

SOCIAL SECURITY AMENDMENTS OF 1983

Volumes 1-3
H.R. 1900
PUBLIC LAW 98-21 — 98th CONGRESS

**REPORTS, BILL,
DEBATES, AND ACT**

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Social Security Administration

SOCIAL SECURITY AMENDMENTS OF 1983

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H.R. 1900
PUBLIC LAW 98-21 — 98th CONGRESS

**REPORTS, BILL,
DEBATES, AND ACT**

Volume 2

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
Social Security Administration
Office of Policy
Office of Legislative and Regulatory Policy

PREFACE

This three-volume compilation contains historical documents pertaining to the Social Security Amendments of 1983. The books contain congressional debate, a chronological compilation of documents pertinent to the legislative history of the 1983 amendments and listings of relevant reference materials. Pertinent documents include:

- Committee Reports and Selected Prints
- Differing Versions of Key Bills
- Summaries of Provisions
- Cost Estimates
- The 1983 Act
- Historical Descriptions

The books are prepared by the Office of Legislative and Regulatory Policy, Legislative Reference Office, and are designed to serve as helpful resource tools for those charged with interpreting laws administered by the Social Security Administration.

John Trout, Director
Office of Legislative
and Regulatory Policy

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98TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 98-23

SOCIAL SECURITY ACT AMENDMENTS OF 1983

MARCH 11 (legislative day, MARCH 7), 1983.—Ordered to be printed

Mr. DOLE, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1]

The Committee on Finance to which was referred the bill (S. 1) to implement the consensus recommendations of the National Commission on Social Security Reform, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

SOCIAL SECURITY (OASDI) PROVISIONS

ACTUARIAL ANALYSIS

The OASDI estimates in the following sectional descriptions were prepared by the office of the Actuary, SSA and are based on 1983 Trustees II-B assumptions. Under those assumptions, the Committee amendments described below would permit the timely payment of social security cash benefits through the short-range (1983-89). In the long-range, the Committee amendments are projected to meet or slightly exceed the long-deficit identified by the National Commission on Social Security Reform of 1.80 percent of taxable payroll (revised under 1983 Trustees II-B assumptions to 2.09 percent of taxable payroll).

These amendments are also projected to have a significant impact on the Hospital Insurance (HI) trust fund. CBO estimates project an increase in the HI trust fund of \$14.6 billion over the period fiscal years 1983-88.

The amendments also impact on other Federal programs. To the extent the cost/savings are reflected in the following descriptions, they have been provided by CBO and are based on CBO's February 1983 assumptions. A table showing the impact of these amend-

TABLE 1.—ESTIMATED CHANGES IN OASDI TAX INCOME OR BENEFIT OUTGO UNDER S. 1 AS REPORTED BY THE SENATE FINANCE COMMITTEE, BASED ON 1983 ALTERNATIVE II-B ASSUMPTIONS—Continued

[In billions of dollars]

| Provision | Calendar year— | | | | | | | Total, 1983- 89 |
|--|----------------|------------------|------------------|------------------|------------------|------------------|------------------|-----------------------|
| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Provide up to 2 child-care drop out years..... | | (²) | -.1 | -.1 | -.2 | -.4 | -.5 | -1.3 |
| All other miscellaneous and technical changes..... |  | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (²) | -.1 |
| Total for all changes..... | 22.3 | 19.9 | 13.8 | 15.1 | 17.9 | 35.6 | 40.8 | 165.5 |

¹ Net additional taxes of less than \$50 million.

² Additional benefits of less than \$50 million.

³ Reduction in benefits of less than \$50 million.

Note: Estimates shown for each provision include the effects of interaction with all preceding provisions. Totals do not always equal the sum of components due to rounding. Positive figures represent additional income or reductions in benefits. Negative figures represent reductions in income or increases in benefits.

Source: Social Security Administration, Office of the Actuary, March 11, 1983.

PRELIMINARY ESTIMATED LONG-RANGE OASDI COST EFFECT OF S. 1 AS REPORTED BY THE SENATE FINANCE COMMITTEE

| Provision | Effect as percent of payroll | | |
|--|------------------------------|-------------|--------------|
| | OASI | DI | OASDI |
| Present law: | | | |
| Average cost rate..... | 13.04 | 1.34 | 14.38 |
| Average tax rate..... | 10.13 | 2.17 | 12.29 |
| Actuarial balance..... | -2.92 | + .83 | -2.09 |
| Changes relating to both long-range and short-range financing: ¹ | | | |
| Cover new Federal employees..... | + .26 | + .02 | + .28 |
| Cover all nonprofit employees..... | + .09 | + .01 | + .10 |
| Prohibit State and local termination..... | + .06 | + .00 | + .06 |
| Delay benefit increases 6 months..... | + .28 | + .03 | + .30 |
| Stabilize trust fund ratio..... | | | |
| Eliminate "windfall" benefits..... | + .05 | + .00 | + .05 |
| Raise delayed retirement credits..... | -.10 | | -.10 |
| Tax ½ of benefits..... | + .57 | + .05 | + .62 |
| Accelerate tax rate increase..... | + .03 | | + .03 |
| Increase tax rate on self-employment..... | + .17 | + .02 | + .19 |
| Change DI rate allocation..... | + .90 | -.90 | |
| Continue benefits on remarriage..... | -.00 | -.00 | -.00 |
| Pay divorced spouse of nonretired..... | -.01 | -.00 | -.01 |
| Modify indexing of survivor's benefits..... | -.05 | | -.05 |
| Raise disabled widow's benefits..... | -.01 | | -.01 |
| Modify military credits financing..... | + .01 | + .00 | + .01 |
| Credit unnegotiated checks..... | + .00 | + .00 | + .00 |
| Tax certain salary reduction plans..... | + .03 | + .00 | + .03 |
| Limit benefits to nonresident aliens..... | + .01 | + .00 | + .01 |
| Eliminate benefits to incarcerated felons..... | + .00 | + .00 | + .00 |
| Subtotal for the effect of the above provisions ² | +2.22 | -.78 | +1.44 |
| Remaining deficit after the above provisions..... | -.70 | + .05 | -.65 |
| Additional changes relating primarily to long-range financing: ³ | | | |
| Modify benefit formula after this century..... | + .39 | + .04 | + .43 |
| Raise normal retirement age to 66..... | + .48 | -.08 | -.40 |
| Eliminate earnings test at age 65..... | -.05 | | -.05 |
| Add up to 2 child care dropout years..... | -.03 | -.00 | -.04 |
| Total effect of all of the provisions ⁴..... | +2.99 | -.82 | +2.17 |

PRELIMINARY ESTIMATED LONG-RANGE OASDI COST EFFECT OF S. 1 AS REPORTED BY THE SENATE
FINANCE COMMITTEE—Continued

| Provision | Effect as percent of payroll | | |
|-------------------------|------------------------------|------|-------|
| | OASI | DI | OASDI |
| After committee bill: | | | |
| Actuarial balance | +.07 | +.01 | +0.8 |
| Average income..... | 11.61 | 1.31 | 12.92 |
| Average cost rate | 11.54 | 1.30 | 12.84 |

¹ The values for each of these individual provisions represent the effect over present law and do not take into account interaction with other provisions.

² The values in the subtotal take into account the estimate interactions among the provisions.

³ The values for each of these provisions take into account interaction with the provisions included in the subtotal.

⁴ The values for the total effect of S. 1 take into account interactions among all of the provisions of the bill.

Note: The above estimates are based on the 1983 Trustees Report Alternative II-B assumptions. Individual estimates may not add to totals due to rounding and/or interaction among proposals.

Source: Office of the Actuary, March 11, 1983.

SUMMARY OF SOCIAL SECURITY (OASDI) PROVISIONS

Coverage of newly hired Federal employees

Extend social security coverage to all Federal civilian employees hired after 1983 (unless their break in Federal service has been for one year less), and to all current members of Congress, the President, Vice President, the Social Security Commissioner, and to current Congressional staff not already covered under a Federal staff retirement system, as of January 1, 1984. Also, states that "Nothing in this Act shall reduce the accrued entitlements to future benefits under the Federal retirement system of current and retired Federal employees and their families."

Coverage of nonprofit employees

Extend social security coverage on a mandatory basis to all employees of nonprofit organizations, effective January 1, 1984.

Prohibit withdrawal of State and local employees

Prohibit State and local governments from terminating coverage for their employees. Pending terminations would be invalid, effective on enactment. In addition, provide an opportunity for State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

Tax exemption for the Amish

Extend the social security tax exemption now applicable to the self-employed Amish to the Amish who are employees of the Amish.

Delay cost-of-living adjustment to a calendar year basis

Provide the automatic cost-of-living adjustment of social security benefits on a calendar year basis. Beginning in 1983, the COLA for OASDI benefits would be applied to the December benefit, which is payable at the beginning of January. For 1983, the COLA would be calculated as under current law (i.e., the change in the CPI for the third quarter of a year over the CPI for the third quarter of the previous year). This would ensure that the lag between the end of the period over which the COLA is measured and the time the COLA is actually applied to benefits remains 3 months. For 1983 only, the COLA would be given even if it is less than 3 percent. The SMI (Supplemental Medical Insurance) premium increase would also be delayed.

Eliminate "windfall" benefits

Reduce (but not eliminate) social security benefits for retired and disabled workers who first become eligible for a pension based on

non-covered employment after 1983. For such workers, the heavily weighted 90 percent factor in the benefit formula would be replaced by a factor of 32 percent, phased in over a five year period. Social security benefits would in no case be reduced by more than one-third of the portion of the worker's pension based on service which was non-covered employment. Also, the percentage reduction in the benefit formula would be limited to no more than 10 percentage points for each year coverage falls shorts of 30 years. Survivor benefits would not be affected by this provision.

Benefits for divorced or disabled widows or widowers who remarry

Allow benefits to continue to be paid to certain beneficiaries upon remarriage if that marriage takes place after the age of first eligibility. Benefits would be payable to: disabled widow(er)s and disabled surviving divorced spouses who remarry after age 50, and to surviving divorced spouses who remarry after 60. No change would be made in the current dual entitlement provision of the law which allows only the highest benefit to which an individual is eligible to be drawn.

Changes in indexing for deferred survivor benefits

Provide that deferred widow and widower benefits would continue to be based on earnings indexed to wages as under present law, however, this wage indexing would continue after the death of the worker. Such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow's (or widower's) benefits, whichever is earlier.

Independent eligibility for divorced spouses

Allow divorced spouses (who have been divorced for a significant period) to draw benefits at age 62 if the former spouse is eligible for retirement benefits, whether or not the former spouse has claimed these benefits or has had them suspended because of substantial employment.

Increase benefits for disabled widows and widowers

Increase benefits for disabled widow(er)s age 50-59 to 71.5 percent of the primary insurance amount, the amount to which widow(er)s are entitled at age 60.

Adjustment of cost-of-living increase when trust fund ratio falls below 20 percent

Modify the cost-of-living adjustment formula during periods when trust fund reserves are low in order to help stabilize reserves. Beginning with 1988, if the OASDI trust fund ratio (reserves as a percentage of outgo) as of the beginning of a year is less than 20 percent, the adjustment of OASDI benefits would be based on the lower of the increase in the CPI or average wages. When the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" payments would be made beginning the following year. This would not apply to the COLA for the Supplemental Security Income (SSI) program.

Increase delayed retirement credit

Gradually increase, between 1990 and 2010, the delayed retirement credit from 3 percent to 8 percent per year.

Increase social security retirement age

Gradually raise the social security retirement age to 66 by the year 2012, beginning with those who attain age 62 in 2000. Early-retirement benefits would continue to be available at age 62 for workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors would be larger.

Long-range benefit change

For workers first becoming eligible for benefits in 2000, reduce initial benefit levels by about 5 percent by decreasing the percentage factors in the benefit formula by two-thirds of one percent each year for 8 years.

Elimination of retirement earnings test

Gradually phase out, between 1990 and 1994, the retirement earnings test for people 65 and older. The exempt amount of earnings would be increased by \$3,000 in 1990 and in each of the next four years, with the earnings test (for people 65 and older) completely eliminated in 1995.

Child-care dropout years:

Allow two years to be dropped out of the formula for computing social security benefits for persons who leave the workforce to care for children under age 3 at home. Presently, the worker's five lowest years of earnings are dropped in the computation of the worker's earnings history. To qualify for an additional childcare dropout year, a person can not have any earnings during the year.

Prisoners benefits

Eliminate all benefits to felons during their period of incarceration. Benefits of dependents and survivors of incarcerated felons would not be affected.

Limitation on benefits to aliens

In the future, eliminate benefits to alien workers, their dependents and survivors who reside abroad. As a result, no benefits would be paid to alien dependents of alien workers who were acquired (through marriage, birth or adoption) while outside the United States. However, benefits would be paid under the following conditions:

- (1) the worker is the citizen of a country with which the United States has a treaty or totalization agreement which provides for reciprocity of social security coverage; and
- (2) benefits would continue until total benefits (excluding any withheld taxes) paid to the wage earner and dependents equal taxes paid by the wage earner plus interest.

Fail-safe

To ensure the timely payment of social security benefits during periods when OASDI trust fund reserves are less than 20 percent of annual outgo and are also projected to decline, the Committee agreed to require the Secretary of Health and Human Services to reduce the COLA to the extent necessary to prevent a decline in reserves. The Secretary will first reduce (or withhold) increases for people with benefits which are based on a primary insurance amount above \$250 (monthly amount). If necessary, however, people with benefits at or below that level may also have their increases reduced. At a maximum, there would be no benefit increase for anyone. The Secretary would have to notify Congress by July 1 of each year in which he finds that action to limit the next COLA would be required, thereby giving Congress time to enact an alternative solution to the potential funding problem. The provision would apply only after the use of all other provisions, such as interfund borrowing, which are designed to ensure adequate trust fund balances.

Taxation of social security benefits for higher income persons

Subject social security and tier one railroad retirement benefits to income tax based on thresholds of \$25,000 for single taxpayers, \$32,000 for married taxpayers filing joint returns, and \$0 for married taxpayers filing separate returns. To determine whether the taxpayer's income exceeds these thresholds, one-half of social security benefits and all tax-free income would be added to adjusted gross income and tax-exempt interest. For taxpayers over the threshold, the lesser of one-half of social security benefits or one-half of the excess combined income over the threshold amount would be subject to income tax.

Beginning in 1984 the Secretary of the Treasury would be required to transfer to the appropriate trust funds, on at least a quarterly basis, the revenues estimated (on the basis of tax liability to be generated from this provision for that quarter.

Acceleration of increase in FICA taxes; 1984 employee FICA tax

Revise the OASDI tax schedule so that the 1985 rate would be moved to 1984, the 1985-87 rate would remain as scheduled under present law, part of the 1990 rate would be moved to 1988, and the rate for 1990 and after would remain unchanged. The HI tax rates for all years would remain unchanged. For 1984, a refundable tax credit would be provided in the amount of the increase in the employee taxes over what would have been payable under present law: 0.3 percent of taxable wages.

The 1984 refundable tax credit would be allowed against 1984 employee FICA and Tier One Railroad Retirement taxes rather than against income tax.

Self-employment taxes; tax credit against self-employment tax

Make the self-employed OASDI tax rate equal to the combined employer-employee rate, beginning in 1984, as those rates are re-scheduled. In addition, the HI tax for the self-employed would be

doubled to make it equivalent to the combined employer-employee rate. A credit against self-employment taxes would be provided.

Reallocation of OASDI tax rate

Reallocate the OASDI tax so that both the OASI and the DI trust funds will have about the same reserve ratios (i.e., reserves at the beginning of the year as a percentage of outgo during the year).

Interfund borrowing extension

Authorize, through 1987, interfund borrowing between the OASI, DI and HI trust funds, protections provided for each trust fund.

Credit amounts of unnegotiated checks to the trust funds

Provide for a lump sum payment to the OASDI trust fund from the General Fund representing the amount of uncashed benefit checks which have been issued in the past. In addition, require credit the trust funds on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of twelve months.

Military wage credits

Credit the OASDI trust fund, in a lump sum, with an amount equal to the estimated additional cost of providing future benefits based on pre-1957 military wage credits. In addition, the OASDHI trust funds would be credited with a lump sum payment equaling the taxes that would have been collected and the interest that would have been earned if the credits for service after 1956 and before 1983 had been taxed as they were earned, less the reimbursements already received. Beginning in 1983, a general fund appropriation would reimburse the trust funds on a current basis for the employer-employee taxes (OASDHI) on additional military wage credits given for non-cash compensation.

Trust fund investment procedure

Provide for reinvesting all trust fund assets each month at a rate of interest based on the average market rate on all public-debt obligations currently held by Treasury with a duration of four or more years until maturity.

Public members on board of trustees

Add two public members to the Board of Trustees of the OASDI, HI, and SMI trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party. Public members shall not be considered fiduciaries and shall not be personally liable for any actions taken in such capacity with respect to the trust funds.

Accelerate State and local deposits

Apply the same social security tax deposit requirements to State and local governments that presently apply to private employers.

Triggered normalization of tax transfers

When, at the start of any month, the Secretary of the Treasury determines that the reserves of the OASDI trust funds are inadequate to meet 1½ months of benefits, the Secretary would be required to credit the trust funds on the first day of the next month with the full payroll tax revenues estimated for the month. Interest would be paid to the General Treasury.

Social security wage base

Expand the social security wage base to include certain deferred compensation.

SUMMARY OF SUPPLEMENTAL SECURITY INCOME SSI PROVISIONS

Delay the SSI COLA and increase the SSI disregard

Delay the annual cost-of-living adjustment (COLA) for SSI payments from July to January, beginning with the July 1983 benefit increase, thereby maintaining the link between the COLA for SSI and OASDI. In addition, increase the SSI payment standard applicable to all individuals by \$20 (\$30.00 for a couple) per month, effective July 1983. To help protect the States from increased costs resulting from this provision, expand current law to allow States to meet the "pass through" requirement for 1983 if they pass through the equivalent of the COLA that would have occurred under current law rather than the proposed monthly payment increase.

SSI alert

Require the Secretary of Health and Human Services to notify elderly OASDI recipients of the availability of SSI and to encourage those potentially eligible to contact their district offices.

TITLE I OF THE BILL

A. PROVISIONS RELATED TO OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES

(Section 101 of the Bill)

Present law

Approximately 91 percent of the Nation's workers are covered by social security. Federal civilian employees are the only major group excluded from coverage under the social security (OASDI) system. Those excluded (93 percent, or about 2.6 million out of 2.8 million employees) are generally covered by a Federal staff retirement system, engaged in temporary employment, or are members of Congress. (Beginning in 1983, nearly all Federal employees are covered under Medicare.)

Committee amendment

The Committee amendment would, effective January 1, 1984, extend social security coverage to all Federal civilian employees hired after 1983 (unless their break in Federal service has been one year or less), and to all current members of Congress, the President, Vice President, the Social Security Commissioner, and to current Congressional staff not already covered under a Federal staff retirement system.

This amendment is similar to the recommendation of the National Commission on Social Security Reform to extend coverage to all Federal employees hired after 1983.

The Committee amendment also states that "Nothing in this Act shall reduce the accrued entitlement to future benefits under the Federal retirement system of current and retired Federal employees and their families."

Effective date.—January 1, 1984.

REVENUE GAIN

[in billions, calendar years]

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|--|-------|-------|-------|-------|-------|-------|---------|
| Short-range | \$0.2 | \$0.7 | \$1.2 | \$1.8 | \$2.4 | \$3.1 | \$9.3 |
| Long-range: 0.28 percent of taxable payroll. | | | | | | | |

COVERAGE OF NONPROFIT EMPLOYEES

(Section 102 of the Bill)

Present law—Work performed for a nonprofit tax-exempt organization (specified in section 501(c)(3) of the Internal Revenue Code of 1954) is excluded from social security coverage unless the organization files a certificate with the Internal Revenue Service waiving its exemption from social security taxes. Nonprofit organizations may terminate coverage upon giving 2 years advance notice, providing coverage has been in effect for 8 years or more. Once coverage has been terminated, the organization cannot again cover its employees. About 4.3 million employees of nonprofit organizations (about 80 percent) are covered.

Committee amendment—The Committee amendment would extend social security coverage on a mandatory basis to all employees of nonprofit organizations.

This amendment is the same as the recommendation of the National Commission on Social Security Reform.

Effective date—January 1, 1984.

OASDI REVENUE GAIN

[in billions, calendar years]

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|---|-------|-------|-------|-------|-------|-------|---------|
| Short-range | \$1.3 | \$1.5 | \$1.8 | \$2.1 | \$2.6 | \$3.1 | \$12.5 |
| Long-range: .10 percent of taxable payroll. | | | | | | | |

PROHIBIT WITHDRAWAL OF STATE AND LOCAL EMPLOYEES

(Section 103 of the Bill)

Present law

Employees of State and local governments may be covered under social security at the option of the State and in agreement with the Secretary of Health and Human Services. Coverage may be terminated if the State gives 2 years written notice of such intent, provided that the State or local group has been covered for at least 5 years. Once coverage is terminated, the group can never again be covered under social security.

