

Editorial Notes

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-458 added par. (3).
 1986—Subsecs. (a), (b)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1983—Subsec. (a). Pub. L. 98-76, § 419(a)(1), substituted “(a) Except as provided in subsection (b) of this section and the Internal Revenue Code of 1954, notwithstanding” for “Notwithstanding”.

Subsec. (b)(1). Pub. L. 98-76, § 419(a)(2), substituted “(b)(1) This” for “: *Provided, however,* That the provisions of this”.

Subsec. (b)(2). Pub. L. 98-76, § 419(a)(3), added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-458, title I, § 110(b)(1), Dec. 23, 2008, 122 Stat. 5112, provided that: “The amendment made by subsection (a)(1) [amending this section] shall apply with respect to payments due for months after August 2007. If, prior to the effective date of such amendment, payment pursuant to paragraph (2) of section 14(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(b)) was terminated because of the employee’s death, payment to the former spouse may be reinstated for months after August 2007.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-76, title IV, § 419(b), Aug. 12, 1983, 97 Stat. 438, provided that: “The amendments made by this section [amending this section] shall apply with respect to annuity amounts payable for months beginning after the date of the enactment of this Act [Aug. 12, 1983].”

§ 231n. Railroad Retirement Account**(a) Maintenance of account; authorization of appropriations**

The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 [45 U.S.C. 228o(a)] shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, to provide for the payment of benefits to be made from such Account in accordance with the provisions of section 231f(c)(1) of this title, and to provide for expenses necessary for the Board in the administration of all provisions of this subchapter, an amount equal to amounts covered into the Treasury (minus refunds) during each fiscal year under the Railroad Retirement Tax Act [26 U.S.C. 3201 et seq.].

(b) Authorization of appropriations; military service costs and administrative expenses

In addition to the amount appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this subchapter, of benefits payable under section 231a of this title, but only to the extent that such Account is not reimbursed for such costs under section 231f(c)(2) of this title, (B) the additional administrative expenses resulting from the crediting of military service under this subchapter, and (C) any loss in interest to such Account re-

sulting from the payment of additional benefits based on military service credited under this subchapter: *Provided, however,* That, in determining the amount to be appropriated to the Railroad Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this subchapter for which appropriations to such Account have already been made pursuant to section 4(l) of the Railroad Retirement Act of 1937 [45 U.S.C. 228c-1(l)]. Any determination as to loss in interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account. The cost resulting from the payment of additional benefits under this subchapter based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this subchapter to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (g) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. When authorized by an appropriation Act, the Secretary of the Treasury shall transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 231f(c)(2) of this title, no further charges shall be made against the Trust Funds established by title II of the Social Security Act [42 U.S.C. 401 et seq.] for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(l) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken in account in making any such determination.

(c) Repealed. Pub. L. 107-90, title I, § 106(b), Dec. 21, 2001, 115 Stat. 887

(d) Dual Benefits Payments Account

(1) There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the

amounts of annuities estimated by the Board to be paid under sections 231b(h), 231c(e), and 231c(h) of this title and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445. Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding the amount that the Board estimates will be necessary to pay on the first day of the next succeeding month the annuity amounts under sections 231b(h), 231c(e), and 231c(h) of this title and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445, taking into account any reduction in such annuity amounts as determined under section 231f(c)(1) of this title, and the Secretary of the Treasury shall make such transfer, but at no time shall the total amount of money outstanding to the Dual Benefits Payments Account from the Railroad Retirement Account exceed the amount necessary to pay the annuity amounts under sections 231b(h), 231c(e), and 231c(h) of this title and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 for one month. Not more than 10 days after the funds appropriated to the Dual Benefits Payments Account for each such fiscal year are received into such Account, the Board shall request the Secretary of the Treasury to retransfer from the Dual Benefits Payments Account to the credit of the Railroad Retirement Account an amount equal to the amount transferred to the Dual Benefits Payments Account prior to or during such fiscal year under the preceding sentence, together with such additional amount determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such transfer, and the Secretary of the Treasury shall make such retransfer. The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 231f(b)(4) of this title amounts necessary to pay benefits payable from that Account.

(2) The Secretary of the Treasury—

(i) shall transfer from the general fund as a loan to the Board on January 1, 1984, one-third of the special amount described in subdivision (3) of this subsection;

(ii) shall transfer from the general fund as a loan to the Board on January 1, 1985, one-third of the special amount described in subdivision (3) of this subsection, plus an amount equal to the interest that one-third would have earned had it been in the Railroad Retirement Account since January 1, 1984; and

(iii) shall transfer from the general fund as a loan to the Board on January 1, 1986, the final one-third of the special amount described in subdivision (3) of this subsection, plus an amount equal to the interest that one-third would have earned had it been in the Railroad Retirement Account since January 1, 1984.

(3) The special amount referred to in subdivision (2) of this subsection is the amount which, as of January 1, 1984, would place the Railroad Retirement Account in the same position it would have been on that date if no annuity

amounts had been paid during the period beginning January 1, 1975 and ending September 30, 1981, under sections 231b(h), 231c(e), and 231c(h) of this title and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445, and no sums had been appropriated as authorized in this subsection.

