislation would be considered at a later date, H.R. 2 was enacted without the National Guard technician provisions.

In 1968, the Senate passed S. 3865. This bill proposed to make National Guard technicians Federal employees and bring them under all the Federal employee fringe benefit programs. Also, the bill granted full credit for all past service for purposes of annual leave accumulation and severance pay benefits. For annuity computation purposes, however, the Senate bill limited credit to 55 percent of past service. The stated reason for the 55 percent limitation was that the Federal Government had contributed \$58.3 million as the employer's share of Social Security taxes and \$19.6 million to individual State retirement systems for the benefit of National Guard technicians. The total contribution, \$77.9 million, was about half of the total cost which would have been incurred by the Federal Government as the agency contribution to the Civil Service Retirement and Disability Fund if technicians had been covered by the civil service retirement system during the same period.

The theoretical justification for limiting civil service retirement credit to 55 percent was to avoid giving "double coverage" for the same period of service. Apparently, the feeling at that time was that an employee who was entitled to retirement benefits under a state retirement system should not receive civil service retirement credit for the same period of service or, in the alternative, that the civil service retirement benefit should be reduced.

While some technicians will eventually receive state retirement benefits, it should be noted that only 19 states extended retirement coverage to National Guard technicians. Most of the technicians

covered by state retirement systems did not conform sufficient service to become vested with title to annuity and will never acquire such entitlement.

Many technicians who were covered by social security will derive no benefits therefrom since they lack the necessary quarters of coverage prior to January 1, 1969, when their social security coverage ceased. Further, those who were insured under social security will eventually receive increasingly smaller amounts, since technician employment after January 1, 1969, will be included in computing the earnings upon which social security benefits are based. Thus, the result in many cases will be that technicians will reach retirement age without any state retirement benefits, with minimal social security protection, and with limited civil service retirement benefits.

As a general rule, service performed by a Federal employee subject to the social security tax system is, notwithstanding such coverage, creditable for civil service retirement purposes if the employee subsequently comes under the civil service retirement system. This is the rule, in part, because the design of the civil service retirement system is to cover Federal service regardless of other coverage. Since social security is a non-refundable tax which may or may not result in a retirement benefit, its applicability should be disregarded in determining benefits under an employee staff retirement program. The principle has generally been followed, and when exceptions have been made, they have subsequently been repealed. An example is section 115 of the Social Security Amendments Act of 1954 (68 STAT 1087), which denied civil service retirement credit for temporary or part-time Federal service covered by social security even if the employee subsequently came under the civil service retirement program. The exception was repealed by Public Law 91-630 (84 STAT 1875), and thereby gave civil service retirement credit to some 350,000 individuals at an estimated cost (in 1970) of \$402 million.

Despite this general practice in civil service retirement matters, the Senate Committee on Armed Service recommended that National Guard technicians be treated differently and recommended the 55% formula for past service credit.

S. 3865 passed the Senate on July 25, 1968, and without further hearings the House Committee on Armed Service recommended approval of the bill without amendment. It became law on August 13, 1968.

The group affected by the bill, National Guard technicians, were not given an opportunity to express their views on the Senate bill. Whatever parties may have been involved in the "compromise", it is clear that the employees themselves, or their organized representatives, were not consulted and played no part in the decision.

Major General Francis Greenlief, who was the Deputy Chief of the National Guard Bureau at the time of the consideration of S. 3865, testified before the Subcommittee on Retirement and Employee Benefits on June 25, 1975. Referring to the action of the Senate Committee, General Greenlief testified as follows:

In executive session, it [the Senate Committee] hammered out the 55 percent formula and asked General Wilson [the Director of the National Guard Bureau] whether it was acceptable. It appeared to be a take-it-or-leave-it proposition, and General Wilson took it. There was no technician repre-

representative present. They were not involved at that point in any compromise.

#### STATEMENT

The Committee recommends that the 33 percent service credit limitation be repealed. The Senate, which originated the limitation, has on three occasions approved legislation to repeal the 1963 provision and give 100 percent credit to all technicians for prior service. Technicians who have retired from National Guard technician positions since January 1, 1969, should have their annuities recomputed to include full credit for all technician service performed prior to January 1, 1969, and employees who performed service in a technician position on or after January 1, 1969, and who hereafter retire should receive full credit for such service in the computation of their annuities.

The legislation recommended by the Committee requires a retired employee to notify the Civil Service Commission of his desire to receive credit for pre-1969 technician service. The purpose of this provision is to avoid requiring the Commission to review every retirement file in order to determine whether the annuitant had performed technician service prior to 1969. There are currently more than a million civil service annuitants of whom only a small fraction have pre-1969 National Guard technician service. We believe that the employee organizations representing technicians will have a reasonable opportunity to notify their members, former members, and other former technicians of the benefit provided under this legislation.