Committee Amendment

The Committee amendment would prohibit State and local governments from terminating coverage for their employees. Pending terminations would be invalid, effective on enactment. In addition, the amendment would provide an opportunity for State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

This amendment is similar to the recommendation of National Commission on Social Security Reform.

Effective date.—On enactment.

OASDI REVENUE GAIN

[In billions, calendar years]

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|---|-------|-------|-------|-------|-------|-------|---------|
| Short-range | \$0.1 | \$0.2 | \$0.4 | \$0.6 | \$0.8 | \$1.1 | \$3.2 |
| Long-range: .06 percent of taxable payroll. | | | | | | | |

Exclusion from social security coverage for services performed by members of certain religious sects (sec. 104 of the bill and sec. 3121 of the Code)

PRESENT LAW

In general, social security (FICA) tax is imposed on every individual who receives wages with respect to employment. In addition, social security tax is imposed on employers who pay wages with respect to employment. There is no exemption, under present law, for employers or employees who are members of religious sects that oppose the social security system. However, present law does provide an exemption from self-employment tax (SECA) for members of religious sects that are conscientiously opposed to the acceptance of private or public insurance and which make provision for the care of their dependent members.

REASON FOR CHANGE

The committee believes that employers and employees who are members of the Amish sect, or other religious sects that oppose participation in the social security system, should be treated the same as self-employed members of those sects. That is neither Amish employers nor Amish employees should be required to pay social security taxes. This provision is necessary because, due to economic conditions, many Amish members cannot afford their own farms, but, rather, must work for other Amish farmers.

EXPLANATION OF PROVISION

The provision will exempt from social security tax wages paid by individuals who are exempt from self-employment taxes because of their religious beliefs to individuals who are members of religious sects that conscientiously oppose the acceptance of private or

public insurance and which make provisions for the care of their dependent members. This exemption applies both to the employer and employee portion of social security tax.

The exemption applies only in the case of religious sects that have been in existence at all times since December 31, 1950.

EFFECTIVE DATE

The provision applies to remuneration paid after December 31, 1983.

DELAY COST-OF-LIVING ADJUSTMENT TO A CALENDAR YEAR BASIS

(Section 111 of the Bill)

Present law

The automatic cost-of-living adjustment (COLA) of social security benefits is applicable to June benefits (payable early in July). The amount of the increase is equal to percentage by which the Consumer Price Index (for Urban Wage Earners and Clerical Workers, CPI-W) for the first quarter of the calendar year has increased over the CPI for the first quarter of the previous calendar year. No COLA is paid unless the increase in the CPI is at least 3 percent. By law, cost-of-living adjustments in the SSI program are made at the same time, and in the same amount as the social security cost-of-living adjustment.

Committee amendment

The Committee amendment would shift the automatic cost-of-living adjustment of social security benefits to a calendar year basis. Beginning in 1983, the COLA for OASDI benefits would be applied to the December benefit, which is payable at the beginning of January. For 1983, the COLA would be calculated as under current law (i.e., the change in the CPI for the first quarter of 1983 over the CPI for the first quarter of 1982). Beginning with the COLA for 1984, the adjustment would be computed by comparing the increase in the CPI for the third quarter of a year over the CPI for the third quarter of the previous year. This would ensure that the lag between the end of the period over which the COLA is measured and the time the COLA is actually applied to benefits remains 3 months. This is the same proposal recommended by the National Commission on Social Security Reform.

In addition, the Committee amendment would, for 1983 only, provide the COLA even if it is less than 3 percent. The SMI (Supplemental Medical Insurance) premium increase would also be shifted to a calendar year basis.

Under the Committee amendment, the SSI COLA would also be shifted to a calendar year basis and would be measured in the same way as for OASDI purposes.

Effective date.—For cost of living adjustment otherwise payable in July 1983 checks.

OASDI SAVINGS

[In billions, calendar years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|---|-------|-------|-------|-------|-------|-------|-------|---------|
| Short range..... | \$3.2 | \$5.2 | \$5.4 | \$5.5 | \$6.2 | \$6.7 | \$7.3 | \$39.4 |
| Long range: .30 percent of taxable payroll. | | | | | | | | |

SST COSTS (CBO ESTIMATES)

[In millions, fiscal years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|------------|--------|--------|--------|--------|--------|--------|
| Costs..... | -\$100 | -\$130 | -\$170 | -\$170 | -\$175 | -\$210 |

ELIMINATE "WINDFALL" BENEFITS

(Section 112 of the Bill)

Present law

Social security benefits for workers with low average earnings are a relatively high proportion (up to 90 percent) of their average earnings under social security. No distinction is currently made between persons who have a lifetime of low earnings and those who have low average earnings only because they worked few years in covered employment (possibly at high wages) and many years in employment not covered by social security. Both groups receive the heavily weighted social security benefit intended for the first group. The heavily weighted benefit paid to the second group is often referred to as a "windfall".

The present law benefit formula for persons who reach age 62 or who become disabled before age 62 in 1983 is: 90 percent of the first \$254 of average indexed monthly earnings in covered employment (AIME), plus 32 percent of AIME over \$254 and up to \$1,528, plus 15 percent of AIME in excess of \$1,528.

Committee amendment

The Committee amendment would reduce (but not eliminate) social security benefits for retired and disabled workers who first become eligible for a pension based on non-covered employment after 1983. For such workers who do not have a long record of substantial work under social security, the heavily weighted 90 percent factor in the benefit formula would be replaced by a factor of 32 percent, phased in over a five year period as follows:

Benefit factor

| Year of first eligibility under OASDI: | Percent |
|--|---------|
| 1984 | 78.4 |
| 1985 | 66.8 |
| 1986 | 55.2 |
| 1987 | 43.6 |
| 1988 and after | 32.0 |

To moderate the impact of this provision on people with small pensions from non-covered employment, social security benefits

could in no case be reduced by more than one-third of the portion of the worker's pension based on service which was non-covered employment. The offset would not apply to persons with pensions based on one year or less of non-covered employment.

In addition, the Committee amendment exempts from any reduction under this provision those individuals who have a long history of substantial work under the social security program. People who have thirty or more years of covered employment in which they paid social security taxes on at least 25 percent of the maximum taxable earnings would have their benefits computed under the regular provisions without any reduction under the windfall provision. People with less than 30 but more than 24 years of substantial social security employment would have the windfall reduction applied on a phased in basis under which the first factor in the benefit formula would be reduced by 10 percentage points for each year below thirty years of covered employment. This would not reduce benefits by more than the regular windfall provision however. (A year of substantial employment is a year in which covered earnings were at least 25 percent of the wage base. For years after 1977, the base used would be the 1977 base with adjustments for increased earnings after that date.)

Survivor benefits would not be affected by this provision.

The National Commission on Social Security Reform recommended modifying the social security benefit formula so as to eliminate windfall benefits received by workers who in the future receive social security as well as pensions from non-covered employment. (No specific formula was recommended.)

Effective date.—January 1, 1984, for retired or disabled workers who first become eligible for a non-covered pension after 1983.

OASDI SAVINGS

[In billions, calendar years]

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|--|------------------|------------------|------------------|------------------|-------|-------|---------|
| Short range..... | (¹) | (¹) | (¹) | (¹) | \$0.1 | \$0.1 | \$0.3 |
| Long range .05 percent of taxable payroll. | | | | | | | |

¹ Less than \$50 million.

BENEFITS FOR DIVORCED OR DISABLED WIDOWERS OR WIDOWS WHO REMARRY

(Section 113 of the Bill)

Present law

Current law permits the continuation of benefits for widows and widowers who remarry after age 60, the age of first eligibility for benefits. If the widow(er) marries after age 60, he or she receives the benefits to which he or she is entitled as a wage earner, widow(er) or spouse, whichever is larger. However, benefits for disabled widow(er)s and disabled surviving divorced spouses (payable from age 50 to 60) and for surviving divorced spouses (payable at age 60) are terminated if the individual remarries.

Committee amendment

The Committee amendment would provide that benefits continue to be paid to certain beneficiaries upon remarriage if that marriage takes place after the age of first eligibility. Benefits would be payable to: disabled widow(er)s and disabled surviving divorced spouses who remarry after age 50, and surviving divorced spouses who remarry after 60. No change would be made in the current dual entitlement provision of the law which allows only the highest benefit to which an individual is eligible to be drawn. This is comparable to the present law treatment of widows and widowers.

This amendment is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—For benefits payable for months after December 1983.

OASDI COST

[In billions, calendar years]

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|-------------------------|------------------|------------------|------------------|------------------|------------------|------------------|---------|
| Short range..... | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | -\$0.1 |
| Long range: negligible. | | | | | | | |

¹ Less than \$50 million.

CHANGES IN INDEXING FOR DEFERRED SURVIVOR BENEFITS

(Section 114 of the Bill)

Present law

Survivor benefits (for widows, widowers, and surviving children) are based on the deceased worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.

Should the worker die long before the spouse is eligible for benefits, the benefit to which the widowed spouse ultimately becomes eligible (in old-age or at disability) is based on outdated wages. Thus, women who become widowed at a relatively young age, but do not become eligible for benefits for many years, are deprived of their husband's unrealized earnings as well as the economy-wide wage increases that may have occurred since the death of their husbands.

Committee amendment

The Committee amendment would provide that deferred widow and widower benefits would continue to be based on earnings indexed to wages as under present law, however, this wage indexing would continue after the death of the worker. This is the same as the recommendation of the National Commission on Social Security Reform. In addition, the Committee amendment would specify that such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor be-

comes eligible for aged or disabled widow's benefits, whichever is earlier. In no case would benefits be lower than under present law.

Effective date.—For persons becoming eligible for survivors benefits after December 31, 1984.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|--|------|------------------|------------------|------------------|------------------|------------------|------------------|
| Short range..... | | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Long range: —.05 percent of taxable payroll. | | | | | | | |

¹ Less than \$50 million.

INDEPENDENT ELIGIBILITY FOR DIVORCED SPOUSES

(Section 115 of the Bill)

Present law

A divorced spouse, eligible for benefits at age 62, may not begin to draw social security benefits until the worker begins to draw benefits. For some divorced women, this means that they may have to wait several years beyond their own retirement age (either because their ex-spouse delays retirement or otherwise fails to apply for benefits) before they can begin to draw benefits.

Committee amendment

The Committee amendment would allow divorced spouses (who have been divorced for a significant period) to draw benefits at age 62 if the former spouse is eligible for retirement benefits, whether or not the former spouse has claimed these benefits or has had them suspended because of substantial employment. This is the same as the recommendation of the National Commission on Social Security Reform. In addition, the Committee amendment would specify that the proposal would only apply to spouses who have been divorced for at least two years.

Effective Date—For benefits payable for months after December 1984.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|--|------|------------------|------------------|------------------|------------------|------------------|---------|
| Short range..... | | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | —\$0.1 |
| Long range: —.01 percent of taxable payroll. | | | | | | | |

¹ Less than \$50 million.

INCREASE BENEFITS FOR DISABLED WIDOWS AND WIDOWERS

(Section 116 of the Bill)

Present law

Social Security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the worker's primary insurance amount) at age 65, and at reduced rates at ages 60-64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits also payable at reduced rates to disabled widows and widowers aged 50-59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).

Committee amendment

The Committee amendment would increase benefits for disabled widow(er)s age 50-59 to 71.5 percent of the primary insurance amount, the amount to which widow(er)s are entitled at age 60. The proposal would be applicable to new beneficiaries and to those on the rolls on the effective date of the provision. This is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—For benefits payable for months after December 1983.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|--|--------|--------|--------|--------|--------|--------|---------|
| Short range..... | -\$0.2 | -\$0.2 | -\$0.2 | -\$0.2 | -\$0.3 | -\$0.3 | -\$1.4 |
| Long range: -.01 percent of taxable payroll. | | | | | | | |

ADJUSTMENT OF COST-OF-LIVING INCREASE WHEN TRUST FUND RATIO FALLS BELOW 20 PERCENT

(Section 117 of the Bill)

Present law

The automatic cost-of-living adjustment (COLA) in social security benefits is applicable to the June benefit, which is payable at the beginning of July, and is based on the increase in the Consumer Price Index. When increases in prices outrun increases in wages, income to the trust funds falls behind outgo, and cash flow problems may result. There is no mechanism under current law to adjust trust fund outlays and revenues to take account of such adverse economic fluctuations.

Committee amendment

The Committee amendment would modify the cost-of-living adjustment formula during periods when trust fund reserves are low in order to help stabilize reserves. Specifically, if the OASDI trust fund ratio (reserves as a percentage of outgo) as of the beginning of a year is less than 20 percent, the adjustment of OASDI benefits would be based on the lower of the increase in the CPI or average wages. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" benefit payments would be made during the following year, but only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32 percent. Catch-up payments would supplement monthly benefits otherwise payable to make up for any COLA losses that result from basing the adjustment on wages rather than prices. This would not apply to the COLA for the Supplemental Security Income (SSI) program. This is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—This provision would first be applicable in 1988.

Cost/savings.—This proposal is estimated to have no impact on the trust funds under 1983 Trustees II-B assumptions.

INCREASE DELAYED RETIREMENT CREDIT

(Section 118 of the Bill)

Present law

A worker who delays retirement beyond age 65 (i.e., does not actually receive social security benefits) is eligible for a delayed retirement credit (DRC). The worker's benefit is increased for each month after age 65 and prior to age 72 for which benefits are not paid, either because of earnings or because the worker does not claim benefits. For workers eligible for benefits after 1978, the DRC is equal to 3 percent per year (one-quarter of 1 percent per month).

Committee amendment

The Committee amendment would gradually increase, between 1990 and 2010, the delayed retirement credit to 8 percent per year, as recommended by the National Commission on Social Security Reform. (The amount of credit would relate to year of attainment of age 65.) Beginning in 1990 the DRC would be increased by ¼ percent each subsequent year until reaching 8 percent in 2010.

OASDI cost: -0.10 percent of taxable payroll.

INCREASE IN RETIREMENT AGE

(Section 119 of the Bill)

Present law

Unreduced retirement benefits are available to workers, spouses, and widows and widowers at age 65. Actuarially reduced benefits are available at age 62 for workers and spouses and at age 60 for widows and widowers.

Committee amendment

The Committee amendment would gradually raise the age at which full social security benefits are payable from 65 to 66, beginning with those who attain age 62 in 2000. Under this provision, the normal retirement age would be increased one month per year, reaching 66 for those attaining 62 in the year 2012 or later. Early-retirement benefits would continue to be available beginning at age 62 for workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors would be larger. The minimum age for eligibility for medicare benefits would continue to be tied to the age at which unreduced retirement benefits are first available.

The majority of the members of the National Commission on Social Security Reform made this recommendation. In addition, they recommended indexing the retirement age to changes in longevity, beginning in 2012.

Effective date.—For people attaining 62 in 2000.

OASDI savings: 0.40 percent of taxable payroll.

LONG-RANGE BENEFIT CHANGE

(Section 120 of the Bill)

Present law

In computing social security benefits, a worker's earnings under social security are averaged and a benefit formula is applied to those average indexed monthly earnings (AIME) to arrive at the initial basic benefit amount called the primary insurance amount (PIA). The PIA is the amount a worker is eligible to receive at 65. Dependents' and survivors' benefits are based on the worker's PIA.

The formula for a worker who becomes eligible for benefits in 1983 is: 90 percent of the first \$254 of AIME, plus 32 percent of the AIME from \$254 through \$1,528, plus 15 percent of the AIME over \$1,528.

The two dollar figures in the formula, \$254 and \$1,528, are raised (indexed) each year to reflect increases in average wages in the economy. Thus, a new formula is created each year for the new group of workers becoming eligible for benefits in that year.

This system was adopted by the 1977 Social Security Amendments. The annual adjustment of the dollar amounts in the benefit formula, the bend points, by the full amount of the increase in average wages leads to higher initial benefits over time and to replacement rates—the percentage of a worker's prior earnings that are replaced by his social security benefit—that remain at approximately the same level.

Committee amendment

For people first becoming eligible for benefits in 2000, the Committee amendment would reduce initial benefit levels by 5.3 percent by decreasing the percentage factors in the benefit formula by two-thirds of one percent each year for 8 years. This would have the effect of reducing the ultimate replacement rate by 5 percent.

Effective date.—For people first becoming eligible for retirement or disability in 2000.

OASDI savings: 0.43 percent of taxable payroll.

ELIMINATION OF RETIREMENT EARNINGS TEST

(Section 121 of the Bill)

Present law

Social security beneficiaries under age 70 who work and have earnings are subject to a one dollar reduction in benefits for every two dollars of earnings, when their earnings exceed certain exempt amounts. For 1983, the annual exempt amount is \$6,600 for people age 65 and older.

Committee amendment

The Committee amendment would gradually phase out, between 1990 and 1994, the retirement earnings test for people 65 and older. The exempt amount of earnings would be increased by \$3,000 in 1990 and in each of the next four years, with the earnings test (for people 65 and older) completely eliminated in 1995.

Effective date.—The provision would be phased in between 1990 and 1994.

OASDI cost.—This amendment is estimated to cost 0.05 percent of taxable payroll in the long-range.

CHILD-CARE DROP OUT YEARS

(Section 122 of the Bill)

Present law

In computing a worker's covered earnings history under social security (upon which his and his family's benefits are based), up to five years in which earnings are lowest are dropped.

Committee amendment

The Committee amendment would allow up to two additional years to be dropped for persons who leave the workforce to care for a child under 3 in the home. To qualify for a child-care drop year, the worker can have no earnings at all during the year.

Effective date.—For persons first eligible for benefits after 1983.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|------------------|--------|--------|--------|--------|--------|
| Short-range: | (¹) | -\$0.1 | -\$0.1 | -\$0.2 | -\$0.4 | -\$0.5 |
| Long range: — .04 percent of taxable payroll. | | | | | | -\$1.3 |

¹ Less than \$50 million.

PRISONERS BENEFITS

(Section 123 of the Bill)

Present law

Persons imprisoned for the conviction of a felony may not receive student benefits (which are being phased out anyway), and are not

eligible for disability benefits unless they are participating in a court-approved rehabilitation program. (Dependents benefits are not affected.) Also, impairments resulting from the commission of a crime cannot be the basis for disability benefits and impairments occurring during imprisonment cannot be the basis for disability benefits during the period of imprisonment.

Presently, benefits may continue to be paid to incarcerated felons who are either retired workers, widow or widower beneficiaries, spouses of retired or disabled workers, and to those DI beneficiaries in a court-approved rehabilitation program.

Committee amendment

The Committee amendment would expand present law to eliminate all benefits to felons during their period of incarceration. Benefits of dependents and survivors of incarcerated felons would not be affected.

Effective date.—Applicable to benefits paid for the month after enactment.

OASDI Cost: Negligible.

ELIMINATE BENEFITS TO ALIENS

(Section 124 of the Bill)

Present law

There are no citizenship or residence requirements for receiving social security cash benefits (OASDI). Any alien in the U.S.—whether legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he has engaged in covered employment and otherwise meets the eligibility requirements. Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker.

About \$1 billion is being paid annually to the 314,000 beneficiaries who reside abroad. About 70% of these beneficiaries are aliens.

Committee amendment

The Committee amendment provides that, in the future, benefits would be eliminated to alien workers, their dependents and survivors who reside abroad. No benefits would be paid to alien dependents of alien workers who were acquired (through marriage, birth or adoption) while outside the United States. However, benefits would be paid under the following conditions:

(1) the worker is the citizen of a country with which the United States has a treaty or totalization agreement which provides for reciprocity of social security coverage; and

(2) benefits would continue until total benefits paid to the wage earner and dependents equal taxes paid by the wage earner.

Effective dates.—This amendment would apply to new eligibles on or after January 1, 1985.

OASDI SAVINGS

[Dollars in billions, calendar years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|---|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Short range..... | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Long range: .01 percent of taxable payroll. | | | | | | | | |

¹ Savings of less than \$50 million.

FAIL-SAFE PROVISION

(Section 125 of the Bill)

Present law

Presently, there are no "fail-safe" provisions in the social security system that ensure benefit payments can be met on an ongoing basis in the face of adverse economic conditions. (The Board of Trustees is required to report immediately to the Congress if any of the trust funds is "unduly small".)