(4) For the purposes of subdivision (2) of this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued after August 12, 1983, under section 3102 of title 31 and the purposes for which securities may be so issued are extended to include such purposes.

(5) The amounts transferred to the Board as loans under subdivision (2) of this subsection shall be deposited in the Railroad Retirement Account.

(6) The amounts transferred as loans under subdivision (2) of this subsection shall be repaid to the general fund to the extent sums are appropriated for that purpose, and there are hereby authorized to be appropriated, in addition to any other sums authorized to be appropriated for the purposes of this subchapter and from any sums in the Treasury not otherwise appropriated, such sums as may be necessary to make such repayments.

(e) Investments

At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury (hereinafter referred to as the "Secretary") to invest such portion of the amounts credited to the Railroad Retirement Account and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price; or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the accounts. Such obligations issued for purchase by the accounts shall have maturities fixed with due regard for the needs of the accounts, and shall bear interest at a rate equal to the average market yield, computed as of the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing notes of the United States then forming a part of the public debt that are not due or callable until after the expiration of three years from the end of such calendar month, except that where such rate is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligation shall be the multiple of one-eighth of 1 per centum nearest such rate: *Provided*, That the rate of interest on such obligations shall in no case be less than 3 per centum per annum. At the request of the Board the Secretary shall purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, or other obligations which are lawful investments for trust funds of

the United States, on original issue or at the market price: *Provided*, That the interest yield of such obligations shall not be less than the interest rate determined in accordance with the preceding sentence. At the request of the Board, the Secretary shall sell at the market price such obligations in the accounts (other than special obligations issued exclusively to the accounts) as the Board designates. The Board shall from time to time request the Secretary to redeem such special obligations issued exclusively to the accounts as the Board designates and upon such request the Secretary shall redeem such obligations at par plus accrued interest. All requests of the Board to the Secretary, provided for in this subsection, shall be mandatory upon the Secretary. It shall be the duty of the Board to determine at all times what proportion of the accounts shall be invested in other than special obligations issued to the accounts and further to determine which of such obligations available to the accounts consistent with the requirements of this subsection will provide the greatest rate of return on the funds invested.

(f) Actuarial Advisory Committee

The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of employers as defined in paragraph (i) of section 231(a)(1) of this title. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Account. The actuaries so selected shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of pension plans: *Provided, however*, That these requirements shall not apply to any actuary who served as a member of the Committee prior to January 1, 1975. The Committee shall examine the actuarial reports and estimates made by the Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the Committee, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per diem basis.

(g) Annual report

The Board shall include in its annual report a statement of the status and the operations of the Railroad Retirement and Railroad Retirement Supplemental Accounts, and the Dual Benefits Payments Account. At intervals not longer than three years the Board shall make an estimate of the liabilities created by this subchapter and shall include such estimate in its annual report.

(h) Authorization of appropriations; administrative expenses of subchapter

There are hereby authorized to be appropriated from time to time such sums as may be necessary to provide for the expenses of the Board in administering the provisions of this subchapter.

(i) Crediting of accounts for unnegotiated benefit checks

(1) The Secretary of the Treasury shall implement procedures to permit the identification of

each check issued for benefits under this subchapter that has not been presented for payment by the close of the sixth month following the month of its issuance.

(2) The Secretary of the Treasury shall, on a monthly basis, credit each account established in the Treasury for the payment of benefits under this subchapter for the proportionate amount of benefit checks (including interest thereon) drawn on each such Account more than six months previously but not presented for payment and not previously credited to such Account, to the extent provided in advance in appropriation Acts.

(3) If a benefit check is presented for payment to the Treasury and the amount of the appropriate portion thereof has been previously credited pursuant to paragraph (2) to an Account or Accounts, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, recharge such Account or Accounts for the amount of such check attributable to such Account or Accounts and notify the Board.

(4) A benefit check bearing a current date may be issued to an individual who did not negotiate the original benefit check and who surrenders such check for cancellation if the Secretary of the Treasury determines it is necessary to effect proper payment of benefits.

(j) National Railroad Retirement Investment Trust

(1) Establishment

The National Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the "Trust") is hereby established as a trust domiciled in the District of Columbia and shall, to the extent not inconsistent with this subchapter, be subject to the laws of the District of Columbia applicable to such trusts. The Trust shall manage and invest its assets in the manner set forth in this subsection.

(2) Not a Federal agency or instrumentality

The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31.

(3) Board of Trustees

(A) Generally

(i) Membership

The Trust shall have a Board of Trustees, consisting of 7 members. Three shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall be an independent Trustee. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.

(ii) Selection

(I) The 3 members representing the interests of labor shall be selected by the joint recommendation of labor organizations, national in scope, organized in accordance with sections 151a and 152 of this title, and representing at least $\frac{2}{3}$ of all active employees, represented by such national labor organizations, covered under this subchapter.