The enactment of S. 584 will not result in a greater retirement benefit for National Guard technicians than has been provided for other groups of employees brought under the civil service retirement program. Each employee who has performed creditable service for which retirement deductions were not made at the time such service was performed must elect whether to include such service in the computation of his annuity. Under 5 U.S.C. 8334(c), an employee may make a deposit to the Civil Service Retirement and Disability Fund equal to the amount which would have been withheld from his pay had his former service been subject to the civil service retirement system at the time the service was performed. If the employee elects not to make such a deposit, but elects to have such prior service included in the computation of his annuity, his annuity is reduced by an amount equal to ten percent of the unpaid deposit. This reduction continues in effect throughout the duration of the annuity payments. In addition, under 5 U.S.C. 8339(i), the employee may elect to eliminate the prior service in the computation of his annuity.

Under the provisions of the 1968 Act, credit for technician service performed prior to January 1, 1969, is allowable only in the case of an employee who performs service as a technician on or after January 1, 1969. Thus, if an employee served as a technician for ten years prior to 1969, but left his position before 1969, he is not eligible to receive credit for the technician service even though he serves in some other position under the civil service retirement system after January 1, 1969.

While this restriction is a departure from the general policy relating to prior service credit under the civil service retirement system, the Committee believes that, in the interest of securing enactment of this legislation, it is advisable to retain such restriction. The Committee

has, therefore, amended the bill, as passed by the Senate, to continue in effect the existing statutory provision (5 U.S.C. 8332(b)) which limits credit for pre-1969 technician service to those persons who perform technician service on or after January 1, 1969. Thus, an employee who performs any service as a technician on or after January 1, 1969, may, under this legislation, receive 100 percent credit for all of his pre-1969 technician service in the computation of his annuity. An individual who performs no service as a technician on or after January 1, 1969, receives no credit for civil service retirement purposes for pre-1969 technician service. Service on or after January 1, 1969, in any other position covered by the civil service retirement system will not entitle the employee to credit for technician service performed prior to January 1, 1969.

#### SECTION ANALYSIS

Subsection (a) of the first section of the bill amends section 8334(c) of title 5, United States Code, by striking out the last sentence thereof. The last sentence of section 8334(c) now provides that the optional deposit for National Guard technician service performed prior to January 1, 1969, shall be limited to 55 percent of the amount determined to be due. The deletion of this provision would allow eligible persons to deposit the full amount due for National Guard technician service performed prior to January 1, 1969.

Subsection (b) of the first section amends section 8339 of title 5 by striking out subsection (m). Subsection (m) of section 8339 now provides that 45 percent of each year of National Guard technician service performed prior to January 1, 1969, shall be disregarded in determining service for annuity computation purposes. The effect of deleting this provision is to allow 100 percent retirement credit for technician service performed prior to January 1, 1969. However, under section 8332(b) of title 5, credit for technician service performed prior to January 1, 1969, is allowable only in the case of persons who are employed as technicians on or after January 1, 1969.

Section 2 of the bill consists of two technical amendments to title 5, United States Code, which are necessitated by the amendments made by the first section of the bill.

Section 3 of the bill provides that the amendments made by the first section of the bill (i.e., the repeal of the limitations on optional deposit and service credit for annuity computation purposes) shall become effective as of January 1, 1969. However, a person who, on the date of the enactment of the bill, is receiving or is entitled to receive benefits under any Federal retirement system (such as the civil service retirement system or the Foreign Service retirement system) must request, in writing, the office which administers his retirement system to apply the amendments to him. For the purpose of this section a person is "entitled" to receive retirement benefits if he has met all of the requirements for entitlement to an annuity or other benefit but has not yet applied for such annuity or benefit.

The annuity of an individual who submits a written application under section 3 of the bill will be recomputed as of the date of such individual's retirement. However, the payment of any additional benefits resulting from such recomputation of annuity will commence on

the first day of the month following the date of the enactment of the Act. This commencing date for the payment of additional benefits applies regardless of the date the individual submits the written request required under section 3.

The amendments made by this bill also will apply to an annuity of a surviving spouse or child of a technician who retired after January 1, 1969, upon receipt of the written application required by section 3 of this bill.

#### Cost

The enactment of S. 584 would increase the unfunded liability of the Civil Service Retirement and Disability Fund by approximately \$128 million, according to estimates furnished by the Civil Service Commission. This amount would be amortized, in accordance with provisions of 5 U.S.C. 8348(f), by 30 equal annual payments of \$7.9 million.

#### COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of House Rule XI—

(A) The Subcommittee on Retirement and Employee Benefits is vested under Committee Rules with legislative and oversight jurisdiction and responsibility over the subject matter of S. 584 and, as a result of the hearings held on this matter, concluded that the law should be revised in the manner provided under this legislation:

(B) The measure does not provide new budget authority or new or increased tax expenditures within the meaning of section 3 of the Congressional Budget Act of 1974, and thus a statement required by section 308(a) of that Act is not necessary;

(C) No estimate or comparison of costs has been received by the Committee from the Director of the Congressional Budget Office, pursuant to Section 403 of the Congressional Budget Act of 1974; and

(D) The Committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 2(b)(2) of Rule X

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee has concluded that the enactment of S. 584 will have no inflationary impact on prices and costs in the operation of the national economy.

#### ADMINISTRATION VIEWS

Following are reports from the Civil Service Commission and the Office of Management and Budget on H.R. 100, a bill similar to S. 584.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., June 11, 1975.

HON. DAVID N. HENDERSON,  
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 H.R. 100, 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 percent of the pre-1969 technician service. Also, technicians have the option of paying 55 percent 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 percent of the amount determined to be due.

H.R. 100 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 percent 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 percent 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 percent 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 percent credit provisions for pre-1969 technician service is repealed, the unfunded liability of the

civil service retirement fund would be increased by \$128 million. 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, or will be, employed in civil service covered positions on and after this date and will under H.R. 100 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. 100. 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. 100.

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,

JAYNE B. SPAIN,  
*Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
*Washington, D.C., June 9, 1975.*

HON. DAVID N. HENDERSON,  
*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. 100, "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. 100, 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. 100 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. 100.

Sincerely,

JAMES M. FREY,  
*Assistant Director for Legislative Reference.*

CHANGE IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

\* \* \* \* \*

Subpart G—Insurance and Annuities

\* \* \* \* \*

CHAPTER 83—RETIREMENT

\* \* \* \* \*

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

\* \* \* \* \*

§ 8334. Deductions, contributions, and deposits

(a) \* \* \*

(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not



been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	Percentage of basic pay.	Service period
Employee	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	After December 31, 1969.
	Member or employee for Congressional employee service	2 1/2
3 1/2		July 1, 1926, to June 30, 1942.
5		July 1, 1942, to June 30, 1948.
6		July 1, 1948, to October 31, 1956.
6 1/2		November 1, 1956, to December 31, 1969.
7 1/2		After December 31, 1969.
Member for Member service		2 1/2
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956.
	7 1/2	November 1, 1956, to December 31, 1969.
	8	After December 31, 1969.
	Law enforcement officer for law enforcement service and firefighter for firefighter service	2 1/2
3 1/2		July 1, 1926, to June 30, 1942.
5		July 1, 1942, to June 30, 1948.
6		July 1, 1948, to October 31, 1956.
6 1/2		November 1, 1956, to December 31, 1969.
7		January 1, 1970, to December 31, 1974.
7 1/2		After December 31, 1974.

Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332 (b) (6) of this title performed before January 1, 1969, shall be an amount equal to 55 percent of a deposit computed in accordance with such provisions.

\* \* \* \* \*

(g) Deposit may not be required for—

- (1) service before August 1, 1920;
- (2) military service;
- (3) service for the Panama Railroad Company before January 1, 1924;
- (4) service performed before January 1, 1950, by natives of the Pribilof Islands in the taking and curing of fur seal skins and other activities in connection with the administration of the Pribilof Islands; or
- (5) days of unused sick leave credited under section 8339 [(n)] (m) of this title.

\* \* \* \* \*

§ 8339. Computation of annuity

(a) \* \* \*

\* \* \* \* \*

[(m) 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.]

[(n)](m) In computing any annuity under subsections (a)–(e) of this section, the total service of an employee who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by subsection (f) of this section, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter.

§ 8340. Cost-of-living adjustment of annuities

(a) \* \* \*

\* \* \* \* \*

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339 [(n)](m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.

\* \* \* \* \*

MINORITY VIEWS TO S. 584

S. 584 is an unjustified liberalization of the retirement law benefiting only National Guard Technicians, and should be rejected by the House.

The National Guard Technician Act of 1968, which became effective on January 1, 1969, federalized National Guard Technicians who previously were state employees, and among other things brought them under the Civil Service Retirement law. At the same time, this law granted these employees certain benefits for their pre-1969 state service.

In particular, it allows a technician who was serving on or after January 1, 1969, to receive credit for 55 percent of his pre-1969 technician service toward Civil Service Retirement. This represents, in the view of the Committees that reported the legislation in 1968, a generous compromise with respect to the extent non-Federal service would be creditable toward civil service retirement.