Committee amendment

Under the Committee amendment, the Secretary of Health and Human Services would be required to make an annual evaluation of the projected balances in the cash benefits trust funds, taking into account future cost-of-living increases. If the cash benefits (OASDI) fund reserves are projected to decline from the start of the next year to the start of the following year and to then be less than 20 percent of a year's benefits, the Secretary would be required to notify the Congress and if no action is taken, to scale back the COLA to the extent necessary to prevent a decline which would leave the reserves below that level.

Insofar as possible, the limitation on the COLA would be applied to people whose benefits are based on a primary benefit level of more than \$250 per month. The determination as to whether a limitation on the cost-of-living increase was necessary would be made only after taking into account all other statutory provisions for assuring adequate funds. The Secretary would have to notify Congress by July 1 of each year in which he finds that action to limit the next cost-of-living increase would be required under this provision. Since cost-of-living increases will be reflected in the January checks, this would give Congress several months in which to provide additional funding or to address the problem in any other manner the Congress might find to be appropriate.

The Committee views this provision as a last resort which would come into play only after all other authorities for maintaining trust fund solvency had been exercised. Thus, for example, other provisions in this legislation for such procedures as interfund borrowing and normalization of tax transfers would be invoked before this provision would be operative to the extent that such procedures are authorized by law. Under current projections such measures should be sufficient to keep fund balances from declining to dangerous levels. If, however, unexpected adverse situations should develop, this provision would assure that sufficient reserves were

maintained so that regular, timely payment of monthly benefit checks would not be placed in jeopardy.

This provision would implement the recommendation of the National Commission on Social Security Reform that this social security financing legislation include provision for a "fail-safe" mechanism.

Effective date.—Determinations beginning July 1, 1984.

OASDI Cost Impact: This provision is not expected to be utilized under the 1983 Trustees intermediate (II-B) assumptions.

PART C—REVENUE PROVISIONS

A. Taxation of social security and railroad retirement benefits (sec. 131 of the bill, new Code secs. 86 and 6050, and Code secs. 861, 871, 1441, and 6103)

Present law

Under present law, social security benefits are excluded from the gross income of the recipient. Their exclusion is based upon a series of administrative rulings issued by the Internal Revenue Service in 1938 and 1941 (see I.T. 3194, 1938-1 C.B. 114, I.T. 3229, 1938-2 C.B. 136, and I.T. 3447, 1941-1 C.B. 191). Railroad retirement benefits are excluded from gross income under the Railroad Retirement Act.

In general, the gross amount of fixed or determinable annual or periodic income (which is not effectively connected with a U.S. trade or business) received by a nonresident alien from U.S. sources is subject to a 30-percent tax (Code sec. 871); this tax is collected by withholding (sec. 1441). A pension for services performed in the United States would be U.S.-source income and the gross amount of a U.S.-source pension is subject to the 30-percent withholding tax or a lower rate if so provided by treaty. The U.S. Model Income Tax Treaty, as well as a number of actual tax treaties to which the United States is a party, provides reciprocally that pensions received by a resident of one country from sources in the other country are taxable only by the country of residence. However, the United States has reserved the right to tax social security benefits in the U.S. Model Income Tax Treaty and a number of actual tax treaties.

Reasons for change

The Committee believes that the present policy of excluding all social security benefits from a recipient's gross income is inappropriate. The committee believes, further, that social security benefits are in the nature of benefits received under other retirement systems, which are subject to taxation to the extent they exceed a worker's after-tax contributions and that taxing a portion of social security benefits will improve tax equity by treating more nearly equally all forms of retirement and other income that are designed to replace lost wages (for example, unemployment compensation and sick pay). Furthermore, by taxing social security benefits and appropriating these revenues to the appropriate trust funds, the financial solvency of the social security trust funds will be strengthened.

Because Tier 1 benefits provided under the Railroad Retirement Act are largely equivalent to social security benefits, the committee believes that corresponding changes also should be made in the tax treatment of these benefits. That is, a portion of railroad retirement benefits also should be subject to income taxation.

By taxing only a portion of social security and railroad retirement benefits (that is, up to one-half of benefits in excess of a certain base amount), the Committee's bill assures that lower-income individuals, many of whom rely upon their benefits to afford basic necessities, will not be taxed on their benefits. The maximum proportion of benefits taxed is one-half in recognition of the fact that social security benefits are partially financed by after-tax employee contributions. The bill's method for taxing benefits assures that only those taxpayers who have substantial taxable income from other sources will be taxed on a portion of the benefits they receive.

Taxation of social security and railroad retirement benefits

Under the committee's bill, a portion of social security benefits will be included in the gross income of recipients whose adjusted gross income exceeds certain levels. (This provision is not intended to change the tax treatment of social security benefits paid by foreign governments; these benefits have been held by Treasury to be fully includible in gross income (Rev. Rul. 62-1979, 1962-2, C.B. 20)). The bill defines a "social security benefit" as any amount received by the taxpayer by reason of entitlement to either (1) a monthly benefit under title II of the Social Security Act (Federal Old-Age, Survivors, and Disability Insurance Benefits (OASDI)), or (2) Tier 1 benefit under the Railroad Retirement Act of 1974. A Tier 1 benefit generally is a monthly benefit equal to what an individual would receive if the formula for computing social security benefits were applied to the individual's history of covered wages under both the social security and railroad retirement systems.

Social Security benefits, to the extent they are taxable, will be included in the taxable income of the person who has the legal right to receive the benefits. For example, benefits paid to a child (or on behalf of a child under section 203(i) of the Social Security Act) will be considered to be the child's and will be added to the child's other income to determine whether they are taxable. The amount of benefits received refers to benefit payments after reductions under such provisions as actuarial reductions, family maximum, and the earnings test, but includes certain amounts that may be withheld from benefits, such as payments of supplementary medical insurance premiums, where the amounts withheld are for the purpose of meeting a financial obligation incurred by the individual entitled to receive such benefit payments. In addition, the amount of any social security benefits received will include the total amount of the benefits without any reduction for attorneys' fees, if any, paid in order to enable an individual to receive those benefits. The committee expects the Secretary of the Treasury to provide guidance on the extent to which expenses (such as attorneys' fees) incurred in perfecting claims to social security benefits may be deducted, now that some of the social security benefits may be taxed.

Social security benefits that will be included in the gross income of a taxpayer for a taxable year will be limited to the lesser of (1) one-half of the social security benefits received, or (2) one-half of the excess of the sum of the taxpayer's adjusted gross income, interest on obligations exempt from tax, and one-half of the social security benefits received, over the appropriate base amount. Thus, the maximum proportion of social security benefits that will be included in the gross income of any taxpayer will be one-half of benefits. This provision does not affect the exclusion for interest on tax-exempt obligations. Rather, it merely includes that interest in the base for the purpose of determining the amount of an individual's social security benefits that will be taxed.

The base amount is \$32,000 in the case of a married individual filing a joint return; zero in the case of a married individual filing a separate return, unless he or she lived apart from his or her spouse for the entire taxable year; and \$25,000 in the case of all other individuals.

The base amount is zero for married individuals filing separate returns because the committee believes that the family should be treated as an integral unit in determining the amount of social security benefit that is includible in gross income under this provision. If the base amount for these individuals were higher, couples who are otherwise subject to tax on their benefits and whose incomes are relatively equally divided would be able to reduce substantially the amount of benefits subject to tax by filing separate returns.

For the purpose of determining how much of a taxpayer's social security benefit will be included in gross income, a taxpayer will be permitted to reduce benefits received during the taxable year by the amount of benefits, previously received during the current or any preceding taxable year, that he repays during the taxable year. This provision is necessary to prevent a taxpayer from being subject to taxation on his benefits in those situations in which a taxpayer must repay a portion of those benefits because he has been overpaid previously. A taxpayer will be permitted an itemized deduction, to the extent allowed under section 165, for repayments of social security benefits which had been included in gross income in a previous year, to the extent that the repayments exceed social security benefits received by the taxpayer, and not repaid, during the taxable year. Alternatively, if such amount repaid exceeds \$3,000, the taxpayer has the option under section 1341 to compute tax for the taxable year without the deduction and to subtract from that amount the reduction in tax that would have resulted from excluding the amount repaid from income for the year of the overpayment.

The committee's bill provides an elective, special rule for taxpayers who receive lump-sum payments. This rule was determined to be necessary because in some situations involving lump-sum payments of benefits attributable to prior years, the general income-averaging rules may not provide adequate relief.

If this special rule is elected, the taxpayer will determine the tax for the taxable year of receipt of the lump-sum payment by including in gross income for the current year the sum of the increases in gross income that result solely from taking into account the appro-

appropriate portions of the lump-sum payment in the taxable year to which they are attributable. The committee intends that when lump-sum payments are made, the Social Security Administration or Railroad Retirement Board will notify the recipients thereof of the taxable years to which the payments are attributable.

Social security benefits are to be treated as a pension or annuity and, therefore, not treated as earned income, for purposes of the earned income credit, the deduction for contributions to individual retirement arrangements, the deduction for two-earner couples, and the foreign earned income exclusion.

Returns relating to social security benefits

Information reporting will be required with respect to benefit payments. Specifically, the appropriate Federal official (*i.e.*, the Secretary of Health and Human Services, in the case of social security benefits, and the Railroad Retirement Board, in the case of railroad retirement benefits) will be required to report to the Treasury (1) the aggregate amount of benefits paid with respect to any individual during any calendar year; (2) the aggregate amount of benefits repaid by the individual during the calendar year; and (3) the name and address of the individual with respect to whom benefits are paid. In addition, each individual receiving social security or railroad retirement benefits will be furnished with a written statement showing (1) the name of the agency making the payments, and (2) the aggregate amount of payments and repayments. This statement will be due by January 31 of the year following the year in which social security benefits are paid.

Treatment of nonresident aliens

The committee's bill provides that social security benefits paid by the United States are U.S.-source income for purposes of the Code, including the foreign tax credit. In addition, one-half of social security benefits paid to nonresident aliens will be subject to the general 30-percent tax which will be collected by withholding. The committee's bill is not intended to override the treatment of social security benefits provided in existing income tax treaties to which the United States is a party.

The committee's bill permits the Secretary of the Treasury to disclose to the Social Security Administration or the Railroad Retirement Board available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a resident or citizen of the United States. This information, which may be disclosed upon written request, may be disclosed to the Social Security Administration and the Railroad Retirement Board only for purposes of carrying out their responsibilities for withholding taxes from social security benefits of nonresident aliens. Any return information disclosed under this provision will be subject to the present law requirements regarding recordkeeping and safeguarding of return information.

Transfers to trust funds

The committee's bill appropriates to each payor fund the increase in Federal income tax liabilities attributable to taxing social

security benefits. This amount is the difference between total income tax liabilities for the year and what income tax liabilities would have been without the application of the Code sections which provide for the taxation of benefits. A "payor fund" is any trust fund or account from which payments of social security benefits are made.

The appropriated amounts are to be transferred from time to time (but no less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury. Transfers to the payor funds may be based on the proportion of each type of benefit as a share of the total benefits potentially includible in gross income under these provisions. For example, suppose that after adding OASI benefits, DI benefits and Tier I railroad retirement benefits the shares of these in the total are 80 percent, 16 percent, and 4 percent, respectively. These percentages of the increase in tax liabilities described above may then be transferred to the respective funds.

Any quarterly payment to a payor trust fund must be made on the first day of the quarter and must take into account social security benefits estimated to be received during the quarter. Proper adjustments are to be made in the amounts subsequently transferred to the extent that prior estimates were in excess of, or less than, the amounts required to be transferred. A final determination of the amount required to be transferred for a year may be based on an estimate derived from the appropriately weighted sample of individual income tax returns for that year which is used as the basis for the Internal Revenue Service's publication of statistics of income for that year under Code section 6108. In making these estimates, the Secretary of the Treasury need not take account of certain provisions of the tax law that might affect an individual's tax liability (*e.g.*, income averaging, loss carrybacks, etc.) if these provisions are judged to have an inconsequential effect on the estimates.

The Secretary of the Treasury will be required to submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board concerning (1) the transfers made during the year, and the methodology used in determining the amount of the transfers and the funds or account to which made, and (2) the anticipated operation of the transfer mechanism during the next five years.

Taxation of Tier One railroad retirement benefits

The Committee's bill provides that railroad retirement "Tier 1" benefits are subject to taxation to the same extent and in the same manner as monthly benefits payable under title II of the Social Security Act. As a result of this change, certain amounts will be transferred regularly to the Railroad Retirement Account.

Under the financial interchange between railroad retirement and social security, however, the social security trust funds are placed in the same position they would have been in if railroad employment were covered under social security. Therefore, the committee understands that existing law requires that the proceeds of income taxes on those railroad retirement benefits which are strictly equivalent to social security benefits are to be credited to the

social security trust funds through adjustments in the financial interchange. This will produce exactly the same result as if the social security system had paid that portion of the tier I benefits which are strictly equivalent to social security benefits and had received the proceeds of the income tax on these benefits.

Effective date

In general, the provisions will apply to benefits received after December 31, 1983, in taxable years ending after that date. However, the provisions will not apply to benefits received after December 31, 1983, if the generally applicable payment date of these benefits was before January 1, 1984.

B. Acceleration of increases in FICA taxes; 1984 employee tax credit (sec. 132 of the bill; secs. 3101, 3111, and new sec. 3510 of the code)

Present Law

Under present law, several increases in social security payroll tax (FICA) rates are already scheduled to take effect between 1985 and 1990, as shown in the following table:

EMPLOYER-EMPLOYEE RATE (EACH)

| Year | OASDI | HI | OASDI-HI |
|-----------|-------|------|----------|
| 1984..... | 5.4 | 1.30 | 6.70 |
| 1985..... | 5.7 | 1.35 | 7.05 |
| 1986..... | 5.7 | 1.45 | 7.15 |
| 1987..... | 5.7 | 1.45 | 7.15 |
| 1988..... | 5.7 | 1.45 | 7.15 |
| 1989..... | 5.7 | 1.45 | 7.15 |
| 1990..... | 6.2 | 1.45 | 7.65 |

Reasons for change

In conjunction with other changes in the law which are designed to help insure the solvency of the OASDI Trust Funds, the committee has found it necessary to advance the OASDI increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988. In order to cushion the impact on workers of the first change, a one-time tax credit is provided to employees equal to the 1984 increase in the employees FICA tax.

Explanation of provision

The bill provides a new schedule of OASDI rates and leaves HI rates unchanged. The new OASDI rates and combined OASDHI rates are as follows:

EMPLOYER-EMPLOYEE RATE (EACH)

| Year | OASDI | HI | OASDI-HI |
|-----------|-------|------|----------|
| 1984..... | 5.70 | 1.30 | 7.00 |
| 1985..... | 5.70 | 1.35 | 7.05 |
| 1986..... | 5.70 | 1.45 | 7.15 |

EMPLOYER-EMPLOYEE RATE (EACH)—Continued

| Year | OASDI | HI | OASDI- HI |
|-----------|-------|------|--------------|
| 1987..... | 5.70 | 1.45 | 7.15 |
| 1988..... | 6.06 | 1.45 | 7.51 |
| 1989..... | 6.06 | 1.45 | 7.51 |
| 1990..... | 6.20 | 1.45 | 7.65 |

Because railroad retirement (RR) payroll taxes are linked to the rates for social security, the committee's bill also provides similar increases in the corresponding railroad retirement taxes.

The bill provides employees a credit equal to 0.3 percent of compensation subject to the FICA and RR taxes and to payments of amounts equivalent to FICA taxes under section 218 of the Social Security Act. Because the credit is to be taken into account at the time the tax is collected (by deduction from the employees' wages or otherwise), the net OASDI employee tax rate for 1984 will be 5.40 percent. However, employees' annual wage statements are to show the gross FICA tax (7.00 percent of wages) and the credit amount (0.3 percent of wages) separately. As under present law, the appropriation of funds into, for example, the OASDI trust funds will be based on the gross OASDI employee tax rate, which will be 5.70 percent and, thus, will not be affected by the credit.

Effective date.—These provisions will apply to remuneration paid after December 31, 1983.

C. Self-employment income tax and credit (secs. 133 of the bill and secs. 43, 164, 275, 401, 1401, and 1402 of the Code)

Present Law

The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Self-employed persons pay an OASDI tax rate that is equal to approximately 75 percent of the combined employer-employee rate and an HI tax rate that is equal to 50 percent of the combined employer-employee rate.

The presently scheduled OASDI rates for self-employment income are as follows:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent: |
|------------------------|----------------------|----------|
| December 31, 1981..... | January 1, 1985..... | 8.05 |
| December 31, 1984..... | January 1, 1990..... | 8.55 |
| December 31, 1989..... | | 9.30 |

The HI rates for self-employment income are as follows:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent: |
|------------------------|----------------------|----------|
| December 31, 1980..... | January 1, 1985..... | 1.30 |
| December 31, 1984..... | January 1, 1986..... | 1.35 |

IN THE CASE OF A TAXABLE YEAR—Continued

| Beginning after: | and before: | percent: |
|-------------------------|-------------|----------|
| December 31, 1985 | | 1.45 |

Under present law, the expenses of compensation or purchased services, including wages, the employer FICA tax, and payments to self-employed individuals are deductible, for income tax purposes, as business expenses. However, neither the employee FICA tax nor the SECA tax is deductible.

Reasons for change

The committee is concerned that, under the current system, self-employed individuals pay into the social security system less than employers and employees, taken together, contribute for equal benefits. Thus, even though an employer may take an income tax deduction for his share of the payroll tax paid on behalf of an employee and Federal revenues would be reduced thereby, the social security trust funds received less than is necessary to provide benefits to self-employed individuals. This disparity in receipts contributes to the financial difficulties of the social security system.

Explanation of provisions

Under the bill, the OASDI rate on self-employment income will be equal to the combined employer-employee OASDI rate, and the HI tax rate on self-employment income will be equal to the combined employer-employee HI rate. In order to cushion the impact of the increase, the bill provides a permanent credit against SECA taxes.

The OASDI tax rate on self-employment income will be:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent: |
|-------------------------|-----------------------|----------|
| December 31, 1983 | January 1, 1988 | 11.40 |
| December 31, 1987 | January 1, 1990 | 12.12 |
| December 31, 1989 | | 12.40 |

The HI rate for self-employed persons will be:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent: |
|-------------------------|-----------------------|----------|
| December 31, 1983 | January 1, 1985 | 2.60 |
| December 31, 1984 | January 1, 1986 | 2.70 |
| December 31, 1985 | | 2.90 |

Beginning in 1984, self-employed persons will be entitled to a permanent credit against SECA tax. For 1984, the credit will be 2.9 percent of self-employment income. For 1985, the credit will be 2.5 percent. For 1986, the credit will be 2.2 percent. For 1987-1989, the

credit will be 2.1 percent. For 1990 and subsequent years, the rate of the credit will be 2.3 percent. The SECA tax credits may be taken directly into account in computing SECA liability for a taxable year and estimated tax payments for that year.

The SECA tax credits will not reduce the revenues of the social security trust funds, since under the Social Security Act, appropriations into the trust funds will be based on the SECA tax rates specified above without regard to the credits allowed against such taxes.

Effective date.—The provisions will be effective for taxable years beginning after December 31, 1983.

REALLOCATION OF OASDI TAX RATE

(Section 141 of the Bill)

Present law

The tax rate allocation between OASI and DI is fixed in the law. The following table displays the allocation for employers, employees and the self-employed:

OASDI TAX RATES

(In percent)

| | Employers and employees, each | | | Self-employed | | |
|---------------------|-------------------------------|-------|-------|---------------|--------|-------|
| | OASI | DI | OASDI | OASI | DI | OASDI |
| 1982 to 1984..... | 4.575 | 0.825 | 5.4 | 6.8125 | 1.2375 | 8.05 |
| 1985 to 1989..... | 4.750 | .950 | 5.7 | 7.1250 | 1.4250 | 8.55 |
| 1990 and later..... | 5.100 | 1.100 | 6.2 | 7.6500 | 1.6500 | 9.30 |

Committee amendment

The Committee amendment would reallocate the OASDI tax so that both trust funds will have about the same reserve ratios (i.e., reserves at the beginning of a year as a percentage of outgo during the year). This is the same as the recommendation of the National Commission on Social Security Reform.

The following table displays the new allocation for the OASDI tax rate:

(In percent)

| | Employers and employees, each | | | Self-employed | | |
|---------------------|-------------------------------|-------|-------|---------------|--------|-------|
| | OASI | DI | OASDI | OASI | DI | OASDI |
| 1983..... | 5.075 | 0.625 | 5.7 | 10.4625 | 0.9375 | 11.40 |
| 1984 to 1987..... | 5.20 | .50 | 5.7 | 10.4 | 1.0 | 11.40 |
| 1988 to 1989..... | 5.53 | .53 | 6.06 | 11.06 | 1.06 | 12.12 |
| 1990 to 1999..... | 5.60 | .60 | 6.20 | 11.2 | 1.20 | 12.40 |
| 2000 and later..... | 5.55 | .65 | 6.20 | 11.1 | 1.30 | 12.40 |

Effective.—The first reallocation would apply for 1983.