(II) The 3 members representing the interests of management shall be selected by the joint recommendation of carriers as defined in section 151 of this title employing at least $\frac{2}{3}$ of all active employees covered under this subchapter.

(III) The independent member shall be selected by a majority of the other 6 members of the Board of Trustees.

A member of the Board of Trustees may be removed in the same manner and by the same constituency that selected that member.

(iii) Dispute resolution

In the event that the parties specified in subclause (I), (II), or (III) of the previous clause cannot agree on the selection of Trustees within 60 days of the date of enactment or 60 days from any subsequent date that a position of the Board of Trustees becomes vacant, an impartial umpire to decide such dispute shall, on the petition of a party to the dispute, be appointed by the District Court of the United States for the District of Columbia.

(B) Qualifications

Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.

(C) Terms

Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into equal groups so nearly as may be, of which one group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. The Trustee initially selected pursuant to clause (ii)(III) shall be appointed to a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

(4) Powers of the Board of Trustees

The Board of Trustees shall—

(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

(C) adopt bylaws and other rules to govern its operations;

(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other

terms as are customary for such services), or other services necessary for the proper administration of the Trust;

(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

(F) pay administrative expenses of the Trust from the assets of the Trust; and

(G) transfer money to the disbursing agent or as otherwise provided in section 231f(b)(4) of this title, to pay benefits payable under this subchapter from the assets of the Trust.

(5) Reporting requirements and fiduciary standards

The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

(A) Duties of the Board of Trustees

The Trust and each member of the Board of Trustees shall discharge their duties (including the voting of proxies) with respect to the assets of the Trust solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this subchapter—

(i) for the exclusive purpose of—

(I) providing benefits to participants and their beneficiaries; and

(II) defraying reasonable expenses of administering the functions of the Trust;

(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(iii) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this subchapter.

(B) Prohibitions with respect to members of the Board of Trustees

No member of the Board of Trustees shall—

(i) deal with the assets of the Trust in the Trustee's own interest or for the Trustee's own account;

(ii) in an individual or in any other capacity act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the

Railroad Retirement Board, or the interests of participants or beneficiaries; or

(iii) receive any consideration for the Trustee's own personal account from any party dealing with the assets of the Trust.

(C) Exculpatory provisions and insurance

Any provision in an agreement or instrument that purports to relieve a Trustee from responsibility or liability for any responsibility, obligation, or duty under this subchapter shall be void: *Provided, however,* That nothing shall preclude—

(i) the Trust from purchasing insurance for its Trustees or for itself to cover liability or losses occurring by reason of the act or omission of a Trustee, if such insurance permits recourse by the insurer against the Trustee in the case of a breach of a fiduciary obligation by such Trustee;

(ii) a Trustee from purchasing insurance to cover liability under this section from and for his own account; or

(iii) an employer or an employee organization from purchasing insurance to cover potential liability of one or more Trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

(D) Bonding

Every Trustee and every person who handles funds or other property of the Trust (hereafter in this subsection referred to as "Trust official") shall be bonded. Such bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others, and shall be in accordance with the following:

(i) The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than \$1,000 nor more than \$500,000, except that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of \$500,000, subject to the 10 per centum limitation of the preceding sentence.

(ii) It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met.

(iii) It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

(E) Audit and report

(i) The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

(ii) The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust's fiscal year. A management report under this subsection shall include—

(I) a statement of financial position;

(II) a statement of operations;

(III) a statement of cash flows;

(IV) a statement on internal accounting and administrative control systems;

(V) the report resulting from an audit of the financial statements of the Trust conducted under clause (i); and

(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust.

(iii) The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

(F) Enforcement

The Railroad Retirement Board may bring a civil action—

(i) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this subchapter; or

(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this subchapter.

(6) State and local taxes

The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.

(7) Quorum

Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the Trustees then holding office. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

(k) Transfers to the Trust

The Board shall, upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the National Railroad Retirement Investment Trust. The Secretary shall make that transfer.

(I) National Railroad Retirement Investment Trust

The National Railroad Retirement Investment Trust shall from time to time transfer to the disbursing agent described in section 231f(b)(4) of this title or as otherwise directed by the Railroad Retirement Board pursuant to section 231f(b)(4) of this title, such amounts as may be necessary to pay benefits under this subchapter (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).

(Aug. 29, 1935, ch. 812, §15, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1346; amended Pub. L. 94-92, title II, §201(a)-(d), Aug. 9, 1975, 89 Stat. 464, 465; Pub. L. 94-547, §3(a), Oct. 18, 1976, 90 Stat. 2525; Pub. L. 97-34, title VII, §742, Aug. 13, 1981, 95 Stat. 348; Pub. L. 97-35, title XI, §§1124, 1127(a), Aug. 13, 1981, 95 Stat. 639, 641; Pub. L. 98-76, title III, §301(b), title IV, §§401(a), 417(a), Aug. 12, 1983, 97 Stat. 431, 433, 437; Pub. L. 107-90, title I, §§105(a), (b), 106(b), (c), 107(a), (b), (d), Dec. 21, 2001, 115 Stat. 882, 886-889; Pub. L. 108-203, title IV, §426(a)-(d), (f), Mar. 2, 2004, 118 Stat. 537, 538.)