Under the Law, a technician may pay 55 percent of the amount otherwise owed as a deposit for prior technician service during which no retirement deductions were made; if this payment is not made, his annuity is reduced by 10 percent of the outstanding 55-percent deposit.

S. 584 would make the following changes in the crediting of pre-1969 National Guard Technician service:

(1) It would allow credit to technicians on board on or after January 1, 1969 for 100 percent of pre-1969 technician service for annuity computation purposes.

(2) 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.

This liberalization would increase the unfunded liability of the Civil Service Retirement Fund by \$128 million. This amount would be amortized by 30 equal annual installments of \$7.9 million, bringing the total cost of this legislation to \$237 million.

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, I oppose enactment of S. 584 for another reason. 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.

Quoting 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 con-

sidered 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. In determining the appropriate percentage for crediting past technician service, the Committee had a dual obligation. There is the duty to exercise restraint in terms of causing additional financial obligations on the part of the U.S. Government, in view of the problems of financial soundness with which the Federal Government is being confronted. At the same time there is the necessity for recognizing the need of an adequate retirement and fringe benefit program for the National Guard Technicians. The Committee realizes that there is no formula for achieving exact justice for every individual technician in view of the many complexities and the different retirement systems under which the program now operates. At the same time the Committee is of the firm opinion that the recommended legislation provides for a generous and equitable retirement and fringe benefit program for the technicians within the 55-percent formula. In support of this conclusion, the Committee would cite the following:

(a) Approximately 20,000 of the technicians have already acquired a vested interest in future social security payments since they have completed the 40 quarters or 10 years of coverage as a result of their technician employment. Others may complete the 40 quarters and add to their social security credits through the annual Reserve training duty as Federal civilian employees. It should be observed that Federal employees are not covered under social security as a result of their Federal employment.

(b) Approximately 4,450 of the technicians have acquired a vested interest in a future annuity under one of the State retirement systems based on past service.

(c) All of the technicians will become eligible for Reserve retirement pay at age 60 if they complete the required 20 years of satisfactory Reserve service. All reservists whether or not they are Federal employees are eligible for this pay upon meeting the requirement. Since the Reserve retired pay program, however, is in effect part of the employment program for technicians, the Reserve retired pay matter should not be ignored.

Another factor considered in setting the 55-percent formula was that from 1955 to 1969 the Federal Government contributed, as the

employers' share, approximately \$78 million to the State retirement funds and the Social Security fund. Since the government's contribution to the Civil Service Retirement Fund for the same period of service would have amounted to \$142 million, it can be stated that the Federal Government contributed 54.59 percent of the amount that would have been contributed to the Civil Service Retirement Fund during this period. This contribution left a remainder of 45.41 percent. Therefore, in light of these figures, the compromise of 55-percent credit for prior 1969 technician service is fair.

I am 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.

JAMES M. COLLINS, M.C.

# Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,  
one thousand nine hundred and seventy-five*

## An Act

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 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.*

*(b) Section 8339 of title 5, United States Code, relating to computation of civil service retirement annuities, is amended by striking out subsection (m) and redesignating subsection (n) as (m).*

*(c) Section 8345 of title 5, United States Code, relating to payment of civil service retirement annuities, is amended by adding at the end thereof the following:*

*“(g) The Commission shall prescribe regulations to provide that the amount of any monthly annuity payable under this section accruing for any month and which is computed with regard to service that includes any service referred to in section 8332(b)(6) performed by an individual prior to January 1, 1969, shall be reduced by the portion of any benefits under any State retirement system to which such individual is entitled (or on proper application would be entitled) for such month which is attributable to such service performed by such individual before such date.”*

*SEC. 2. (a) Section 8334(g)(5) of title 5, United States Code, is amended by striking out “8339(n)” and inserting “8339(m)” in place thereof.*

*(b) Section 8340(c)(1) of title 5, United States Code, is amended by striking out “8339(n)” and inserting “8339(m)” in place thereof.*

*SEC. 3. The amendments made by the first section of this Act shall become effective as of January 1, 1969, except that such amendments shall not apply to a person who, on the date of enactment of this Act, is receiving or is entitled to receive benefits under any retirement system established by the United States or any instrumentality thereof, unless such person requests, in writing, the office which administers his retirement system to apply such amendments to him. Any additional benefits payable pursuant to such a written request shall commence on the first day of the month following the date of the enactment of this Act.*

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

October 31, 1975

Dear Mr. Director:

The following bills were received at the White House on October 31st:

S.J. Res. 134 ✓  
S. 584

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C.