INTERFUND BORROWING EXTENSION

(Section 142 of the Bill)

Present law

Public Law 97-123 authorized, through December 31, 1982, borrowing between the OASI, DI, and HI trust funds whenever it was determined by the Managing Trustee (the Secretary of Treasury) that additional funds were needed to pay benefits. The Conference Report specified that amounts borrowed could not exceed what was required to ensure benefit payments through June 1983. Under this authority, and to fulfill this purpose, \$17.5 billion was transferred to the OASI trust fund from the DI and HI trust funds in 1982 (of which \$12.4 billion was from HI).

Under the law, the borrowing fund is required to make periodic interest payments on outstanding balances. Also the loan must be repaid when the Managing Trustee determines that the assets of the borrowing fund are sufficient to begin repayment.

Committee amendment

Through 1987, the committee amendment would authorize inter-fund borrowing between the OASI, DI, and HI trust funds. The following protections would be provided for the HI trust fund: (1) interest would be paid monthly to HI on any outstanding loans to OASDI; (2) OASDI could not borrow from HI in any month the HI trust fund ratio is under 10 percent (with no more to be borrowed than would reduce such ratio to 10 percent); (3) in 1983-87, OASDI would repay loans from HI whenever the OASDI fund ratio at the end of the year exceeds 15 percent; and (4) in 1988-89, OASDI would repay HI, in 24 equal monthly payments, the loan balance outstanding at the end of 1987 (plus interest on any outstanding loan balance).

Similar protections would be provided for the OASI and DI trust funds in the event that HI were to borrow from OASDI.

The amendment is similar to the recommendation of the National Commission on Social Security Reform to authorize, through 1987, interfund borrowing between the OASI and DI trust funds and to the OASI and DI trust funds from the HI trust fund.

Under the Committee amendment, using intermediate cost estimates the amounts available from the HI trust fund for loans (in excess of the 10 percent requirement) to the OASDI trust funds would be about \$7 billion in 1984, \$5 billion in 1985, \$4 billion in 1986, and \$3 billion in 1987; however, under this estimate the OASDI trust funds would not need any further loans in 1983-87. Under the pessimistic cost estimate, such amounts available from the HI trust fund would be about \$6 billion in 1984, \$4 billion in 1985, and zero in 1986-87; however, under this estimate the OASDI trust funds would not need any further loans in 1983-87 (although slightly worse experience during that period would make loans necessary).

Effective.—On enactment.

CREDIT AMOUNTS OF UNNEGOTIATED CHECKS TO THE TRUST FUNDS

(Section 143 of the Bill)

Present law

The social security trust funds are not credited for OASDI benefit checks which remain uncashed. Instead, the value of benefit checks which are not cashed remains in the General Fund of the Treasury.

Committee amendment

The Committee amendment would provide for a lump-sum payment to the OASDI trust funds from the General Fund representing the amount of uncashed benefit checks which have been issued in the past. In addition, it would require the implementation of a procedure under which: (1) the Treasury Department would make it possible to distinguish OASDI checks from other government checks; and (2) the trust funds would be credited on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of twelve months. This is similar to the recommendation of the National Commission on Social Security Reform which required only the initial lump sum transfer, assuming that future transfers were already provided for.

Effective date.—The lump sum transfer would be made in the month following the month of enactment of this provision.

OASDI REVENUE GAIN

[In billions, calendar years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|-------------------------|-------|------------------|------------------|------------------|------------------|------------------|------------------|---------|
| Short range..... | \$0.8 | (¹) | \$1.1) | (^{1}) | (^{1}) | (^{1}) | $1.1 |
| Long range: negligible. | | | | | | | | |

¹ Less than \$50 million.

MILITARY WAGE CREDITS

(Sections 144 and 145 of the Bill)

Present law

Since 1946, the OASDI system has provided gratuitous wage credits to persons who serve in the military forces. Such military personnel have been credited with earnings (upon which benefits are based) for which no payroll taxes have been paid. Two types of credits have been given: (1) for World War II veterans, noncontributory wage credits of up to \$1,920 per year for active military service from 1940 to 1957; and (2) noncontributory wage credits of \$1,200 per year for military service performed after 1956 to recognize the value of non-cash compensation, such as food, shelter and medical services. (In 1957, members of the military were compulsorily covered under social security.)

To finance the costs incurred in paying the benefits based on periods of military service for which no contributions were made, the

social security trust funds receive reimbursements from the General Fund of the Treasury. The annual reimbursement to the trust funds has been about \$700 million in recent years.

Committee amendment

The Committee amendment would credit the OASDHI trust funds, in a lump sum, with an amount equal to the estimated additional cost of providing future benefits based on pre-1957 military wage credits. In addition, the OASDHI trust funds would be credited with a lump sum payment equaling the taxes that would have been collected and the interest that would have been earned if the credits for service after 1956 and before 1983 had been taxed as they were earned, less the reimbursements already received. Beginning in 1983, a general fund appropriation would reimburse the trust funds on a current basis for the employer-employee taxes on additional military wage credits given for non-cash compensation.

This is the same as the recommendation of the National Commission on Social Security Reform except that the Committee has extended the provision to include HI.

Effective date.—Lump sum is payable in the month following the month of enactment. Lump sums would be payable within 30 days after the enactment of this provision.

OASDI REVENUE GAIN

(In billions, calendar years)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|--|--------|--------|--------|--------|--------|--------|--------|---------|
| Short range..... | \$18.4 | -\$0.4 | -\$0.4 | -\$0.3 | -\$0.4 | -\$0.4 | -\$0.4 | \$16.0 |
| Long range: plus .01 of taxable payroll. | | | | | | | | |

TRUST FUND INVESTMENT PROCEDURE

(Section 146 of the Bill)

Present law

Payroll tax revenues which are in excess of the amount necessary to pay current benefits must be invested, generally in "special issue" obligations available for purchase only by the trust funds. Such obligations have maturities fixed with "due regard" for the needs of the trust funds and bear an interest rate equal to the average market yield on all marketable, interest bearing obligations of the U.S. government which are not due or callable for at least 4 years.

The maturity dates on new special issues and the redemption schedule for trust fund investments are not set by law, but by Treasury procedure. The Treasury attempts to set the maturity dates for special issues from 1 to 15 years—so that about $\frac{1}{15}$ of the total portfolio comes due in each of the next 15 years. When securities must be sold to meet benefit obligations, special issues with the shortest duration until maturity are sold first. In the event that

there are several securities with the same duration until maturity, those with the lowest interest rate are sold first.

Committee amendment

The Committee amendment provides for reinvesting all trust fund assets each month at a rate of interest based on the average market rate on all public-debt obligations currently held by Treasury with a duration of four or more years until maturity.

The amendment would require the Managing Trustee to: (1) redeem all present special issues at their face amount; (2) redeem all flower bonds (marketable government bonds which, for inheritance tax purposes, are redeemable at par) at their current market values; and (3) invest, on a monthly basis, the redeemed investments and all future funds only in separate depository accounts for each of the trust funds.

This is similar to the recommendation of the National Commission on Social Security Reform, except that the Commission recommended investing in special issues.

Effective.—The first day of the first month beginning more than 30 days after the date of enactment.

Revenue Gain. No significant gain or loss anticipated.

PUBLIC MEMBERS ON BOARD OF TRUSTEES

(Section 147 of the Bill)

Present law

The Board of Trustees of the four social security trust funds (Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplemental Medical Insurance) consists of, ex officio, the Secretaries of the Treasury, Health and Human Services, and Labor, with the Secretary of the Treasury serving as the managing trustee. Among other responsibilities, the Board of Trustees is required to report to Congress each year on the operation and status of the trust funds, review the general policies followed in managing the trust funds, and recommend changes in such policies.

Committee amendment

The Committee amendment would add two public members to the Board of Trustees of the OASDI, HI, and SMI trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party. Public members would not be considered fiduciaries and would not be personally liable for actions taken in such capacity with respect to the trust funds.

The National Commission on Social Security Reform also proposed that the Board of Trustees of the OASDI trust funds be expanded to include two public members.

Effective.—On enactment.

Cost.—None.

ACCELERATE STATE AND LOCAL DEPOSITS

(Section 148 of the Bill)

Present law

Requires the deposit of withheld social security taxes for State and local employees within thirty days after the end of the month in which the applicable wages were paid.

By contrast, the frequency with which deposits of social security taxes and income taxes are made by private employers is determined under regulations issued by Treasury and vary in accordance with the tax liability of the employer. Deposits are required as frequently as every week for employers with large liabilities and as infrequently as every three months for employers with smaller liabilities.

Although State and local governments are now governed by the same rules as private employers with regard to depositing withheld income taxes, deposits of social security taxes continue to be treated differently.

Committee amendment

The Committee amendment would apply the same social security tax deposit requirements to State and local governments that now apply to private employers.

Effective date.—Effective for deposits required to be made after December 1983.

OASDI REVENUES

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|-------------------------|-------|-------|-------|-------|-------|-------|---------|
| Short range..... | \$1.4 | \$0.1 | \$0.1 | \$0.1 | \$0.3 | \$0.2 | \$2.2 |
| Long-range: Negligible. | | | | | | | |

TRIGGERED NORMALIZATION OF TAX TRANSFERS

(Section 149 of the Bill)

Present law

Under current procedures, social security taxes are transferred to the trust funds on a daily basis on Treasury estimates of amounts collected. OASDI benefit payments, however, are concentrated at the start of the month creating the need for high balances in the OASDI trust funds during the first week of the month.

Committee amendment

The Committee amendment provides that, when at the start of any month, the Secretary of Treasury determines that the reserves of the OASDI trust funds are inadequate to meet 1½ months of benefits (reserves less than 12% of outgo), the Secretary would be required to credit the trust funds on the first day of the next month with the full payroll tax revenues estimated for the month.

Interest would be paid to the General Treasury on the excess sums so transferred at a rate equal to the average 91-day Treasury bill rate during the month, with such interest being payable at the end of each month.

Effective.—On enactment through 1987 (when the authority for interfund borrowing expires).

Cost.—Negligible.

Treatment of certain deferred compensation and salary reduction arrangements (sec. 150 of the bill and sec. 3121(a) of the Code).

Present law

Cash or deferred arrangements

Under a qualified cash or deferred arrangement (sec. 401(k)) forming a part of a tax-qualified profit-sharing or stock bonus plan, a covered employee may elect to have the employer contribute an amount to the plan on the employee's behalf or to receive such amount directly from the employer in cash. Amounts contributed to the plan pursuant to the employee's election are treated as employer contributions to the plan and are excluded from the employee's taxable income and social security wage base.

Amounts distributed with respect to an employee under a qualified plan generally are includible in the recipient's income, but are excluded from the social security wage base.

Tax-sheltered annuities

Under present law, tax-sheltered annuities (sec. 403(b)) may be purchased on an individual basis for employees of public schools or tax-exempt religious, charitable, and other organizations described in section 501(c)(3). Subject to certain limitations, amounts paid by the employer to purchase the annuity are excluded from the employee's income. A tax-sheltered annuity may be purchased for an employee pursuant to a salary reduction agreement between the employer and the employee.

The Internal Revenue Service has ruled that amounts paid for a tax-sheltered annuity pursuant to a salary reduction agreement are includible in the employee's social security wage base, even though such amounts may not be subject to income tax withholding. The validity of the ruling position is in doubt in light of the Supreme Court decision in *Rowan Companies, Inc. v. United States* (see following section of this report).

Amounts distributed under a tax-sheltered annuity generally are includible in the recipient's income, but are excluded from the social security wage base.

Cafeteria plans

Under an employer's cafeteria plan (sec. 125), a covered employee may choose among various benefits, which may include cash, taxable benefits, or nontaxable benefits. If certain requirements are met, amounts applied under a cafeteria plan toward nontaxable benefits (e.g., accident and health benefits or plan contributions under a qualified cash or deferred arrangement) are excluded from the employee's income and generally from the social security wage

base. Taxable benefits chosen by the employee (e.g., cash) are includible in income and generally includible in the wage base.

Eligible State deferred compensation plans

Under an eligible State deferred compensation plan (sec. 457(a)), an employee of a State or local government or a rural electric cooperative may elect to defer compensation, subject to certain limits. Amounts deferred under an eligible plan are excluded from income until paid to the employee under the plan. Eligible State deferred compensation plans generally are not retirement plans for purposes of the rules defining "wages" includible in the social security wage base. (For example, the income tax rules for eligible plans permit distributions to an employee after age 59½ without regard to whether the employee is retired.) Thus, amounts deferred are includible in the social security wage base at the time of the deferral if the plan is not a retirement plan.

Non-qualified deferred compensation plans

Under present law (sec. 3121(a)), standby pay or payments made to an employee on account of retirement, either on an individual basis or under a plan or system of the employer providing for employees generally, may be excluded from the social security wage base without regard to whether the payments are under a tax-qualified retirement plan (sec. 401(a) or 403(a)) or other tax-favored retirement savings program (e.g., a tax-sheltered annuity (sec. 403(b))).

Reasons for change

Generally, if an employee receives cash and then chooses to use these funds for personal savings or benefits, the amount of cash received is subject to FICA. This is true, for example, for contributions to an individual retirement account (IRA) even if the employer transmits the funds directly to the IRA account.

Under cash or deferred arrangements, certain tax-sheltered annuities, certain cafeteria plans, and eligible State deferred compensation plans, the employer contributes funds which are set aside by individual employees for individual savings arrangements, and thus, the committee believes that such employer contributions should be included in the FICA base, as is the case for IRA contributions. Otherwise, individuals could, in effect, control which portion of their compensation was to be included in the social security wage base. This would make the system partially elective and would undermine the FICA tax base.

The committee also believes that it is appropriate to exclude payments from the social security wage base where the payments are made from a tax-qualified or other tax-favored retirement plan. However, the committee does not believe that such tax-favored treatment under the FICA tax rules generally should be extended to deferred compensation plans which do not qualify for tax-favored treatment under the income tax rules.

Explanation of provision

Under the bill, an employer's plan contributions on behalf of an employee under a qualified cash or deferred arrangement will be

includible in the social security wage base for tax and coverage purposes to the extent that the employee could have elected to receive cash in lieu of the contribution. The provision is intended to apply to elective amounts under the cash or deferred arrangement and not to nonelective amounts contributed by employers to a qualified profit-sharing or stock bonus plan of which the arrangement may be a part.

The bill also provides that any amounts paid by an employer to a tax-sheltered annuity by reason of a salary reduction agreement between the employer and the employee would be includible in the employee's social security wage base. The committee intended that the provision would merely codify the holding of Revenue Ruling 65-208, 1965-2 Cum. Bull. 383, without any implication with respect to the issue of whether a particular amount paid by an employer to a tax-sheltered annuity is, in fact, made by reason of a "salary reduction agreement".

In addition, amounts subject to an employee's designation under a cafeteria plan that includes a qualified cash or deferred arrangement will be includible in the social security wage base to the extent that such amounts may be paid to the employee in cash or property or applied to provide a benefit for the employee that is not otherwise excluded from the definition of wages under section 3121 of the Code.

The bill would also include in the social security wage base amounts deferred under an eligible State deferred compensation plan (sec. 457(a)). The payment to such a plan would be treated as wages received in the year in which the services relating to the payment were performed. However, no change is made to the present-law self-employment tax (SECA) rules regarding amounts paid under an eligible State deferred compensation plan on behalf of an independent contractor.

Under the bill, nonqualified deferred compensation generally is includible in the social security wage base when it becomes available to the employee. For this purpose, nonqualified deferred compensation generally includes payments under a deferred compensation arrangement which is not (1) a tax-qualified plan, (2) an individual retirement arrangement (IRA), (3) a simplified employee pension (SEP), (4) a tax-sheltered annuity, or (5) a governmental plan. A governmental plan is one established and maintained for its employees by the Government of the United States, by any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing. However, elective deferrals under an eligible State deferred compensation plan (sec. 457(a)) are includible in the wage base as described in the preceding paragraph, and amounts payable under a deferred compensation plan of a State or local government which is not an eligible plan (sec. 457(e)(1) and (e)(2) (D) and (E)) are includible in the wage base when there is no substantial risk of forfeiture by the employee.

The bill also includes conforming changes to the provisions (sec. 3306) defining "wages" for purposes of the Federal Unemployment Tax Act (FUTA). Deferred compensation includible in the social security wage base under the bill would also be treated as wages for FUTA purposes. In addition, the bill provides that certain sick pay which is includible in the social security wage base under provi-

sions enacted in 1978 would also be treated as wages for FUTA purposes.

Effective date.—These changes apply to remuneration paid after December 31, 1983. Codification of Rowan decision with respect to meals and lodging (sec. 151 of the bill and sec. 3121(a) of the Code).

Present law

Under present law, amounts which constitute wages for income tax withholding purposes (Code sec. 3401) and amounts which constitute wages for social security tax purposes (Code sec. 3121) are separately defined. However, in *Rowan Companies, Inc. v. United States*, 452 U.S. 247 (1981), the Supreme Court held that the definition of wages for social security tax purposes and the definition of wages for income tax withholding purposes must be interpreted in regulations in the same manner in the absence of statutory provisions to the contrary.

At issue in *Rowan* was whether the value of meals and lodging provided employees at the convenience of the employer were wages for social security tax purposes (*i.e.*, were includable in the social security wage base). The value of such employer-provided meals and lodging may be excluded from the income of an employee (sec. 119). Treasury regulations required that the value of the meals and lodging be included in the social security wage base, but excluded such value from the definition of wages subject to income tax withholding. The Supreme Court decision invalidated those Treasury regulations which required that the value of the meals and lodging be included in the social security wage base.

Reasons for change

The social security program aims to replace the income of beneficiaries when that income is reduced on account of retirement and disability. Thus, the amount of "wages" is the measure used both to define income which should be replaced and to compute FICA tax liability. Since the security system has objectives which are significantly different from the objective underlying the income tax withholding rules, the committee believes that amounts exempt from income tax withholding should not be exempt from FICA unless Congress provides an explicit FICA tax exclusion.

Explanation of provision

The bill provides that, with the exception of the value of meals and lodging provided for the convenience of the employer, the determination whether or not amounts are includible in the social security wage base is to be made without regard to whether such amounts are treated as wages for income tax withholding purposes. Accordingly, an employee's "wages" for social security tax purposes may be different from the employee's "wages" for income tax withholding purposes. In addition, the bill provides that the definition of wages for social security tax and benefit purposes is revised to exclude the value of employer-provided meals and lodging to the extent such value is also excluded from the employee's gross income.

Effective date.—The provision applies to remuneration paid after December 31, 1983.

Treatment of contributions under simplified employee pensions (SEPs) (sec. 152 of the bill and sec. 3121(a)(5) of the Code)

Present law

Under present law, the Internal Revenue Code excludes from the social security wage base employer payments to or on behalf of an employee under a simplified employee pension (SEP). However, such employer contributions are treated as covered wages for social security benefit purposes.

Reasons for Change

The committee believes that it is inappropriate to treat employer payments to a SEP as covered wages for benefit purposes where such amounts are excluded from the social security wage base for tax purposes.

Explanation of provision

The bill amends the Social Security Act to exclude from the definition of covered wages for social security coverage purposes employer contributions to a SEP that are deductible as such by the employer. The bill makes clear that the exclusion applies, for both tax and coverage purposes, only with respect to the employer's contribution to a SEP, not with respect to the amount equivalent to the employee's contribution to an individual retirement arrangement (IRA).

Effective date.—This provision applies to remuneration paid after December 31, 1983.