Editorial Notes

REFERENCES IN TEXT

Sections 4 and 15 of the Railroad Retirement Act of 1937, referred to in subssecs. (a) and (b)(1), which were classified to sections 228c-1 and 228o of this title, have been omitted from the Code.

The Railroad Retirement Tax Act, referred to in subsec. (a), is act Aug. 16, 1954, ch. 736, §§3201, 3202, 3211, 3212, 3221, and 3231 to 3233, 68A Stat. 431, as amended, which is classified generally to chapter 22 (§3201 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3233 of Title 26 and Tables.

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Sections 204, 206, and 207 of Pub. L. 93-445, referred to in subsec. (d)(1), (3), are sections 204, 206, and 207 of title II of Pub. L. 93-445, and are set out as part of a Transitional Provisions note under section 231 of this title.

Within 60 days of the date of enactment, referred to in subsec. (j)(3)(A)(iii), probably means within 60 days of the date of enactment of Pub. L. 107-90, which enacted subsec. (j) and was approved Dec. 21, 2001.

AMENDMENTS

2004—Subsec. (j)(4). Pub. L. 108-203, §426(b), reenacted heading without change and amended text of par. (4) generally, substituting provisions relating to retention of independent advisers, investment of assets, adoption of bylaws, employment of professional staff, possession and exercise of any powers appropriate to carry out purposes of Trust, and payment of administrative expenses, consisting of subpars. (A) to (G), for provisions relating to retention of independent advisers, retention of independent investment managers, investment of assets, payment of administrative expenses, and transfer of moneys for payment of benefits, consisting of subpars. (A) to (E).

Subsec. (j)(5)(B). Pub. L. 108-203, §426(f)(1), substituted “Trustee’s” for “trustee’s” wherever appearing.

Subsec. (j)(5)(C). Pub. L. 108-203, §426(f)(2), substituted “Trustee” for “trustee” wherever appearing and “Trustees” for “trustees” in two places.

Subsec. (j)(5)(D). Pub. L. 108-203, §426(f)(3), substituted “Trustee” for “trustee” in introductory provisions.

Subsec. (j)(6). Pub. L. 108-203, §426(c), amended heading and text of par. (6) generally. Prior to amendment, text read as follows: “The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.”

Subsec. (j)(7). Pub. L. 108-203, §426(a), substituted “Trustees then holding office” for “entire Board of Trustees”.

Subsec. (j)(8). Pub. L. 108-203, §426(d), struck out heading and text of par. (8). Text read as follows: “The expenses of the Trust and the Board of Trustees incurred under this subsection shall be paid from the Trust.”

2001—Subsec. (a). Pub. L. 107-90, §106(c), struck out before period at end “, except those portions of the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of such Tax Act as are necessary to provide sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 231b(e) of this title and, with respect to those entitled to supplemental annuities under section 205(a) of title II of this Act, at the level provided under section 205(a). The Board is directed to determine what portion of the taxes collected under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act is to be credited to the Railroad Retirement Account pursuant to the preceding provisions of this subsection and what portion of such taxes is to be credited to the Railroad Retirement Supplemental Account pursuant to the provisions of subsection (c) of this section. The Board shall make such a determination with respect to each calendar quarter commencing with the quarter beginning January 1, 1975, shall make each such determination not later than fifteen days before each calendar quarter, and shall, as soon as practicable after each such determination, advise the Secretary of the Treasury of the determination made. The Secretary of the Treasury shall credit the amounts covered into the Treasury under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act to the Railroad Retirement Account and the Railroad Retirement Supplemental Account in such proportions as is determined by the Board pursuant to the provisions of this subsection”.

Subsec. (c). Pub. L. 107-90, §106(b), struck out subsec. (c) which read as follows: “The Railroad Retirement Supplemental Account established by section 15(b) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such account for each fiscal year, beginning with the fiscal year ending June 30, 1975, out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities under section 231a(b) of this title, and to provide for the expenses necessary for the Board in the administration of the payment of such supplemental annuities, an amount equal to such portions of the amounts covered into the Treasury (minus refunds) during each fiscal year under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act as are not appropriated to the Railroad Retirement Account pursuant to the provisions of subsection (a) of this section. Whenever the Board finds at any time that the balance in the Railroad Retirement Supplemental Account will be insufficient to pay the supplemental annuities which it estimates are due, or will become due, under section 231a(b) of this title, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Re-

irement Supplemental Account such moneys as the Board estimates would be necessary for the payment of such supplemental annuities, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the Railroad Retirement Supplemental Account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such supplemental annuities, it shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such supplemental annuities, plus interest at an annual rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer."

Subsec. (d)(1). Pub. L. 107-90, §107(d), inserted at end "The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 231f(b)(4) of this title amounts necessary to pay benefits payable from that Account."

Subsec. (e). Pub. L. 107-90, §105(b)(1), substituted "and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine" for "the Dual Benefits Payments Account and the Railroad Retirement Supplemental Account as, in the judgment of the Board, is not immediately required for the payment of annuities, supplemental annuities, and death benefits. Such investments may be made only".

Pub. L. 107-90, §105(b)(2), (3), substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended" and "the requirements of this subsection" for "the foregoing requirements".

Subsec. (j). Pub. L. 107-90, §105(a), added subsec. (j).

Subsec. (k). Pub. L. 107-90, §107(a), added subsec. (k).

Subsec. (l). Pub. L. 107-90, §107(b), added subsec. (l).

1983—Subsec. (b). Pub. L. 98-76, §301(b), amended subsec. (b) generally, redesignating par. (1) as subsec. (b) and striking out par. (2) which read as follows: "In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Fund estimate will be transferred to the Railroad Retirement Account pursuant to section 231f(c)(2) of this title with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 231f(c)(2) of this title, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at

the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month."

Subsec. (d)(1). Pub. L. 98-76, §401(a)(1)–(3), designated existing provisions as par. (1), substituted "the amount that the Board estimates will be necessary to pay on the first day of the next succeeding month the annuity amounts under sections 231b(h), 231c(e), and 231c(h) of this title and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445, taking into account any reduction in such annuity amounts as determined under section 231f(c)(1) of this title, and the Secretary of the Treasury shall make such transfer, but at no time shall the total amount of money outstanding to the Dual Benefits Payments Account from the Railroad Retirement Account exceed the amount necessary to pay the annuity amounts under sections 231b(h), 231c(e), and 231c(h) of this title and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 for one month" for "one-twelfth of the amount which the Board has determined will be the amount of the appropriation to be made to the Dual Benefits Payments Account under the applicable public law making such appropriation for such fiscal year, and the Secretary of the Treasury shall make such transfer", and inserted "or during" after "prior to" in last sentence.

Subsec. (d)(2) to (6). Pub. L. 98-76, §401(a)(4), added pars. (2) to (6).

Subsec. (i). Pub. L. 98-76, §417(a), added subsec. (i).

1981—Subsec. (b). Pub. L. 97-35, §1127(a), made amendments identical to those of Pub. L. 97-34. See Amendment note below.

Pub. L. 97-34 designated existing provisions as subdiv. (1) and added subdiv. (2).

Subsec. (d). Pub. L. 97-35, §1124(a), substituted provisions relating to creation of Dual Benefits Payments Account, authorizations of appropriations, and transfer and retransfer of funds for provisions relating to authorization of appropriations to Railroad Retirement Account.

Subsecs. (e), (g). Pub. L. 97-35, §1124(b), (c), inserted reference to Dual Benefits Payments Account.

1976—Subsec. (c). Pub. L. 94-547 permitted Supplemental Account to borrow enough money from regular Railroad Retirement Account to continue payment of supplemental annuities during any period in which Supplemental Account was otherwise temporarily lacking in funds for this purpose, with any amounts so borrowed to be repaid, with interest, as soon as Supplemental Account has been credited with sufficient tax payments to both pay supplemental annuities on a current basis and repay amount of loan, and with authority granted to increase tax rate for calendar quarter following existence of a deficiency in Supplemental Account's funds to take account of deficiency.

1975—Subsec. (a). Pub. L. 94-92, §201(a), substituted in second sentence "is hereby appropriated" for "is hereby authorized to be appropriated".

Subsec. (b). Pub. L. 94-92, §201(b), substituted in introductory text "amount appropriated" for "amount authorized to be appropriated".

Subsec. (c). Pub. L. 94-92, §201(c), substituted in second sentence "is hereby appropriated" for "is hereby authorized to be appropriated" and inserted "out of any moneys in the Treasury not otherwise appropriated" after "June 30, 1975".

Subsec. (h). Pub. L. 94-92, §201(d), added subsec. (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-90, title I, §105(d), Dec. 21, 2001, 115 Stat. 887, provided that: "The amendments made by this section [amending this section] shall take effect on the first day of the month that begins more than 30 days after enactment [Dec. 21, 2001]."

Pub. L. 107-90, title I, §106(e), Dec. 21, 2001, 115 Stat. 887, provided that:

“(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) [amending this section and section 231f of this title] shall take effect January 1, 2002.

“(2) ACCOUNT IN EXISTENCE UNTIL TRANSFER MADE.—The Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) shall continue to exist until the date that the Secretary of the Treasury makes the transfer described in subsection (d)(2) [set out as a note below].”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-76, title III, §301(c)(2), Aug. 12, 1983, 97 Stat. 432, provided that: “The amendments made by subsection (b) of this section [amending this section] shall be effective on the date immediately following the day in June 1984 when the total amount of money outstanding to the Railroad Retirement Account under section 15(b)(2) of the Railroad Retirement Act of 1974 [subsec. (b)(2) of this section] is retransferred to the general fund under that section.”