ESTIMATED REVENUE EFFECTS OF CERTAIN COMMITTEE PROVISIONS¹

[In millions of dollars]

| Provision and receipts or liabilities | Calendar or fiscal year— | | | | | | Total |
|---|--------------------------|--------|--------|--------|--------|--------|---------|
| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Taxation of OASDI benefits:² | | | | | | | |
| Calendar year ³ | 2,637 | 3,181 | 3,847 | 4,603 | 5,500 | 6,544 | 26,312 |
| Fiscal year..... | 848 | 2,805 | 3,387 | 4,079 | 4,878 | 5,818 | 21,815 |
| Taxation of tier I railroad retirement benefits: | | | | | | | |
| Calendar year ⁴ | 61 | 71 | 81 | 94 | 108 | 124 | 538 |
| Fiscal year..... | 20 | 64 | 74 | 85 | 98 | 113 | 453 |
| Tax credit for 1984 FICA taxes:² | | | | | | | |
| Calendar year..... | 4,434 | | | | | | 4,434 |
| Fiscal year..... | 3,234 | 1,200 | | | | | 4,434 |
| SECA provisions:² | | | | | | | |
| Increase in OASDI and HI rates for SECA: | | | | | | | |
| Calendar year..... | 4,490 | 4,361 | 4,744 | 4,973 | 6,133 | 6,476 | 31,177 |
| Fiscal year..... | 1,497 | 4,447 | 4,489 | 4,820 | 5,360 | 6,247 | 26,860 |
| SECA credit: | | | | | | | |
| Calendar year..... | -2,800 | -2,596 | -2,427 | -2,428 | -2,565 | -2,709 | -15,525 |
| Fiscal year..... | -933 | -2,732 | -2,540 | -2,427 | -2,474 | -2,613 | -13,719 |
| Net effect: | | | | | | | |
| Calendar year..... | 1,690 | 1,765 | 2,317 | 2,545 | 3,568 | 3,767 | 15,652 |
| Fiscal year..... | 564 | 1,715 | 1,949 | 2,393 | 2,886 | 3,634 | 13,141 |

¹ In addition to the provisions shown, the committee estimates that the provisions regarding the inclusion in the FICA wage base of amounts received under certain deferred compensation and salary reduction agreements will increase receipts of the social security trust funds by \$2.0 billion during calendar years 1984 to 1989, inclusive.

² These estimates are consistent with the II-B assumptions used by the Social Security Administration in preparing the Trust Fund estimates shown elsewhere in this report.

³ These amounts are estimated to be transferred to the Social Security Trust Funds during the calendar year shown.

⁴ These amounts are estimated to be transferred to the Railroad Retirement Account during the calendar year shown.

TITLE II OF THE BILL

INCREASE THE SSI PAYMENT STANDARD AND MODIFY PASS- THROUGH REQUIREMENTS

(Sections 201 and 202 of the Bill)

Present law

The first \$20 of income received by an individual in a month is disregarded in determining SSI eligibility and benefit amount. The income may be earned or unearned (except for some income based on need, such as veterans' pensions, which is fully counted). The disregard was provided in the original statute in 1972 to ensure that persons who had contributed toward an entitlement, such as OASDI, were better off than those who had not. The amount of the disregard has not been increased since 1972.

Committee amendment

The Committee amendments would:

A. Increase the SSI payment standard applicable to all individuals by \$20 (\$30.00 for a couple) per month, effective July 1983; and

B. To help protect the States from increased costs resulting from this provision, expand current law to allow States to meet the "pass through" requirement for 1983 if they pass through the equivalent of the COLA that would have occurred under current law rather than the proposed monthly payment increase. Presently, States which provide payments to supplement the Federal SSI payment are required to pass through to recipients any Federal SSI cost-of-living increases. States have two basic options for meeting the pass through requirements: 1) they may maintain the supplementary payment levels that were in effect for categories of individual recipients in December 1976, or 2) they may make State supplementary payments in any current 12-month period that are no less, in the aggregate, than were made in the previous 12-month period.

The National Commission on Social Security Reform recommended that, effective July 1983, the SSI disregard be increased by \$30 per month for OASDI income (not other income) in determining an individual's SSI eligibility and benefit amount. The effect would have been to increase by \$30 the monthly income of those individuals who are entitled to both OASDI and SSI.

Presently, the maximum Federal SSI payment is \$284 monthly for an individual and \$426 monthly for a couple. After certain disregards, the amount of SSI actually received by an individual is reduced on account of other income.

SSI COST (BASED ON CBO ESTIMATES)

[In millions, fiscal years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|-------------------------------------|-------|-------|-------|-------|-------|-------|
| \$20 payment standard increase..... | \$250 | \$750 | \$845 | \$840 | \$875 | \$935 |

SSI ALERT

(Section 203 of the Bill)

Present law

Currently, there is no statutory requirement that OASDI beneficiaries be contacted and informed of potential eligibility for Supplemental Security Income (SSI) payments. However, since the beginning of the SSI program, the Social Security Administration has undertaken a number of outreach efforts to identify those potentially eligible. SSA routinely provides information about 581 eligibility and takes applications for SSI payments at the time of application for OASDI benefits if the applicant is potentially eligible for SSI payments. In addition, many State agencies and other private relief groups routinely refer clients to SSA. Presently, about 6.9 percent of elderly social security recipients also receive SSI.

Committee amendment

The Committee amendment would require the Secretary of Health and Human Services to notify, on a one-time basis, all elderly OASDI beneficiaries who are potentially eligible of the availability of SSI and encourage them to contact their district offices. In addition, the provision would require that the same information be included with the notification to OASDI beneficiaries of upcoming eligibility for Supplemental Medical Insurance.

Despite the current and past activities of the Social Security Administration to make persons potentially eligible for SSI aware of the existence of the program, the Committee believes that there may be currently needy OASDI beneficiaries who have been on the social security rolls for a period of time who may have applied for social security prior to the availability of SSI or who may not have been eligible at the time they applied but whose circumstances have since changed.

The Committee provision would alert those OASDI beneficiaries to the availability of the SSI program and would, in the future, also provide notification to those approaching the age of eligibility (age 65) through information contained with a notice of future eligibility for Supplemental Medical Insurance which is mailed approximately three months before a beneficiary attains age 65.

Effective date.—Notification to those on the rolls must be made before July 1, 1984.

Cost.—Unable to estimate.

TITLE III OF THE BILL

DESCRIPTION OF MEDICARE PROSPECTIVE PAYMENT PROVISION

GENERAL SUMMARY

Present law

Under current law, medicare reimburses hospitals on the basis of the "reasonable costs" they incur in providing covered services to beneficiaries, excluding any part of such costs found to be unnecessary in the efficient delivery of needed services. The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) expanded and added to existing medicare limits on reasonable cost reimbursement for hospitals by (1) expanding the existing "section 223" reimbursement limits to apply to total inpatient operating costs (not just routine costs) and (2) adding temporary growth rate limits (expiring after fiscal year 1985) which would rise annually by one percentage point plus the increase in the "market basket" of goods and services purchased by hospitals. TEFRA also directed the Secretary of the Department of Health and Human Services (HHS) to develop and report to Congress proposals for the reimbursement of hospitals under medicare on a prospective basis. The Department's report was submitted in late 1982, and its recommendations have been embodied in Administration-sponsored legislation. The Committee amendment is a modified version of the Administration's proposal.

Committee amendment

The committee amendment includes a major change in the method of payment under medicare for inpatient hospital services. Medicare payment for inpatient operating costs of hospitals would be determined in advance and paid on a per case basis. A fixed amount would be paid for each type of case, identified by the "diagnosis related group" (DRG) into which the case is classified. These changes are intended to create incentives for hospitals to operate in a more efficient manner, since hospitals would be allowed to keep payment amounts in excess of their costs and would be required to absorb any costs in excess of the DRG rates. Hospitals would be prohibited from charging medicare beneficiaries any amounts in excess of the deductibles and coinsurance provided for by law.

The committee amendment would be effective for individual hospital cost reporting periods beginning on or after October 1, 1983, and would be phased-in over a 3-year period.

1. *Prospective payment amounts*

Present law

Under current law, medicare payments for inpatient hospital services are retrospectively-determined based upon a hospital's reasonable costs, subject to certain limits. These reimbursement limits include (1) limits on a hospital's inpatient operating costs (the "section 223" limits) and (2) rate of increase limits on overall inpatient operating costs (a limit which expires after fiscal year 1985).

Committee amendment

(a) *Diagnosis-related groups (DRG's).*—Under the committee's amendment, the Secretary would be required to determine prospectively a payment amount for each medicare hospital discharge. Discharges would be classified into diagnosis related groups (DRG's) which classify patients into groups that are clinically coherent and relatively homogenous with respect to resource use. The DRG classification system, developed some years ago, has been improved in recent years and represents the most fully developed case classification system representative of a national data base and readily adaptable to a national program. The committee recognizes that in developing a separate payment rate for each DRG it will be necessary to rely on currently available data sources and to use a sample of cases, e.g., the 20 percent sample of medicare beneficiary bills (MEDPAR), to arrive at the DRG rates. The committee expects that the Secretary will refine the DRG rates as better data become available.

The committee recognizes that there may be insufficient data with which to calculate relative prices for some DRG's. Because of the small number of medicare cases in some diagnosis related groups. While this has not been a major problem in the past in the design of a case-mix adjustment using DRGs (in connection with the section 223 reimbursement limit under current law), it is important in the prospective payment system to establish a rate for every DRG whether or not it is likely that a case will actually occur. Therefore, the committee recognizes that the Secretary will need to rely on an alternative method for setting the prospective rate for low-volume DRG's—for example, by combining MEDPAR data for several years or by reference to an external source in which these DRG's are more common, e.g., data from State systems.

(b) *DRG payment rates.*—Under the committee's amendment the Secretary would be required to determine a national standard payment rate per discharge for each DRG. The rate would be the product of:

- (1) the average of the standardized cost per discharge, for all hospitals in the country, as determined by the Secretary; and
- (2) a weighting factor for each DRG, as determined by the Secretary.

In addition, DRG payment rates would be established for urban and rural areas both nationally and in each of four census regions of the country (the 50 States and the District of Columbia) in order to moderate the impact of the prospective payment system for urban and rural hospitals in different regions of the country. Using

data from the Bureau of Labor Statistics, each of these payment rates would be adjusted for area differences in hospital wage levels, in similar fashion to the wage adjustment currently used under the section 223 hospital limits.

Hospitals or units of hospitals which are exempted from the prospective payment system would be subject to the rate of increase limits applicable under present law. The current section 223 limits would no longer apply to any of the facilities not included in the prospective payment system for any cost reporting periods beginning on or after October 1, 1983.

(c) *Establishment of initial payment rates.*—The process for determining DRG payment rates for the first year of the program (fiscal year 1984) begins with the determination of allowable operating costs for inpatient hospital services for each hospital for the most recent cost reporting period for which data are available. These cost data would be updated for fiscal year 1983 by the estimated industry-wide actual increase in hospital costs and further updated for fiscal year 1984 by the hospital market basket increase, plus one percentage point. The resulting amounts would be standardized by excluding an estimate of indirect medical education costs, adjusting for area wage variations, and adjusting for variations in case mix. The Secretary would then compute an average of these standardized cost levels per discharge for the urban hospitals (as currently defined for purposes of the "section 223" limits) in each of the four census regions and nationally and also for the rural hospitals in each of the census regions and nationally.

Each of the average standardized amounts would be reduced to account for payment that will subsequently be made (see below) to specific hospitals for atypical cases ("outliers").

These average standardized amounts would then be reduced as may be required, to achieve budget neutrality in relationship to the reimbursement provisions that would have applied under the 1982 TEFRA legislation. In determining budget neutrality for the DRG part of the payment, the Secretary would include in the DRG payment amounts the additional payments for outlier cases, for indirect medical education costs, and for costs of nonphysician services to inpatients previously paid for under part B, and additional payments reflecting other adjustments.

The Secretary would next determine a separate urban and rural DRG-specified rates for each census region and the nation by computing the product of the average standardized amounts described above and the weighting factor for each DRG (reflecting the relative use of hospital resources for specific DRG's compared for resources used for other DRG's).

The DRG-specific rates would be further adjusted to recognize area wage differences both nationally and on a regional basis for purposes of determining the payment amount using methodologies similar to those currently used under the section 223 limits. The actual amount of revenue paid to a hospital, in addition to the DRG-specific payment rate, will be, of course, influenced by such factors as: payment for capital costs and costs of approved educational programs on a reasonable cost basis; adjustments for indirect teaching costs; additional payments for atypical—or outlier—cases; and various other exceptions and adjustments.

Under current law, services provided to medicare beneficiaries who are inpatients of a hospital are generally billed under part A of the medicare program. However, under certain circumstances, payments are made for non-physician services (for example, radiology, laboratory, physical therapy, prosthetics, etc.) which are separately billed by the supplier as a part B service even though they are provided to a hospital inpatient. Thus, under current law, some non-physician services may be billed under part A in one hospital and yet, in another hospital may be billed under part B of the program. However, under the committee's amendment, the prospective payment is intended to be payment in full for all covered items and non-physician services to hospital inpatients. Thus, the current practice of allowing independent practitioners to bill part B for items and services provided to inpatients would no longer be permitted under the prospective payment system. Some hospitals and independent practitioners will have to modify their arrangements.

The committee amendment provides that, effective October 1, 1983, all non-physician services provided to hospital inpatients would be paid only as inpatient hospital services under part A with the adjustments described below.

Because there are some limited situations where particular hospitals have extensively followed the practice of allowing direct billing of part B, modifications of these financial arrangements could threaten the financial stability of some institutions. Under the committee amendment, the Secretary would be granted authority to waive the general rules for these few cases for a limited time period not to exceed the transition period during which the new system is phased in. Upon approval of a hospital's request, the Secretary could allow continued payment of part B billings as long as he subsequently deducted the total payments made for these billings from the payments made under the prospective system to the hospital. If such a waiver is granted, at the end of the transition, the Secretary may provide for such methods of payment under Part A, as is appropriate given the organizational structure of the institution.

The Secretary would be required to provide for publication in the Federal Register, on or before September 1 of each fiscal year (beginning with fiscal year 1983) interim final rates, a description of the methodology and data used in computing the DRG payment rates, any adjustment required to produce budget neutrality in relation to the TEFRA level of medicare reimbursement outlays.

In setting the initial payment rates, the Secretary would also be required to recognize the higher payroll costs some hospitals will incur as the result of being required to enter the social security system, by adjusting base costs for individual hospitals and for the prospective rates to accommodate these additional costs.

(d) Annual Updates of the DRG Payment Rates. For fiscal year 1985, the initial DRG payment amounts would be increased by the marketbasket plus one percentage point. As for fiscal year 1984, reductions would be made in the payment rates for additional costs such as outlier payments, indirect medical education costs, and other adjustments in order to achieve budget neutrality in relationship to the reimbursement provisions which would have applied under the TEFRA reimbursement legislation.

(which it is reasonable to expect would occur more commonly in teaching hospitals than in other hospitals).

3. Effective date/transition

Present law

Under current law, the section 223 limits are authorized indefinitely; the rate of increase limits do not apply to hospital cost reporting periods beginning on or after October 1, 1985.

Committee amendment

The prospective payment system would be effective for individual hospital accounting years beginning on or after October 1, 1983, and would be phased-in over a three year period. In year one, 25 percent of the payment would be based on a combination of national and regional DRG rates (25 percent national, 75 percent regional); 75 percent would be based on each hospital's own cost-based experience. In year two, 50 percent of the payment would be based on a combination of national and regional DRG rates (50 percent each); 50 percent would be based on each hospital's cost experience. In year three, 75 percent of the payment would be based on a combination of DRG rates (75 percent national, 25 percent regional); 25 percent would be based on each hospital's cost experience. In year four, the entire payment would be based on national DRG rates, calculated separately for hospitals located in urban and rural areas. The phase-in of national DRG rates over the three-year period is designed to minimize disruption that might otherwise occur because of sudden changes in reimbursement levels.

The section 223 limits provided under current law would be repealed effective for hospital cost reporting periods beginning on or after October 1, 1983. However, hospitals or units of hospitals not included in the prospective payment system would be subject to the same rate of increase limitation as contained in TEFRA, including the penalties and bonuses. The rate of increase used to update these limits would be that which is currently contained in TEFRA, market basket plus one percentage point.

4. Exemptions, exceptions and adjustments

Present law

Under current law, section 223 limits do not apply to children's hospitals, psychiatric hospitals, long-term care hospitals or to rural hospitals with less than 50 beds. In addition, the Secretary is required to provide exemptions, exceptions and adjustments to the limits as he deems appropriate to take into account the special needs of psychiatric, public and other hospitals that serve a disproportionate number of low-income and medicare beneficiaries and sole community providers. Current law also requires the Secretary to provide exemptions, exceptions and adjustments to the section 223 limits as he deems appropriate to take into account the special needs of new hospitals, risk-based health maintenance organizations, and hospitals providing atypical or essential services; extraordinary circumstances beyond a hospital's control; and for other purposes.

Committee amendment

Under the committee amendment, psychiatric, long-term care, rehabilitation and children's hospitals would be specifically exempted from the prospective payment system. The DRG classification system was developed for short-term acute care general hospitals and, as currently constructed, does not adequately take into account special circumstances of diagnoses requiring long stays and as used in the medicare program is inappropriate for certain classes of patients. In addition, distinct part rehabilitation or psychiatric units of acute care hospitals would be exempt. The Secretary, under current medicare rules and regulations, has prescribed in detail standards and criteria that distinct parts must meet including establishment of separate cost entities for cost reimbursement and requirements that such units have a sub-provider identification number.

The Secretary would be required to provide for exceptions and adjustments to take into account the special circumstances faced by sole community providers. Such providers will be paid on the same basis as all other providers are paid in year one: 25 percent of the payment would be based on a blend of rural national and regional DRG rates (25 percent national, 75 percent regional); 75 percent would be based on each hospital's own cost experience. In no case would total payments in any one transition year be less than the payments made in the preceding year.

The committee is concerned that, in determining which hospitals have been eligible for exceptions and adjustments as sole community providers in the past, the Secretary has applied different criteria in the different regions of the country, including some which are very narrow and restrictive. Therefore, the committee expects that the Secretary, in making such determinations for sole community providers under the new prospective payment system, will develop and take into account a much broader range of factors relating to beneficiary access to basic hospital services. The committee amendment further directs the Secretary to study the problems of paying sole community providers and report back to the Congress, by April 1, 1985, on equitable methods of paying these small rural hospitals which take account of their unique circumstances, including their vulnerability to substantial variations in occupancy rates.

Under this amendment, the Secretary would also be required to provide exceptions and adjustments, as he deems appropriate, to take into account the special needs of public or other hospitals that serve a disproportionately large number of low-income and part A medicare beneficiaries. Concern has been expressed that public hospitals and other hospitals that serve such patients may be more severely ill than average and that the DRG payment system may not adequately take into account such factors. The Secretary in his report to Congress stated that the Department of Health and Human Services would continue to study ways of taking account of severity of illness in the DRG system.

Exceptions and adjustments would also be permitted to take into account the special needs of hospitals located in Alaska and Hawaii, as the Secretary now does in applying the reimbursement limits of present law.

This provision would exempt from the prospective payment system hospitals located in geographic areas outside the fifty States and the District of Columbia but within the United States for purposes of medicare (i.e. territories). The cost experience of these hospitals may be so varied that the DRG prospective payment system may not adequately reflect the needs of these hospitals.

5. Peer review

Present law

Under current law the Secretary is required to enter into contracts for utilization and quality control peer review with professional review organizations or other review organizations, including medicare intermediaries (subject to certain conditions and limitations).

Committee amendment

The committee amendment would require hospitals to contract with a professional review organization (PRO) selected by the Secretary to serve that area, under title XI of the Social Security Act for the review of admissions, discharges and quality of care. The purpose of this contract is to provide for the review of the accuracy of the diagnostic information on the hospital's bills, the completeness and adequacy of the care provided, the appropriateness of its medicare admissions, and the appropriateness of the care provided to patients designated by the hospitals as outliers. These reviews would be covered as a hospital cost of care under Part A, but the PRO would be paid by the Secretary on behalf of the hospital on the basis of a budget approved by the Secretary.

6. Payments to health maintenance organizations (HMO's) and competitive medical plans (CMP's)

Present law

Under current law, health maintenance organizations (HMO's) and competitive medical plans (CMP's) may be reimbursed either on the basis of reasonable costs or under a risk-based contract, a payment equal to 95 percent of the adjusted average per capital cost (AAPCC) for medicare enrollees in the HMO's area.

Committee amendment

Under the committee amendment, an HMO or a CMP that receives medicare payments on a risk-basis may choose to have the Secretary directly pay hospitals for inpatient hospital services furnished to medicare enrollees of the HMO or CMP. The payment amount would be at the DRG rate and would be deducted from medicare payments to the HMO or CMP. The HMO or CMP may alternatively choose to continue to pay the hospital directly.

7. State cost control programs

Present law

Under current law, the Secretary has authority to establish medicare demonstration projects. There are currently four State-wide medicare demonstrations (Maryland, Massachusetts, New

Jersey, New York) and one area-wide demonstration (Rochester, New York).

In addition, the Secretary is authorized, at the request of a State, to pay for medicare services according to the State's hospital cost control system if such system—

(1) applies to substantially all non-Federal acute care hospitals in the State;

(2) applies to at least 75 percent of all inpatient revenues or expenses in the State;

(3) provides assurances that payors, hospital employees and patients are treated equitably; and

(4) provides assurances that the State's system will not result in greater medicare expenditures over a three-year period than would otherwise have been made.

(To date, no State systems have been approved under this authority.)