Pub. L. 98-76, title IV, §401(b), Aug. 12, 1983, 97 Stat. 434, provided that: “The amendments made by this section [amending this section] shall be effective upon enactment [Aug. 12, 1983].”

Pub. L. 98-76, title IV, §417(b), Aug. 12, 1983, 97 Stat. 437, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to all checks for benefits under this Act [this subchapter] which are issued on or after May 1, 1985.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35, effective Oct. 1, 1981, see section 1129(g) of Pub. L. 97-35, set out as a note under section 231 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-547, §3(b), Oct. 18, 1976, 90 Stat. 2526, provided that: “The amendment made by this section [amending this section] shall be effective on the enactment date of this Act [Oct. 18, 1976].”

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94-92, title II, §201(e), Aug. 9, 1975, 89 Stat. 465, provided that: “The amendments [amending this section] made by this section shall be effective January 1, 1975.”

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

PURCHASE OR SALE OF NON-FEDERAL ASSETS; MEANS OF FINANCING

Pub. L. 107-90, title I, §105(c), Dec. 21, 2001, 115 Stat. 887, provided that: “For all purposes of the Congressional Budget Act of 1974 [see Short Title note set out under section 621 of Title 2, The Congress], the Balanced Budget and Emergency Deficit Control Act of 1985 [see Short Title note set out under section 900 of Title 2], and chapter 11 of title 31, United States Code, and notwithstanding section 20 of the Office of Management and Budget Circular No. A-11, the purchase or sale of non-Federal assets (other than gains or losses from such transactions) by the National Railroad Retirement Investment Trust shall be treated as a means of financing.”

TRANSFER OF FUNDS IN THE RAILROAD RETIREMENT SUPPLEMENTAL ACCOUNT

Pub. L. 107-90, title I, §106(d), Dec. 21, 2001, 115 Stat. 887, provided that:

“(1) DETERMINATION.—As soon as possible after December 31, 2001, the Railroad Retirement Board shall—

“(A) determine the amount of funds in the Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) as of the date of such determination; and

“(B) direct the Secretary of the Treasury to transfer such funds to the National Railroad Retirement Investment Trust under section 15(j) of such Act [45 U.S.C. 231n(j)] (as added by section 105).

“(2) TRANSFER BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall make the transfer described in paragraph (1).”

TRANSITIONAL RULE FOR EXISTING OBLIGATION

Pub. L. 107-90, title I, §107(g), Dec. 21, 2001, 115 Stat. 889, provided that: “In making transfers under sections 15(k) and 15A(d)(2) of the Railroad Retirement Act of 1974 [45 U.S.C. 231n(k), 231n-1(d)(2)], as amended by subsections (a) and (c), respectively, the Railroad Retirement Board shall consult with the Secretary of the Treasury to design an appropriate method to transfer obligations held as of the date of enactment of this Act [Dec. 21, 2001] or to convert such obligations to cash at the discretion of the Railroad Retirement Board prior to transfer. The National Railroad Retirement Investment Trust may hold to maturity any obligations so received or may redeem them prior to maturity, as the Trust deems appropriate.”

COMMISSION ON RAILROAD RETIREMENT REFORM

Pub. L. 100-203, title IX, §9033, Dec. 22, 1987, 101 Stat. 1330-296, as amended by Pub. L. 100-647, title VII, §7108, Nov. 10, 1988, 102 Stat. 3774, established a commission, known as Commission on Railroad Retirement Reform, to conduct a comprehensive study of the issues pertaining to long-term financing of railroad retirement system and the system's short-term and long-term solvency, required Commission to submit not later than Oct. 1, 1990, a report containing a detailed statement of its findings and conclusions together with recommendations to Congress for revisions in, or alternatives to, current system to assure provision of retirement benefits to former, present, and future railroad employees on an actuarially sound basis, and provided for termination of Commission 60 days after submission of report.

SECTION 72(r) REVENUE INCREASE TRANSFERRED TO CERTAIN RAILROAD RETIREMENT ACCOUNTS

Pub. L. 98-76, title II, §224(c), Aug. 12, 1983, 97 Stat. 423, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-203, title IX, §9034, Dec. 22, 1987, 101 Stat. 1330-299; Pub. L. 101-239, title X, §10102, Dec. 19, 1989, 103 Stat. 2471; Pub. L. 101-508, title V, §5126, Nov. 5, 1990, 104 Stat. 1388-286; Pub. L. 103-296, title III, §317, Aug. 15, 1994, 108 Stat. 1532, provided that:

“(1) IN GENERAL.—

“(A) TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.—There are hereby appropriated to the Railroad Retirement Account amounts (other than amounts described in subparagraph (B)) equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.] which is attributable to the application of section 72(r) of the Internal Revenue Code of 1986 [26 U.S.C. 72(r)] (as added by this Act).

“(B) REVENUE INCREASES ATTRIBUTABLE TO WINDFALL BENEFITS RECEIVED AFTER SEPTEMBER 30, 1988, TRANSFERRED TO DUAL BENEFITS PAYMENTS ACCOUNT.—There are hereby appropriated to the Dual Benefits Payments Account amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of such Code which is attributable to the application of section 72(r) of such Code (as added by this Act) with re-

spect to windfall benefits received after September 30, 1988.