Committee amendment

The Secretary would be authorized to make medicare payments under a State system if five conditions were met—the four in current law, plus the condition that the State system will not preclude HMO's or CMP's from negotiating directly with hospitals with respect to payments for inpatient hospital services. In approving new waivers for State systems, the Secretary would be prohibited from (1) denying an application of a State on the grounds that the State's system is based on a payment methodology other than DRGs or (2) requiring that payments made for medicare patients under the State's system be less than the payments which would have been made under the Federal prospective payment system.

If the Secretary determines that the test of whether or not a State system is resulting in medicare payments in excess of what would otherwise have been paid under the Federal system is based on the State maintaining a rate of increase in payments for medicare hospital inpatient services at no more than a specified percentage increase above a base payment amount for such services, then the State has the option of applying such test either on an aggregate payment basis or on the basis of the payment amount per inpatient discharge on admission. If the Secretary determines that the test is based on the State maintaining a rate of increase in aggregate payments for medicare hospital inpatient services compared to a national percentage increase in total payments for such services, the Secretary cannot deny a State's application for a waiver on the ground that State's rate of increase in such payments must be less than the national average rate of increase.

For existing State systems, the Secretary must judge their effectiveness on the basis of their rate of increase or inflation in medicare inpatient hospital payments compared to the national rate of increase or inflation for such payments. The State would retain the option to have the test applied during the transition period (3 years) on the basis of either aggregate payments or payments per inpatient admission or discharge. After the transition period, this test would no longer apply, and such State systems would be treated in the same fashion as other waived systems.

If, subsequent to implementation of a State program, the Secretary determines that the amounts paid over a three-year period under a State system exceed what medicare would have otherwise paid over the same three-year period, the Secretary may reduce subsequent payments to hospitals under the State system by that amount.

For those States which currently have a medicare waiver, the Secretary would be required to continue the State program, if, and for so long as, the five conditions noted above are met.

The committee amendment provides that the Secretary would, upon request of a State, modify the terms of the current demonstration agreement that provides that the State's rate of increase in medicare hospital costs be 1.5 percent below the national rate of increase in medicare hospital costs.

Under the committee amendment, the Secretary would be required to approve any State plan which meets the following requirements in addition to those that are included in the current law and the one noted above: that the system (1) is operated directly by the State or an entity designated by State law; (2) is prospective; (3) provides for hospitals to make such reports as the Secretary requires; (4) provides satisfactory assurances that it will not result in admission practices which will reduce treatment to low-income, high cost, or emergency patients; (5) will not reduce payments without 60 days' notice to the Secretary and to hospitals; and (6) provides satisfactory assurances that in the development of the system, the State has consulted with local governmental officials concerning the impact of the system on public hospitals. The Secretary would be required to respond to requests from States applying under these eleven conditions within 60 days of the date the request is submitted to the Secretary.

8. Administrative and judicial review

Present law

Under current law, a provider may request administrative review by the Provider Reimbursement Review Board (PRRB) of a final decision of a fiscal intermediary regarding rates on the provider cost report, subject to certain conditions. A provider may appeal the PRRB decision to Federal court or, where it involves a question of law or regulation which the PRRB does not have the authority to review, the provider may appeal directly to Federal court.

Committee amendment

The committee amendment would provide for the same procedures for administrative and judicial review of payments under the prospective system as is currently provided for cost-based payments. In general, the same conditions, which now apply for review by the PRRB and the courts, would continue to apply.

With respect to administrative and judicial review, your Committee's bill would permit review except in the narrow cases necessary to maintain budget neutrality and avoid adversely affecting the establishment of the diagnosis related groups, the methodology for the classification of discharges within such groups, and the appropriate weighting of such groups.

The committee amendment also permits action to be brought jointly by several providers in a judicial district in which the greatest number of such providers are located. Any appeals for judicial review brought by providers which are under common ownership or control would have to be brought as a group, with the PRRB or the district court, in any appeal involving an issue common to such providers.

9. Studies and reports

Present law

Current law directed the Secretary to develop and report to Congress on proposals to reimburse hospitals, skilled nursing facilities, and, to the extent possible, other providers on a prospective basis.

Committee amendment

The committee amendment requires the Secretary to conduct studies and to report to Congress on the following:

(a) Report annually, through fiscal year 1987, on the progress of implementation and the impact of the payment methodology on classes of hospitals, beneficiaries, other classes of payers for inpatient hospital services, and other providers.

(b) Collect the data necessary to determine the relationship between physician charges and inpatient services, and report to Congress by January 1985 with legislative recommendation for prospective payments for physician services based on a DRG-type classification of cases. In addition, the Secretary is directed to examine ways to assure that information is transferred between parts A and B of the program, particularly with respect to those cases when a denial of coverage is made under part A, thereby raising questions about the appropriateness of the reimbursement claimed under part B by an attending physician or physicians.

(c) Study the application of severity of illness, intensity of care, or such other modifications to the diagnosis related groups and report to the Congress by December 1985 on the advisability and feasibility of providing for the application of such modifications. In addition, the Secretary should report on the appropriate treatment of uncompensated care costs and adjustments that might be appropriate for large teaching hospitals located in rural areas.

(d) Report on the feasibility and impact of eliminating separate urban and rural prospective payment rates of applying the prospective system to all payers, and the advisability of having hospitals make available information on the levels of payments accepted by both public programs and by classes of private payers.

(e) The Secretary will continue hospital demonstrations in areas with critical shortages of skilled nursing facilities to study the feasibility of providing alternative systems of care or of methods of payment. The Secretary is also directed to approve a continuation for the On Lok demonstration.

(f) Study the severity of illness and intensity of care differences between hospital and community-based skilled nursing

facilities (SNFs), and make recommendations with respect to SNF payment by December 31, 1983. In addition, the committee amendment delays for one year the implementation of section 102 of TEFRA concerning a single reimbursement limit for skilled nursing facilities.

TITLE IV OF THE BILL

UNEMPLOYMENT COMPENSATION PROVISIONS

EXTENSION OF FEDERAL SUPPLEMENTAL COMPENSATION (FSC) PROGRAM

(Section 401 of the Bill)

Present law

The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) established the FSC program. This program provides additional weeks of unemployment compensation at the same weekly benefit amount to individuals who have exhausted their State benefits and any extended benefits to which they were entitled. The FSC program, which became effective on September 12, 1982, expires March 31, 1983.

As originally enacted, the FSC program provided 10, 8, or 6 additional weeks of benefits. The Surface Transportation Assistance Act of 1982 (Public Law 97-424) increased the maximum number of weeks of FSC benefits to 16, 14, 12, or 8, depending on the State where the individual filed for or received the additional benefits.

Beginning with the week of January 9, 1983, the FSC program began providing the following maximum weeks of benefits:

- (1) 16 weeks in States with an insured unemployment rate (IUR) of at least 6.0 percent (measured as the average over a moving 13 week period);
- (2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983;
- (3) 12 weeks in remaining States with a 13 week average IUR of at least 4.5 percent;
- (4) 10 weeks in remaining States with a 13 week average IUR of at least 3.5 through 4.4 percent; and
- (5) 8 weeks in all other States.

In order to qualify for FSC, a worker must have worked at least 20 weeks or earned its equivalent in wages in his base year, usually defined as the first four of the last five completed calendar quarters before he filed his claim for regular State benefits. He must also have exhausted the regular and extended benefits to which he is entitled. In addition, his benefit year must have ended on or after June 1, 1982 or he must have been eligible for extended benefits for any week beginning on or after June 1, 1982.

If an individual is eligible for FSC benefits, the number of weeks of FSC he may receive is determined in relation to the number of weeks of regular State benefits to which he was entitled. An eligible individual may receive FSC for the lesser of (a) 65 percent of the number of weeks of regular State benefits to which he was entitled or (b) the maximum number of weeks of FSC benefits pro-

vided in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in his former State.

Committee amendment

The committee amendment would extend FSC for 6 months from April 1, 1983 through September 30, 1983. To qualify for FSC, an individual would need at least 26 weeks of work or its equivalent in wages in his base year. This restriction would apply only to claimants who initially become eligible for FSC on or after April 1, 1983.

The number of weeks available in each State would be:

(1) *Basic FSC Benefits.*—Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

- (1) 14 weeks in States with IUR at 6 percent and above;
 - (2) 12 weeks in States with IUR at 5 percent to 5.9 percent;
 - (3) 10 weeks in States with IUR at 4 percent to 4.9 percent;
- and
- (4) 8 weeks in all other States.

No State would, however, lose more than 4 weeks when compared to present law.

(2) *Additional FSC Benefits.*—Individuals who exhaust FSC before April 1, 1983 could receive additional weeks of FSC benefits up to a maximum of:

- (1) 8 weeks in States with IUR at 6 percent and above
- (2) 6 weeks in States with IUR at 5 percent to 5.9 percent
- (3) 4 weeks in States with IUR at 4 percent to 4.9 percent
- (4) 4 weeks in all other States.

(3) *Transitional FSC Benefits.*—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

(4) *Phaseout FSC Benefits.*—Individuals who have not exhausted their FSC entitlement on September 30, 1983 when the program expires, would be eligible to receive up to 50 percent of their remaining FSC entitlement. No new claimants would be added to the FSC program on or after September 30, 1983.

Effective date.—For weeks beginning after April 1, 1983.

OPTIONAL EXCLUSION FROM DISQUALIFICATION FOR NOT ACTIVELY SEEKING WORK UNDER EXTENDED BENEFITS AND FEDERAL SUPPLEMENTAL COMPENSATION FOR CLAIMANTS WHO ARE HOSPITALIZED OR SERVING ON JURY DUTY

(Section 422 of the Bill)

Present law

Present law disqualifies claimants from receiving extended Benefits or Federal Supplemental Compensation if they are not actively seeking work. Moreover, the disqualified claimant must go back to

work for at least 4 weeks and earn at least 4 times his weekly benefit amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation.

Committee amendment

The committee amendment would permit States to determine on a weekly basis the eligibility availability of claimants of Extended Benefits and Federal Supplemental Compensation who are serving on jury duty or are hospitalized for treatment of an emergency or life-threatening condition. A State must treat these individuals in accordance with their own State unemployment compensation law.

Effective date.—Date of enactment.

DENIAL OF BENEFITS TO NONPROFESSIONAL EMPLOYEES OF
EDUCATIONAL INSTITUTIONS BETWEEN ACADEMIC YEARS OR TERMS

Present law

The Federal Unemployment Tax Act (FUTA) covers employees of educational institutions. FUTA requires States to deny benefits between academic years or terms to certain professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term. FUTA gives the States the option of the same denial of benefits, however, for nonprofessional employees of educational institutions.

Committee amendment

The committee amendment would make the denial of benefits between academic years or terms to nonprofessional employees mandatory if the employees have a reasonable assurance of returning to work in the next academic year or term. In addition, States would be required to deny benefits between terms to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency.

Effective date

The provision would be effective on or after October 1, 1984. States in which there is no legislative session before that date would, however, be given additional time to comply with this provision.

MODIFICATION OF CREDIT REDUCTION CAP PROVISIONS

Present law

Employers in all States currently pay the tax levied under the Federal Unemployment Tax Act (FUTA) at a rate of 3.5 percent on a taxable wage base of \$7,000. However, employers in States generally received a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. Prior to reforms enacted in the Omnibus Budget Reconciliation Act of 1981, State UC programs could borrow on an interest-free basis from the Federal Unemployment Account. However, once a State defaulted on its loans from the

Federal account, employers in the State began to lose the FUTA tax credit at the rate of a least .3 percent a year.

Specifically, if an advance is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of that year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc.). Additional offset credit reductions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1975-1980 for States satisfying specific requirements. Sixteen states are experiencing a credit reduction for 1983.

The 1981 Budget Reconciliation Act made two major changes in loan repayment conditions: interest of up to 10 percent is charged on loans made after April 1, 1982 (except those made for "cash flow" purposes and repaid by the end of the fiscal year in which they occur); and States are allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met.

For a State qualifying for the cap, the annual tax credit reduction is limited to 0.6 percent, or the rate that was in effect for the State for the preceding calendar year, whichever is higher. These loan reform provisions are in effect from January 1, 1981 to December 31, 1987.

The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State trust funds to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability.

In order to qualify for the cap on the FUTA penalty tax a State must demonstrate that:

- (1) the net solvency of its UI system has not diminished (effective for taxable years 1981-1987);
- (2) there have been no decreases in its unemployment tax effort (effective for taxable years 1981-1987);
- (3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983-1987; and
- (4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983-1987). The comparable year for taxable year 1983, however, is 1981.

Committee amendment

The committee amendment would make the credit reduction cap provisions in present law permanent. A State would still be required to meet all four conditions in present law to qualify for the credit reduction cap in present law. The committee amendment would, however, provide two possible lower credit reductions, if a State does not qualify for the total cap: (1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the credit reduction would be 0.2 instead of at least 0.3 percentage points; and (2) If a State meets the first two credit reduction cap conditions and qualifies for the interest

deferral authorized as a result of substantial changes in its unemployment compensation law, the credit reduction would be 0.1 instead of at least 0.3 percentage points. The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities.

The January 1st of each year for which a State qualifies for a partial limitation on the offset credit reduction will be taken into account for purposes of determining future offset credit reductions. The credit reduction applicable in each subsequent year after the partial limitation is in effect would continue to be reduced by the amount by which the offset credit was reduced.

Effective date.—Date of enactment.

MODIFICATION OF INTEREST PROVISIONS

Present law

Present law imposes interest of up to 10 percent per year on loans obtained by the States after April 1, 1982, except for "cash flow" loans that States repay by the end of the fiscal year in which the loans were obtained. A State can defer payment of its interest due for the fiscal year by paying 25 percent in each of four years beginning with the year in which the interest is due. Interest accrues, however, on the deferred interest.

Committee amendment

The committee amendment would make the provisions imposing interest on the States permanent. It would also provide for another deferral and a discounted interest rate for which States could apply if they meet certain conditions as certified by the Secretary of Labor.

The new deferral would be 80 percent of the amount due for the fiscal year. It would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. The deferred amount would be payable in 4 installments in the succeeding years equal to at least 20 percent of the original amount of interest due. A State would be required to meet two conditions to qualify for the deferral:

(1) no action has been taken to reduce its tax effort or trust fund solvency; and

(2) action (certified by the Secretary of Labor) after October 1, 1982, has been taken which would increase revenues and decrease benefits by a total of 30 percent in the calendar year immediately following the fiscal year for which the first deferral is requested. Deferral in the years immediately following the year in which the first year change is effective may be received if changes of 40 and 50 percent are made.

The discounted interest rate would be one percentage point below the interest rate that would otherwise apply. It would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. It would be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

For purposes of determining whether a State meets the conditions in (2) above, the Secretary of Labor will provide an estimate of the unemployment rate for the base year, the calendar year in

which the deferral is requested. The level of benefits and revenue liabilities will be determined using the State law in effect before passage of the legislation. The estimate of changes as a result of new legislation will be made from the base year in each year for which a deferral is requested. Once a deferral is approved, a State must continue to maintain its solvency effort. Failure to do so would result in immediate payment of all deferred interest.

Increases in the taxable wage base from \$6,000 to \$7,000 after calendar year 1982 and increases in the maximum tax rate to 5.4 percent after calendar year 1984 will not be counted for purposes of meeting condition (2).

States will not be penalized or rewarded if economic events change from those used in the base year for computing eligibility under condition (2).

Effective date.—Date of enactment.

CHANGE IN SECOND YEAR ADDITIONAL CREDIT REDUCTION

Present law

Present law provides that a State, in the second year in which the offset credit reduction is imposed to repay outstanding loans, may be subject to an additional credit reduction equal to the amount by which the State's average tax rate is lower than 2.7 percent. The average tax rate and the 2.7 percent are computed from the ratio of taxes collected to State and Federal taxable wages, respectively. Taxable wages are determined by the taxable wage base. Any wages above the taxable wage base are therefore not included.

In States where the taxable wage base exceeds the Federal taxable wage base of \$7,000, the tax rate base on the State's taxable wages will be lower than it would be if their taxable wage bases were \$7,000. This could activate the additional credit reduction in the second year even though these States have relatively higher tax efforts.

Committee amendment

The committee amendment would change the computation of the average tax rate to reflect the ratio of the federal unemployment tax base to the national average wage in covered employment.

Effective date.—Taxable year 1983.

CHANGE IN THE DATE INTEREST IS DUE

Present law

Present law requires that interest is due no later than the first day of the next fiscal year. If the first day of the next fiscal year falls on a weekend, interest is due in the prior fiscal year. Otherwise, it is due on the first day of the next fiscal year.

Committee amendment

The committee amendment requires that interest be paid before the first day of the next fiscal year.

Effective date.—Date of enactment.

COLLECTION INTEREST

Present law

Present law provides no mechanism through which the Federal Government can collect interest from the States if the States do not pay interest when it is due.

Committee amendment

The committee amendment would require the collection of delinquent interest charges one year after they are due by a reduction in the FUTA credit of 0.1 percentage point. Any amount collected during the imposition of this provision exceeding the overdue interest would be applied to the outstanding loan as an involuntary repayment. This provision would provide a specific collection mechanism to assure the payment of interest pending completion of any conformity proceeding which is implicitly but clearly required for nonpayment of interest by a State.

Effective date.—Date of enactment.

COSTS OF CARRYING OUT THE PROVISIONS OF THE BILL

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 11, 1983.

HON. ROBERT J. DOLE,
Chairman, Committee on Finance,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S.1, the Social Security Act Amendments of 1983, as ordered reported by the Senate Committee on Finance on March 10, 1983,

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1.
2. Bill title: Social Security Act Amendments of 1983.
3. Bill status: As ordered reported by the Senate Committee on Finance on March 10, 1983.
4. Bill purpose: To amend the Social Security Act to assure the solvency of the Social Security trust funds; to accelerate presently scheduled payroll tax increases; to tax 50 percent of certain individuals' benefits; to increase the self-employed tax; to delay the payment of cost-of-living adjustments; to reform the Medicare reimbursement of hospitals; to extend the federal supplemental compensation program; and for other purposes.

5. Estimated cost to the Federal Government: The following table shows the estimated costs of this bill to the federal government.

Because no draft language has been received, CBO cannot estimate certain provisions in this bill at this time. These provisions relate to the Unemployment Insurance and SSI programs. The cost estimate for the remaining provisions present the best estimates based on current information.

TABLE 1.—ESTIMATED BUDGET AUTHORITY, OUTLAY, AND REVENUE IMPACTS OF S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983

[By fiscal year, in millions of dollars]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|--|--------|--------|---------|---------|---------|---------|
| Spending: | | | | | | |
| Function 550: | | | | | | |
| Budget authority | 3,439 | 1,001 | 1,985 | 2,283 | 2,665 | 2,987 |
| Outlays | 105 | 93 | -33 | -131 | -135 | -140 |
| Function 600: | | | | | | |
| Budget authority | 22,235 | 14,084 | 14,713 | 14,503 | 16,673 | 30,457 |
| Outlays | 341 | -3,067 | -3,447 | -3,626 | -3,764 | -4,140 |
| Function 700: | | | | | | |
| Budget authority | 0 | -89 | -58 | -58 | -60 | -63 |
| Outlays | -25 | -54 | -58 | -58 | -60 | -63 |
| Total spending: | | | | | | |
| Budget authority | 25,675 | 14,996 | 16,640 | 16,728 | 19,278 | 33,381 |
| Outlays | 421 | -3,028 | -3,538 | -3,815 | -3,959 | -4,343 |
| Revenues | 0 | 6,466 | 7,579 | 7,453 | 8,889 | 19,825 |
| Change in unified budget deficit | 421 | -9,494 | -11,117 | -11,268 | -12,848 | -24,168 |

The spending effects of this bill fall within budget functions 550, 600 and 700. The budget authority is the net result of higher interest income on higher trust fund balances for the Old Age Survivors Insurance (OASI), the Disability Insurance (DI) and Hospital Insurance (HI) programs, transfers to the trust funds from the general fund of the U.S. Treasury, and required additional budget authority for the Supplemental Security Income (SSI), Supplementary Medical Insurance (SMI), Food Stamps, Veteran's Pensions and Medicaid programs.

Basis of estimate: This bill generally incorporates the January, 1983 recommendations of the National Commission on Social Security Reform. It also incorporates provisions affecting the Medicare, Supplemental Security Income and Unemployment Insurance Programs. Table 2, shows the costs, savings and revenue impacts of this bill to the federal government.

One major purpose of this bill is to ensure the continued payment of all Social Security benefits. The impact of some of the provisions in the bill on the financial status of the Social Security trust funds differs from their impact on the federal budget. Many provisions transfer funds within the government, which has no impact on budget outlays or receipts. In addition, the savings to and income into the trust funds generate additional interest income or budget authority. This income also does not affect the unified budget deficit. The impact of the bill on the trust funds therefore is shown separately in Table 3.