“(C) WINDFALL BENEFITS DEFINED.—For purposes of this paragraph, the term ‘windfall benefits’ means any benefit paid under section 3(h), 4(e), or 4(h) of the Railroad Retirement Act of 1974 [sections 231b(h), 231(e), (h) of this title].

“(2) TRANSFERS.—The amounts appropriated by paragraph (1) shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any such quarterly payment shall be made on the first day of such quarter and shall take into account benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

“(3) REVENUE INCREASES FROM TAX ON SUPPLEMENTAL ANNUITIES NOT INCLUDED.—Paragraph (1) shall not apply to tax liabilities attributable to supplemental annuities paid under section 2(b) of the Railroad Retirement Act of 1974 [section 231a(b) of this title].”

TAX USED TO REPAY LOANS MADE TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Pub. L. 98-76, title II, § 232, Aug. 12, 1983, 97 Stat. 429, as amended by Pub. L. 99-272, title XIII, § 13301(c), Apr. 7, 1986, 100 Stat. 326; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-647, title VII, § 7106(c)(6), (7), Nov. 10, 1988, 102 Stat. 3774; Pub. L. 101-508, title XI, § 11704(a)(40), Nov. 5, 1990, 104 Stat. 1388-520, provided that:

“(a) TRANSFER TO RAILROAD RETIREMENT ACCOUNT.—

“(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Railroad Retirement Account an amount equal to the additional railroad unemployment taxes received in the Treasury.

“(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

“(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as is not attributable to the surtax rate under section 7106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 [Pub. L. 100-647, set out as a note under section 3321 of Title 26, Internal Revenue Code] shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

“(B) TAXES ATTRIBUTABLE TO SURTAX RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 7106(b) of such Act shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985.

“(b) TRANSFERS MADE MONTHLY.—Transfers under subsection (a) shall be made at least monthly on the basis of estimates made by the Secretary of the Treasury of the amount of the additional railroad unemployment taxes received in the Treasury. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or were less than the amounts required to be transferred.

“(c) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOANS REPAYED.—If—

“(1) the amount described in subparagraph (A) or (B) of subsection (a)(2) which (but for this subsection) would be transferred to the Railroad Retirement Account under subsection (a), exceeds—

“(2) the outstanding balance of railroad unemployment loans (as of the time of such transfer) against which the amount described in such subparagraph may be credited under such subparagraph, such transfer (to the extent it exceeds such outstanding balance) shall be made to the Railroad Unemployment Account.

“(d) DEFINITIONS.—For purposes of this section—

“(1) ADDITIONAL RAILROAD UNEMPLOYMENT TAXES.—The term ‘additional railroad unemployment taxes’ means the taxes imposed by chapter 23A of the Internal Revenue Code of 1986 [26 U.S.C. 3321 et seq.].

“(2) RAILROAD UNEMPLOYMENT ACCOUNT.—The term ‘Railroad Unemployment Account’ means the railroad unemployment insurance account in the unemployment trust fund established pursuant to section 904 of the Social Security Act [42 U.S.C. 1104].

“(3) RAILROAD UNEMPLOYMENT LOANS.—The term ‘railroad unemployment loans’ means transfers under section 10(d) of the Railroad Unemployment Insurance Act [45 U.S.C. 360(d)] from the Railroad Retirement Account to the Railroad Unemployment Account. The outstanding balance of such loans shall include any interest required to be paid under such section 10(d).”

REIMBURSEMENT OF RAILROAD RETIREMENT ACCOUNTS; “UNNEGOTIATED BENEFIT CHECKS” DEFINED

Pub. L. 98-76, title IV, § 417(c), Aug. 12, 1983, 97 Stat. 437, provided that:

“(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to each Account established in the Treasury for the payment of benefits under the Railroad Retirement Act of 1974 [this subchapter] in the month following the month in which this section is enacted [Aug. 1983] and in each of the next succeeding months until May, 1985, such sums as may be necessary to reimburse such Accounts in the proportionate amount of all checks (including interest thereon) attributable to such Accounts which the Secretary and the Board jointly determine to be unnegotiated benefit checks, to the extent provided in advance in appropriation Acts. After any amounts authorized by this subsection have been transferred to an Account or Accounts with respect to any benefit check, the provisions of paragraphs (3) and (4) of section 15(i) of the Railroad Retirement Act of 1974 (as added by subsection (a) of this section) [subsec. (i)(3), (4) of this section] shall be applicable to such check.

“(2) As used in paragraph (1) of this subsection, the term ‘unnegotiated benefit checks’ means checks for benefits under the Railroad Retirement Act of 1974 [this subchapter] or under the Railroad Retirement Act of 1937 [subchapter III of this chapter] which are issued prior to May 1, 1985, which remain unnegotiated after the sixth month following the date on which they were issued, and with respect to which no transfers have previously been made in accordance with the first sentence of such paragraph.”

TREATMENT OF CERTAIN CREDITS AS AMOUNTS COVERED INTO THE TREASURY

Pub. L. 98-21, title I, § 123(b)(5), Apr. 20, 1983, 97 Stat. 89, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974 [subsec. (a) of this section], amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1986 [26 U.S.C. 3510(e)] shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code [26 U.S.C. 3201(a)].”

ANALYSIS OF OPTIONS THAT WILL ASSURE LONG-TERM FINANCIAL INTEGRITY OF THE RAILROAD RETIREMENT SYSTEM: REPORT AND RECOMMENDATIONS TO CONGRESS

Pub. L. 97-35, title XI, § 1126(a), Aug. 13, 1981, 95 Stat. 639, directed President, not later than Oct. 1, 1982, to analyze options that would assure long-term financial integrity of railroad retirement system and report to Congress results of such analysis, together with recommendations with respect to such options and such comments as may have been submitted by representatives of railroad labor and management.

§ 231n-1. Social Security Equivalent Benefit Account

(a) Establishment

There is hereby created an account in the Treasury of the United States to be known as the "Social Security Equivalent Benefit Account".

(b) Transfers, etc., to Social Security Equivalent Benefit Account

(1) There is hereby appropriated to the Social Security Equivalent Benefit Account for each fiscal year, beginning with the fiscal year beginning October 1, 1984, an amount equal to the sum of the following amounts:

(A) Amounts covered into the Treasury (minus refunds) during such fiscal year under sections 3201(a), 3211(a)(1), and 3221(a) of the Railroad Retirement Tax Act [26 U.S.C. 3201(a), 3211(a)(1), 3221(a)].

(B) The amount which (but for this section) would have been transferred to the Railroad Retirement Account under section 121(e) of the Social Security Amendments of 1983 to the extent that the amount which would have been so transferred is attributable to taxation of social security equivalent benefits.

Amounts appropriated to the Railroad Retirement Account shall be appropriately reduced to take into account the amounts appropriated under this paragraph to the Social Security Equivalent Benefit Account.

(2) On and after October 1, 1984, any amount which (but for this section) would have been transferred to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 231f(c) of this title shall be transferred to the Social Security Equivalent Benefit Account. On and after October 1, 1984, no transfer shall be made to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 231f(c) of this title.

(3) To the extent that the authorization for appropriation contained in section 231n(b) of this title is attributable to the cost of social security equivalent benefits, on and after October 1, 1984, any reference in such section to the Railroad Retirement Account shall be treated as a reference to the Social Security Equivalent Benefit Account.

(4) Amounts appropriated or transferred to the Social Security Equivalent Benefit Account under this section shall be credited or transferred to such Account at the same time and in the same manner as such amounts would have been credited or transferred to the Railroad Retirement Account but for this section.

(c) Availability and transfer of funds

(1) Except as otherwise provided in this section, amounts in the Social Security Equivalent Benefit Account shall be available only for purposes of paying social security equivalent benefits under this subchapter and to provide for the administrative expenses of the Board allocable to social security equivalent benefits. The Secretary shall from time to time transfer to the disbursing agent under section 231f(b)(4) of this title amounts necessary to pay those benefits.

(2) On and after October 1, 1984, any transfer which (but for this paragraph) would be required

to be made from the Railroad Retirement Account under paragraph (2) or (4) of section 231f(c) of this title shall be made from the Social Security Equivalent Benefit Account.

(d) Transfers to Social Security Equivalent Benefit Account and National Railroad Retirement Investment Trust

(1) Whenever the Board finds that the balance in the Social Security Equivalent Benefit Account will be insufficient to pay social security equivalent benefits which it estimates are due in any month, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Social Security Equivalent Benefit Account such moneys as the Board estimates will be necessary for the payment of such benefits, and the Secretary shall make such transfer.

(2) Upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust or the Railroad Retirement Account, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the National Railroad Retirement Investment Trust or the Railroad Retirement Board only to pay benefits under this subchapter or to purchase obligations of the United States (either directly or through a commingled account consisting only of such obligations) that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this subchapter or to purchase such additional obligations.

(e) Applicability of section 231n

The provisions of subsections (e), (f), and (g) of section 231n of this title are hereby made applicable to the Social Security Equivalent Benefit Account.

(f) References to Railroad Retirement Account deemed references to Social Security Equivalent Benefit Account; "social security equivalent benefits" defined

(1) For purposes of making payments of social security equivalent benefits, references in the¹ subchapter to the Railroad Retirement Account shall be treated as references to the Social Security Equivalent Benefit Account.

(2) For purposes of this section, the term "social security equivalent benefits" means benefits payable under this subchapter which are of a kind taken into account in determining the amount of transfers made under section 231f(c)(2) of this title.

(Aug. 29, 1935, ch. 812, §15A, as added Pub. L. 98-76, title V, §501(a), Aug. 12, 1983, 97 Stat. 438;

¹ So in original. Probably should be "this".