TABLE 2.—ESTIMATED OUTLAY AND REVENUE CHANGES TO THE UNIFIED FEDERAL BUDGET
RESULTING FROM S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983

[By fiscal year, in millions of dollars]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|--|------------------|------------------|------------------|------------------|------------------|------------------|
| Outlay changes: | | | | | | |
| Delay COLA 6 months: | | | | | | |
| OASDI | -7,704 | -3,793 | -4,228 | -4,473 | -4,706 | -5,181 |
| SSI | -100 | -130 | -170 | -170 | -175 | -210 |
| Veterans' Pensions | -25 | -54 | -58 | -58 | -60 | -63 |
| Offset: Food stamps | 0 | 37 | 46 | 51 | 53 | 53 |
| Medicare premium delay: | | | | | | |
| SMI | 114 | 63 | -90 | -201 | -206 | -211 |
| HI | 1 | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Offset: Medicaid | -9 | -5 | 7 | 15 | 16 | 16 |
| Increase SSI benefits: SSI | 250 | 750 | 845 | 840 | 875 | 935 |
| Offsets: | | | | | | |
| Food stamps | -40 | -165 | -170 | -170 | -175 | -175 |
| Medicaid | 0 | 35 | 50 | 55 | 55 | 55 |
| Extend FSC program for 6 months: ² | | | | | | |
| Unemployment compensation | 2,070 | 120 | 0 | 0 | 0 | 0 |
| Offsets to food stamps and AFDC | -135 | -8 | 0 | 0 | 0 | 0 |
| Prospective payment system | 0 | 0 | 0 | (³) | (³) | (³) |
| State waiver change | 0 | (⁴) | (^{4}) | (^{4}) | (^{4}) | (^{4}) |
| Miscellaneous outlay impacts: | | | | | | |
| OASDI | 0 | 122 | 230 | 296 | 364 | 438 |
| SSI and AFDC ..... | (^{5}) | (^{5}) | (^{5}) | (^{5}) | (^{5}) | (⁵) |
| Total outlay changes | 421 | -3,028 | -3,538 | -3,815 | -3,959 | -4,343 |
| Revenue changes | | | | | | |
| FICA increase: | | | | | | |
| OASDI | 0 | 6,361 | 2,349 | 0 | 0 | 10,272 |
| Railroad retirement | 0 | 45 | 0 | 0 | 0 | 61 |
| 1984 FICA Tax Credit | 0 | -3,240 | -985 | 0 | 0 | 0 |
| Other FICA Tax Offsets | 0 | -795 | -147 | 0 | 0 | -1,284 |
| SECA tax increase | 0 | 1,408 | 4,304 | 4,382 | 4,747 | 5,199 |
| SECA Tax Credit | 0 | -893 | -2,645 | -2,481 | -2,397 | -2,447 |
| Cover nonprofit employees | 0 | 1,118 | 1,697 | 1,955 | 2,297 | 2,853 |
| Nonprofit workers income tax offsets | 0 | -141 | -212 | -244 | -287 | -357 |
| Cover new Federal workers | 0 | 61 | 185 | 315 | 455 | 636 |
| State speedup | 0 | 1,600 | 200 | 136 | 104 | 200 |
| Tax 50 percent of benefits | | | | | | |
| OASDI | 0 | 780 | 2,769 | 3,316 | 3,885 | 4,594 |
| Railroad Retirement | 0 | 20 | 64 | 74 | 85 | 98 |
| Increased tax revenues from FSC extension ² | 0 | 142 | 0 | 0 | 0 | 0 |
| Total revenue changes | 0 | 6,466 | 7,579 | 7,453 | 8,889 | 19,825 |
| Total impact on united budget deficit | 421 | -9,494 | -11,117 | -11,268 | -12,848 | -24,168 |

¹ Less than \$0.5 million.

² This bill contains no estimates relating to unemployment trust fund loan reform.

³ The budgetary impact cannot be estimated because the bill would allow the Secretary of Health and Human Services, as advised by a panel of experts, nearly unlimited discretion in setting payment rates for inpatient hospital services. Those rates could be set such that Medicare outlays in the aggregate would increase or decrease.

⁴ The cost of this provision cannot be estimated because it depends on the actions of state hospital rate-setting commissions in Massachusetts and New York.

⁵ SSI costs do not include costs of the provision requiring notices to be sent to social security beneficiaries informing them about SSI. See the text for details.

Source: CBO estimates based on February, 1983 economic assumptions.

TABLE 3.—ESTIMATED CHANGES IN OASI, DI AND HI TRUST FUND OUTLAYS AND INCOME RESULTING FROM S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983

[By fiscal years, in millions of dollars]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|--|---------------|---------------|---------------|---------------|---------------|---------------|
| Trust fund outlay changes: | | | | | | |
| 6-month COLA delay: | | | | | | |
| OASI..... | -1,519 | -3,394 | -3,805 | -4,049 | -4,272 | -4,712 |
| DI..... | -185 | -399 | -423 | -424 | -434 | -469 |
| Miscellaneous provisions: | | | | | | |
| OASI..... | 0 | 122 | 230 | 296 | 364 | 438 |
| Total outlay changes: | | | | | | |
| OASI..... | -1,519 | -3,272 | -3,575 | -3,753 | -3,908 | -4,274 |
| DI..... | -185 | -399 | -423 | -424 | -434 | -469 |
| Total..... | -1,704 | -3,671 | -3,998 | -4,177 | -4,342 | -4,743 |
| Trust fund income changes: | | | | | | |
| Tax 50 percent of benefits: OASI ² | 0 | 780 | 2,769 | 3,316 | 3,885 | 4,594 |
| FICA tax speedup: | | | | | | |
| OASI..... | 0 | 5,476 | 1,974 | 0 | 0 | 8,631 |
| DI..... | 0 | 966 | 403 | 0 | 0 | 1,764 |
| SECA tax increase: | | | | | | |
| OASI..... | 0 | 856 | 2,525 | 2,447 | 2,608 | 2,912 |
| DI..... | 0 | 175 | 517 | 501 | 534 | 597 |
| HI..... | 0 | 377 | 1,262 | 1,434 | 1,605 | 1,670 |
| Cover newly hired Federal workers: | | | | | | |
| OASI..... | 0 | 104 | 314 | 536 | 774 | 1,081 |
| DI..... | 0 | 18 | 56 | 94 | 136 | 191 |
| Cover non-profit organizations: | | | | | | |
| OASI..... | 0 | 712 | 1,083 | 1,226 | 1,427 | 1,763 |
| DI..... | 0 | 189 | 288 | 332 | 390 | 485 |
| HI..... | 0 | 216 | 326 | 397 | 480 | 605 |
| Military transfer credits: | | | | | | |
| OASI..... | 16,800 | -380 | -385 | -210 | -220 | -210 |
| DI..... | 2,300 | -60 | -60 | -35 | -35 | -35 |
| HI..... | 3,290 | -70 | -70 | -60 | -60 | -60 |
| Uncashed checks: | | | | | | |
| OASI..... | 680 | 43 | 43 | 43 | 43 | 43 |
| DI..... | 120 | 7 | 7 | 7 | 7 | 7 |
| State speedup: OASDHI..... | 0 | 1,600 | 200 | 136 | 104 | 200 |
| Total income changes: | | | | | | |
| OASDI..... | 19,900 | 10,487 | 9,734 | 8,393 | 9,653 | 22,023 |
| HI..... | 3,290 | 523 | 1,518 | 1,771 | 2,025 | 2,215 |
| Total..... | 23,190 | 11,010 | 11,252 | 10,164 | 11,678 | 24,238 |
| Total outlay and income infusions to trust funds: | | | | | | |
| OASDI..... | 21,604 | 14,158 | 13,732 | 12,570 | 13,995 | 26,761 |
| OASDHI..... | 24,894 | 14,681 | 15,250 | 14,341 | 16,020 | 28,981 |
| Estimated interest income | | | | | | |
| OASDI..... | 290 | 2,948 | 4,428 | 5,559 | 6,442 | 7,770 |
| OASDHI..... | 335 | 3,333 | -4,928 | 6,202 | 7,217 | 8,682 |
| Total annual increase in trust funds: | | | | | | |
| OASDI..... | 21,894 | 17,106 | 18,160 | 18,129 | 20,437 | 34,531 |
| OASDHI..... | 25,229 | 18,014 | 20,178 | 20,543 | 23,237 | 37,663 |

¹ Assumes no reallocation between OASI and DI trust funds.² Assumes all revenues allocated to OASI trust fund.

Source: CBO estimates based on February 1983 economic assumptions.

A Section by section description for the basis of the estimates for the provisions in this bill having major cost impact is given below.

These estimates were prepared from a draft of the bill before Committee amendments were added and from mark-up documents. No bill as amended has been received.

PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

Cover new Federal employees

This provision extends Social Security coverage to all new permanent federal civilian employees as of January 1, 1984. The proposal is expected to cover about 150,000 new permanent federal entrants per year through 1988. The proposal raises \$61 million in unified budget revenues in fiscal year 1984 and \$1.7 billion in revenues from fiscal year 1984 through 1988.

This provision assumes no change in the current Civil Service Retirement system for those federal workers newly covered by Social Security. No impact of any Civil Service change is given in this estimate.

The estimate is based on CBO's current economic and federal employment assumptions.

Cover workers in non-profit organizations

The provision requires mandatory coverage of all employees of non-profit institutions and organizations. Approximately 20 percent of employees of non-profit organizations and institutions are not currently covered by Social Security. Covering the last 20 percent of non-profit employees raises \$1 billion in fiscal year 1984 and \$8.7 billion in fiscal years 1984 through 1988.

The extension of mandatory coverage to all non-profit employees results in an income tax offset against the increase in OASDHI revenues. The offset equals 25 percent of the employer contribution and reduces income tax revenues. Income tax revenues are estimated to fall because it is assumed that non-profit employers pass the entire payroll tax increase onto their employees in the form of lower wages and salaries.

The estimate was based on CBO's economic assumptions using the Social Security Administration's short-term revenue forecasting model.

Termination of State and local coverage

Currently, state and local governments can terminate Social Security coverage upon giving two years notice of their intention to withdraw, and then doing so. This provision would prohibit any such withdrawals, effective with the bill's enactment.

CBO's current law revenue estimates do not assume reductions in trust fund income that could result from withdrawals of certain state and local governments. Thus, there would be no revenue gain to the CBO baseline estimates from prohibiting such withdrawals.

Delay payment of annual cost-of-living adjustment from July to January of each year

This section delays the payment of future cost-of-living adjustments (COLA's) for Social Security for six months, from July to

January of each year. In addition, the provision changes the base period from which the COLA is calculated.

The COLA is measured by the growth in the Consumer Price Index (CPI) from the first calendar quarter of the previous year to the first quarter of the current year. Whenever the increase is greater than three percent, an adjustment to the benefits paid each July is made. The July, 1983, COLA will be paid in January, 1984 under this provision, and will be based on the current law indexing period. Subsequent adjustments will be based on the CPI growth from the third quarter of one year to the next. The table below shows the CBO COLA assumptions under current law and under this provision.

ASSUMED PERCENTAGE INCREASE IN SOCIAL SECURITY BENEFITS UNDER CURRENT LAW AND UNDER S.1

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|-----------------------|------|------|------|------|------|------|
| Current law—July..... | 4.1 | 4.6 | 4.5 | 4.2 | 4.0 | 3.8 |
| Proposed—January..... | 0.0 | 4.1 | 4.6 | 4.4 | 4.1 | 3.8 |

This bill also guarantees that a January, 1984 COLA will be given, even if the rate of inflation is so low that the adjustment is less than three percent. Since CBO's current economic assumptions have this COLA adjustment at 4.1 percent in 1984, this clause has no cost effect.

The change in the COLA base and date of payment is expected to save \$24 billion in Social Security benefits over the period, and an additional \$1.3 billion in SSI and other benefits directly linked to this COLA. These COLA changes would increase food costs by \$240 million over the period as incomes of food stamps recipients decline.

Taxation of 50 percent of social security and railroad retirement benefits for individuals with income above \$25,000 and married couples above \$32,000

This provision includes in taxpayers' adjusted gross income (AGI) half of Old Age, Survivors and Disability Insurance (OASDI) benefits when those benefits plus AGI exceeds a threshold amount. For the purpose of taxing half of OASDI benefits, the interest from tax free bonds is added to AGI. The threshold is \$25,000 for single returns, \$32,000 for joint returns, and zero for married couples filing separately. This limit would be calculated including an individual's or couple's tax exempt income, although this income would not count towards determining one's marginal tax rates. The amount of benefits included in AGI would be the lesser of either 50 percent of benefits or the one-half of the balance of the taxpayers' summed income over the threshold.

The provision raises \$800 million in fiscal year 1984 and \$15.3 billion from fiscal year 1984 through 1988. The revenue effects are derived from the Joint Committee on Taxation estimates based on the Social Security Trustees' II-B assumptions, with benefit amounts lowered to take account of the CBO's lower inflation (and therefore cost-of-living adjustments) projections.

Increase social security payroll tax (FICA) and 1984 tax credit

The provision accelerates the OASDI payroll tax (FICA) increases for employees and employers. The payroll tax increases to 5.7 percent from 5.4 percent on January 1, 1984 instead of January 1, 1985. Another tax rate speedup increases the rate to 6.06 percent from 5.7 percent on January 1, 1988 and January 1, 1989. This increase was scheduled to take effect in 1990. The proposal also includes a payroll tax credit of 0.3 percent of employee FICA contribution for 1984.

The FICA tax acceleration results in an income tax offset equal to 25 percent of the employer payroll tax contribution. The offset lowers income tax receipts because employers are assumed to pass back onto employees the full payroll tax increase in the form of lower wages and salaries.

The provision is estimated to raise OASDI unified budget revenues \$6.4 billion in fiscal year 1984 and \$19.0 billion from fiscal year 1984 through fiscal year 1988. The income tax offset equals \$2.2 billion from fiscal years 1984 through 1988. The revenue loss due to the payroll tax credit results in a \$4.2 billion loss by fiscal year 1985.

The estimates are based upon CBO's latest economic assumptions using the Social Security Administration's short-term revenue forecasting model.

Increase self-employed tax rate

The provision raises the self-employed payroll tax rate (SECA) to a level equal to the combined employer-employee contribution rate (including the FICA tax acceleration). In 1984 the SECA OASDI rate increases 3.35 percent and the HI rate increases 1.3 percent for a SECA rate of 14 percent. Further, the provision includes a payroll tax credit equal to 2.9 percent of total SECA contributions in 1984 and 2.5 percent in 1985, 2.2 percent in 1986, and 2.1 percent in 1987 and 1988.

The proposal raises \$1,408 million in SECA revenues in fiscal year 1984 and \$20 billion from fiscal year 1984 through 1988. The income tax loss due to the self-employed payroll tax credit equals \$893 million in fiscal year 1984 and \$10.9 billion from fiscal year 1984 through fiscal year 1988.

Reallocation of OASI and DI tax rates

This provision has no net cost to the federal government. It realigns the payroll tax portions allocated to the OASI and DI trust funds so as to keep the two funds' balances at approximately the same percentage of outlays at the start of each year.

Benefits to certain widows, divorced and disabled women

These provisions would: (1) allow the continuation of benefits to surviving, divorced or disabled spouses who remarry; (2) change the indexing procedure for benefits for those receiving deferred survivor benefits; (3) allow divorced spouses to draw benefits regardless of whether the former spouse is receiving benefits; and (4) increase benefits for disabled widows and widowers.

Together, these provisions would cost less than \$200 million per year once fully effective in fiscal year 1985. The largest cost in this group of provisions would allow disabled widows or widowers ages 50 to 59 to receive benefits at an amount equal to which non-disabled widows or widowers over age 59 currently receive. This provision is estimated to cost \$90 million in fiscal year 1984, \$125 million in 1985 and an estimated \$600 million over the five year period. Based on Social Security Administration data, approximately 200,000 recipients would receive \$50 or 20 percent in added benefits per month under this provision.

In addition, a provision in this bill to allow women with children additional years of zero earnings in the calculation of their benefits.

Reimbursement to OASDHI trust funds for military wage credits and unearned OASDI checks

These provisions will credit the three Social Security trust funds with \$23.8 billion as part of a transfer in 1983 from the general fund of the Treasury. A total of \$22.4 billion of this transfer represents the present value of estimated benefits arising from Social Security credits granted to military personnel for service prior to 1957, and the amount of taxes on these credits between 1956 and 1983. The remaining transfer is for the estimated amounts of uncashed Social Security checks for past years. Checks uncashed for longer than six months will also be credited back to the trust funds in future years.

These estimates were provided by the Social Security Administration. Although they add large amounts to the trust funds, the provisions do not have any cost impact to the federal government as a whole. There are offsetting interfund transfers within the federal unified budget.

State payment speedup

This provision will require state and local governments to transfer their payroll tax collections to the Treasury under the same rules as private sector employers. Currently, state payments are made on the 30th day of each month. The provision requires that states transmit payroll tax collections to the federal government soon after their employees are paid. Therefore, the Treasury would receive state FICA collections more frequently. Thus, the transfer to the Treasury would be hastened, adding to trust fund revenues by \$1.6 billion in fiscal year 1984 and \$2.2 billion over the period.

This estimate was prepared by the Social Security Administration.

LONG-TERM FINANCING

This section of the bill reduced initial benefit levels beginning in the year 2000. There are no effects resulting from these provisions in the 1983 to 1988 period. In addition, the retirement age will be gradually raised from 65 to 66 beginning in the year 2000.

MISCELLANEOUS PROVISIONS

These provisions are aimed mostly at work incentives for the elderly, and at insuring the financial soundness of the trust funds. The provisions would eliminate the retirement test for workers over the age of 65 beginning in 1990. This test reduces retirement benefits by \$1 for each \$2 in earnings over a given amount (\$6,600 in 1983). A delayed retirement credit of 8 percent would also be phased in. This credit would increase from 3 percent the added benefit amount paid to a retiree for each year a worker decides to retire after age 65.

Another section of the bill would require Congress to act if the balances in the trust funds fall below 20 percent of a year's outlays. If Congress does not, and interfund borrowing (also provided for in the bill) does not achieve this result in each fund, then the cost-of-living adjustments would be altered until the funds recover. The cost-of-living adjustment would be reduced first for those with higher benefits, but those with lower benefits would also ultimately be reduced, if necessary. This cost estimate does not assume any further cost-of-living adjustment reduction beyond the six month delay discussed above.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

This title of the bill raises SSI benefits and makes other minor changes in SSI and AFDC. Together these changes are estimated to add \$728 million to federal outlays in fiscal year 1985.

Beginning July 1, 1983, SSI benefits would be increased by \$20 a month for individuals living in their own household and by \$30 a month for couples. These increased benefits would more than offset the effect on SSI recipients of the COLA delay. The largest part of the added cost comes from the benefit increase for current SSI beneficiaries. In addition, CBO estimates that about 125,000 persons would become new beneficiaries of SSI. Most would be newly eligible for SSI as a result of the increased income limits. For these persons, CBO has assumed a participation rate of 25 percent (that is, of all the newly eligible, 25 percent would actually participate in SSI). Some of the other new beneficiaries would be persons previously eligible who would now choose to participate as a result of the increased benefit levels. There are also an estimated 65,000 persons who were receiving SSI state supplements only who would now become eligible for a small federal SSI payment.

Partially offsetting the costs in SSI from these benefit increases is a savings in the food stamp program as incomes of SSI beneficiaries rise. There are also added costs in Medicaid for those new SSI beneficiaries who also become newly eligible for Medicaid.

This title would also enable temporary residents of emergency public shelters to receive SSI for three months in any twelve-month period. This provision is estimated to cost \$1 million in fiscal year 1983 and \$3 million a year thereafter. In addition, Title IV would disregard in the determination of benefits any in-kind assistance based on need received by SSI and AFDC beneficiaries. This provision, which is effective only through September 30, 1984, is estimated to cost less than \$500,000 a year in SSI and \$1 million in 1983 and \$2 million in 1984 in AFDC.

The bill also apparently includes a provision that would require the Social Security Administration to send notices to Social Security beneficiaries informing them of their potential eligibility for SSI and urging them to contact a local office if they think they would be eligible. No language is available for this provision and the extent of the notices could vary considerably. Hence, there is no cost estimate for the provision. However, costs under even a fairly limited provision could be significant, perhaps around \$50 million. Not only would there be added administrative costs but it would be reasonable to assume that around 5 percent of those receiving a notice who are eligible for SSI would apply for SSI benefits.

UNEMPLOYMENT COMPENSATION PROVISIONS

Federal supplemental compensation

This section of the bill would extend for six months the federal supplemental compensation program (FSC) now scheduled to terminate March 31, 1983. It would provide up to 14 weeks of additional unemployment compensation benefits for individuals exhausting regular or extended unemployment benefits after March 31, the maximum number of weeks provided varying with a state's insured unemployment rate (IUR). In addition, it would provide those persons who have exhausted their FSC entitlement before March 31 with up to 8 additional weeks of benefits, the maximum number of weeks again varying with a state's IUR. Also, it would allow those persons who have benefit entitlements remaining on September 30, 1983 to receive up to one-half the balance of those entitlements.

The estimate of the fiscal impact of this section of the bill is based upon estimates of the states' IURs and weeks compensated, and the determination of whether a state will be paying extended benefits which underlies the CBO baseline. It is assumed that the national seasonally adjusted IUR will be 4.4 percent for both quarters of the extension. Furthermore, it is assumed that 45 percent of those claimants in the current law FSC program would exhaust and collect added weeks of benefits during the extension. This point estimate is based upon the experience of exhaustees of the federal supplemental benefits program of 1975 to 1978.

CBO estimates that any FSC extension results in a reduction in AFDC and Food Stamp outlays as individuals who exhaust unemployment benefits and would otherwise draw benefits from these means-tested programs continue to draw jobless payments. It is estimated that the extension through September 1983 will cause AFDC and food stamp expenditures to drop by \$142 million. In addition, CBO estimates that the six-month FSC extension will cause income tax revenues to increase in fiscal year 1984 by \$142 million.

Loan reform

This bill contains a provision relating to limiting the federal tax credit reduction and to paying interest of federal unemployment compensation loans to states. CBO has provided no estimates of the fiscal impact of these provisions.

MEDICARE HOSPITAL INSURANCE PROVISIONS

Conforming changes in medicare premiums

The bill would postpone from July 1 to January 1 of the following year increases in Medicare premiums. Current premium amounts would apply during the interim. Future premiums (and the general revenue contribution to SMI) would be calculated on the basis of estimated incurred costs for the calendar year during which the premium would apply. Consonant with the changes made by TEFRA a year ago, SMI premiums would be set at 25 percent of cost per aged enrollee in calendar year 1984 and 1985, but would be limited in subsequent years by the cost-of-living increase in social security benefits in the previous January.

The estimated costs of this provision are the difference between projections of income from premiums under current law and under the amendment. Premium income under the amendment is the product of monthly enrollment projections and monthly premium amounts computed on the basis of projected incurred costs by calendar year.

General.—The bill would provide for reimbursing most hospitals for inpatient services provided to Medicare enrollees on the basis of payment amounts, varying by diagnosis, fixed in advance of the period in which they would apply. The provision would be effective with hospital cost-reporting periods beginning on or after October 1, 1983. With the exceptions discussed below, for the first two cost-reporting periods affected, the payment rates would be set to assure that total Medicare payments for inpatient hospital services in affected hospitals would be neither greater nor less than under current law. If implemented faithfully, the provision would have no budgetary impact in fiscal years 1984 and 1985. In subsequent fiscal years, however, the Secretary of Health and Human Services, advised by a panel of experts, would have nearly unlimited discretion in setting payment rates. Given that discretion, CBO is unable to determine whether the prospective payment provision would result in federal costs or savings after fiscal year 1985.

The proposed mandatory Social Security coverage of employees of non-profit organizations could raise labor costs for some hospitals. Under the bill, Medicare's share of any such costs would be additional costs to the Medicare program. CBO is unable to estimate those costs at this time.

Change in State Waiver Requirement.—The bill would phase out the requirement that the rate of increase in Medicare hospital costs in states currently reimbursing hospitals under demonstration agreements entered into after August 1982 be less than the national rate of increase in those costs. The provision would affect only Massachusetts and New York, both of which operate hospital rate-setting programs that have for several years held their hospital cost increases well below the national average. If those states were to continue to be as successful as they have been, the provision would have no budgetary impact. On the other hand, the provision would allow larger cost increases than current law. If Medicare hospital costs were to rise one percentage point faster under the provision, federal spending would increase by about \$50 million in 1984.

6. Estimated cost to State and local governments: A number of the provisions of this bill would affect budgets of state and local governments. Their estimated net impact on categories of state and local expenditures is shown in the table below.

TABLE 4.—ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|-------------------------------|------|-------|------|------|------|------|
| Payroll costs | | 291 | 159 | | | 446 |
| Speedup of FICA deposits..... | | 800 | 105 | 73 | 57 | 105 |
| SSI State supplements | 35 | 120 | 130 | 125 | 125 | 130 |
| Medicaid..... | -8 | 26 | 49 | 60 | 60 | 60 |
| AFDC..... | -29 | 1 | | | | |
| General assistance | -13 | | | | | |
| Total..... | -15 | 1,238 | 443 | 258 | 242 | 741 |

Basis of estimate: The acceleration of FICA rate increases would add to state and local government payroll costs. Currently, about 70 percent of total state and local government employment is covered by Social Security. State and local governments would have added payroll tax contributions of \$291 million in fiscal year 1984 and \$896 million over the entire 1984-88 period. The CBO estimate does not include a future cost to states who would no longer be able to withdraw from the Social Security system under this legislation.

The provision speeding up FICA deposits would require state and local governments to forward their FICA deposits about one month earlier. In the first fiscal year following enactment, states would show higher budgetary outlays for their (the employers') share of the FICA deposits which is one-half of the total savings shown for the federal government. In addition, state and local governments would lose small amounts of interest they would otherwise have earned on the balances over a one month period.

The changes in SSI would increase state and local government costs. Virtually all states supplement federal SSI benefits. The \$20 benefit increase would raise state costs unless states were to lower their state supplement benefit levels. Typically, lowering of benefit levels requires action by state legislatures. The CBO cost estimate assumes that current state supplement levels remain in effect. Consequently, it represents a maximum cost to state and local governments.

The CBO cost estimate for the \$20 benefit increase incorporates added costs to states and localities for current state supplement only beneficiaries, for new state supplement beneficiaries as a result of the new federal beneficiaries (about one-third of federal SSI beneficiaries receive state supplements), and for new state supplement only beneficiaries who are newly eligible. Costs of this provision are estimated to total \$124 million in fiscal year 1985.

In addition to the effect of the \$20 benefit increase, SSI state supplement costs would be increased by the COLA delays in SSI and OASDI. When COLAs are made, state supplement costs decline slightly because for state supplement only beneficiaries OASDI in-

creases are larger than SSI increases. The costs of the COLA delays are estimated to total about \$6 million a year.

The CBO cost estimate does not include any cost effect of the altered "pass-through" requirements of section 402. Current law requires states to pass through to SSI beneficiaries federal benefit increases unless state payment levels are above their December 1976 levels or unless aggregate state SSI supplement expenditures in the 12 months following a federal payment level increase exceed aggregate state expenditures in the 12 months prior to the federal change. This provision would require states to pass through the dollar amount of the COLA that would have occurred in July 1983 under current law and also all future federal benefit increases, even if state payment levels are above the December 1976 levels. Hence, in future years the provision would limit the flexibility of states to reduce supplement levels when federal SSI benefits increase, raising costs for some states. However, for other states—those with payment levels equal to their December 1976 levels—this provision would result in potential savings because they could pass through the July 1983 cost-of-living adjustment amount (roughly \$11) rather than the full \$20 benefit increase.

Expenditures of state and local governments would also rise because of higher Medicaid costs occasioned by the SSI benefit increase and the Medicare premium delay discussed earlier. The state and local government financing share of Medicaid averages about 46 percent.

The increased federal supplemental compensation benefits for the unemployed would lower state and local government expenditures in two ways. First, AFDC outlays would decline in fiscal year 1983. The state share of such outlays averages 46 percent. Second, outlays for state and local general assistance (GA) programs would also decline. GA programs are fully funded by state and local governments and are means-tested, typically serving those ineligible for AFDC and SSI. There are no reliable statistics on which to base an estimate of savings in GA. However, a rough estimate of the estimated effect in Michigan provided by Michigan analysts was used to estimate national effects. Michigan accounts for about 15 percent of GA expenditures nationwide.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Stephen Chaikind, Malcolm Curtis, Richard Hendrix, John Navratil, Janice Peskin, Roger Hitchner, Kathleen Shepherd (226-2820), James Nason (226-2689).

10. Estimate approved by:

C. G. NUCKOLS

(For James L. Blum, Assistant Director for Budget Analysis).

VOTE OF THE COMMITTEE

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the committee on the motion to report the bill S. 1, as amended, was ordered favorably reported by a vote of 18 yeas, 1 nay.

REGULATORY IMPACT STATEMENT

Because of the urgent nature of this legislation and the necessity for prompt action to assure the financial solvency of the social security program, it is necessary to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate relating to regulatory impact statements as is provided for in the last sentence of such paragraph.

**CHANGES IN EXISTING LAW MADE BY THE REVENUE PROVISIONS OF THE
BILL AS REPORTED**

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law by the provisions of S. 1, as reported by the committee).

○

Calendar No. 41

98TH CONGRESS
1ST SESSION

S. 1

[Report No. 98-23]

To implement the consensus recommendations of the National Commission on
Social Security Reform.

IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1983

Mr. DOLE (for himself, Mr. MOYNIHAN, Mr. HEINZ, Mr. BAKER, Mr. STEVENS,
Mr. LAXALT, Mr. DANFORTH, Mr. KENNEDY, Mr. BENTSEN, Mr. MUR-
KOWSKI, Mr. STAFFORD, and Mr. WALLOP) introduced the following bill;
which was read twice and referred to the Committee on Finance

MARCH 11 (legislative day, MARCH 7), 1983

Reported by Mr. DOLE with an amendment to the text and an amendment to the
title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To implement the consensus recommendations of the National
Commission on Social Security Reform.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 “(B) by any individual as an employee in-
 2 cluded under section 5351(2) of title 5, United
 3 States Code (relating to certain interns, student
 4 nurses, and other student employees of hospitals
 5 of the Federal Government), other than as a
 6 medical or dental intern or a medical or dental
 7 resident in training; or

8 “(C) by any individual as an employee serv-
 9 ing on a temporary basis in case of fire, storm,
 10 earthquake, flood, or other similar emergency;”.

11 (2) Section 210(p) of such Act is amended by striking
 12 out “provisions of—” and all that follows and inserting in
 13 lieu thereof “provisions of subsection (a)(5).”.

14 (b)(1) Section 3121(b) of the Internal Revenue Code of
 15 1954 is amended by striking out paragraphs (5) and (6) and
 16 inserting in lieu thereof the following:

17 “(5) service performed in the employ of the
 18 United States or any instrumentality of the United
 19 States, if such service—

20 “(A) would not be included in the term ‘em-
 21 ployment’ for purposes of this subsection by
 22 reason of the provisions of paragraph (5) or (6) of
 23 this subsection as in effect on January 1, 1982,
 24 and

1 “(B) is performed by an individual who has
2 been continuously in the employ of the United
3 States or an instrumentality thereof since Decem-
4 ber 31, 1983; and

5 “(C) is not service performed as the Presi-
6 dent or Vice-President of the United States or as
7 a Member, Delegate, or Resident Commissioner of
8 or to the Congress;

9 “(G) service performed in the employ of the
10 United States or any instrumentality of the United
11 States if such service is performed—

12 “(A) in a penal institution of the United
13 States by an inmate thereof;

14 “(B) by any individual as an employee in-
15 cluded under section 5351(2) of title 5, United
16 States Code (relating to certain interns, student
17 nurses, and other student employees of hospitals
18 of the Federal Government), other than as a
19 medical or dental intern or a medical or dental
20 resident in training; or

21 “(C) by any individual as an employee serv-
22 ing on a temporary basis in case of fire, storm,
23 earthquake, flood, or other similar emergency;”.

24 (2) Section 3121(u)(1) of such Code is amended to read
25 as follows:

1 “(1) ~~IN GENERAL.~~—For purposes of the taxes im-
 2 posed by sections 3101(b) and 3111(b), subsection (b)
 3 shall be applied without regard to paragraph (5) there-
 4 of.”.

5 (e) The amendments made by this section shall be effec-
 6 tive with respect to remuneration paid after December 31,
 7 1983.

8 COVERAGE OF EMPLOYEES OF NONPROFIT
 9 ORGANIZATIONS

10 ~~SEC. 102.~~ (a) Section 210(a)(8) of the Social Security
 11 Act is amended by striking out subparagraph (B) thereof and
 12 by striking out “(A)” after “(8)”.

13 (b)(1) Section 3121(b)(8) of the Internal Revenue Code
 14 of 1954 is amended by striking out subparagraph (B) thereof
 15 and by striking out “(A)” after “(8)”.

16 (2) Subsection (k) of section 3121 of such Code is re-
 17 pealed.

18 (e) The amendments made by this section shall be effec-
 19 tive with respect to remuneration paid after December 31,
 20 1983.

21 (d) Notwithstanding any provision of section 3121(k) of
 22 the Internal Revenue Code of 1954 (or any other provision of
 23 law) the period for which a certificate is in effect under such
 24 section may not be terminated on or after the date of the
 25 enactment of this Act.

1 DURATION OF AGREEMENT FOR COVERAGE OF STATE AND
 2 LOCAL EMPLOYEES

3 SEC. 103. (a) Subsection (g) of section 218 of the Social
 4 Security Act is amended to read as follows:

5 "Duration of Agreement

6 "(g) No agreement under this section may be terminat-
 7 ed, in its entirety or with respect to any coverage group, on
 8 or after the date of the enactment of the Social Security
 9 Amendments of 1983."

10 (b) The amendment made by subsection (a) shall apply
 11 to any agreement in effect under section 218 of the Social
 12 Security Act on the date of the enactment of this Act, with-
 13 out regard to whether a notice of termination was in effect on
 14 such date.

15 TITLE II—CHANGES IN BENEFITS

16 SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR
 17 YEAR BASIS

18 SEC. 201. (a)(1) Section 215(i)(2)(A)(ii) of the Social Se-
 19 curity Act is amended by striking out "June" and inserting
 20 in lieu thereof "December".

21 (2) Section 215(i)(2)(A)(iii) of such Act is amended by
 22 striking out "May" and inserting in lieu thereof "Novem-
 23 ber".

1 (3) Section 215(i)(2)(B) of such Act is amended by strik-
2 ing out "May" each place it appears and inserting in lieu
3 thereof in each instance "November".

4 (4) Section 202(f)(8)(A) of such Act is amended by strik-
5 ing out "June" and inserting in lieu thereof "December".

6 (5) Section 230(a) of such Act is amended by striking
7 out "June" and inserting in lieu thereof "December".

8 (6) Section 215(i)(2) of such Act as in effect in Decem-
9 ber 1978, and as applied in certain cases under the provisions
10 of such Act as in effect after December 1978, is amended by
11 striking out "June" in subparagraph (A)(ii) and inserting in
12 lieu thereof "December", and by striking out "May" each
13 place it appears in subparagraph (B) and inserting in lieu
14 thereof in each instance "November".

15 (7) Section 202(m) of such Act (as it applies in certain
16 cases by reason of section 2 of Public Law 97-123) is
17 amended by striking out "May" and inserting in lieu thereof
18 "November".

19 (8) The amendments made by this subsection shall apply
20 with respect to cost-of-living increases determined under sec-
21 tion 215(i) of the Social Security Act for years after 1982.

22 (b)(1) Section 215(i)(1)(A) of the Social Security Act is
23 amended by striking out "March 31" and inserting in lieu
24 thereof "September 30", and by striking out "1974" and
25 inserting in lieu thereof "1982".

1 (2) Section 215(i)(1)(A) of such Act as in effect in De-
 2 cember 1978, and as applied in certain cases under the provi-
 3 sions of such Act as in effect after December 1978, is amend-
 4 ed by striking out "March 31" and inserting in lieu thereof
 5 "September 30".

6 (3) The amendments made by this subsection shall apply
 7 with respect to cost-of-living increases determined under sec-
 8 tion 215(i) of the Social Security Act for years after 1982.

9 (c) Section 215(i)(4) of such Act is amended by inserting
 10 " , and as amended by section 201 (a)(6) and (b)(2) of the
 11 Social Security Amendments of 1982," after "as in effect in
 12 December 1978".

13 (d)(1) Section 1612(b)(2) of such Act is amended by
 14 redesignating subparagraphs (A) and (B) as subparagraphs
 15 (B) and (C) and inserting before subparagraph (B) the follow-
 16 ing new subparagraph:

17 "(A) the first \$600 per year (or proportionately
 18 smaller amounts for shorter periods) of benefits re-
 19 ceived under title II of this Act;"

20 (2) Section 1612(b)(2)(B) of such Act (as redesignated
 21 by paragraph (1)) is amended by inserting before the semi-
 22 colon at the end thereof the following: " , reduced (but not
 23 below zero) by any amount excluded under subparagraph
 24 (A)".

1 (3) The amendments made by this subsection shall be
2 effective with respect to benefits payable under title XVI of
3 the Social Security Act for months after June 1983.

4 ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS
5 RECEIVING PENSIONS FROM NONCOVERED EMPLOYMENT

6 SEC. 202. (a) Section 215(a) of the Social Security Act
7 is amended by adding at the end thereof the following new
8 paragraph:

9 “(7)(A) In the case of an individual whose primary in-
10 surance amount would be computed under paragraph (1) of
11 this subsection, and who becomes entitled after 1983 to a
12 monthly periodic payment (or a payment determined under
13 subparagraph (D)) based (in whole or in part) upon his earn-
14 ings for service which did not constitute ‘employment’ as de-
15 fined in section 210 for purposes of this title (hereafter in this
16 paragraph and in subsection (d)(5) referred to as ‘noncovered
17 service’), the primary insurance amount of that individual
18 during his entitlement to old-age or disability insurance bene-
19 fits shall be computed or recomputed under subparagraph (B)
20 with respect to the initial month in which the individual be-
21 comes eligible for such benefits, and shall be periodically re-
22 computed thereafter at such times as the Secretary deter-
23 mines there has been a significant change in the amount of
24 such periodic payment.

1 “(B) If paragraph (1) of this subsection would apply to
2 that individual (except for subparagraph (A) of this para-
3 graph), there shall first be computed an amount equal to the
4 individual’s primary insurance amount under this subsection
5 (other than this paragraph), except that for purposes of such
6 computation the percentage of the individual’s average in-
7 dexed monthly earnings established by subparagraph (A)(i) of
8 paragraph (1) shall be 32 percent. There shall then be com-
9 puted (without regard to this paragraph) a second amount,
10 which shall be equal to the individual’s primary insurance
11 amount under this subsection (other than this paragraph),
12 except that such second amount shall be reduced by an
13 amount equal to one-half of the portion of the monthly peri-
14 odic payment attributable to non-covered service to which
15 the individual is entitled (or deemed to be entitled) for the
16 month for which such old-age or disability insurance benefits
17 are payable. The individual’s primary insurance amount shall
18 be the larger of the two amounts computed under this sub-
19 paragraph (before the application of subsection (i)) and shall
20 be deemed to be computed under paragraph (1) of this sub-
21 section for the purpose of applying other provisions of this
22 title.

23 “(C) No primary insurance amount may be reduced by
24 reason of this paragraph below the amount of the primary
25 insurance amount as determined under paragraph (1)(C)(i).

1 “(D)(i) Any periodic payment that otherwise meets the
2 requirements of subparagraph (A), but which is paid on other
3 than a monthly basis, shall be allocated on a basis equivalent
4 to a monthly payment (as determined by the Secretary), and
5 such equivalent monthly payment shall constitute a monthly
6 periodic payment for purposes of this paragraph.

7 “(ii) In the case of an individual who has elected to
8 receive a periodic payment that has been reduced so as to
9 provide a survivors benefit to any other individual, the pay-
10 ment is deemed to be increased (for the purpose of any com-
11 putation under this paragraph) by such reduction.

12 “(iii) If an individual to whom subparagraph (A) applies
13 is eligible for a periodic payment beginning with a month that
14 is subsequent to the month in which he becomes eligible for
15 old-age or disability insurance benefits, the amount of that
16 payment for purposes of subparagraph (B) shall be deemed to
17 be the amount to which he is, or is deemed, to become enti-
18 tled (subject to clauses (i), (ii), and (iv) of this subparagraph)
19 in such subsequent month.

20 “(iv) For purposes of this subparagraph, the term ‘peri-
21 odic payment’ includes a payment payable in a lump sum if it
22 is a commutation of, or a substitute for, periodic payments.”.

23 (b) Section 215(d) of such Act is amended by adding at
24 the end thereof the following new paragraph:

1 “(5) In the case of an individual whose primary insur-
2 ance amount is not computed under paragraph (1) of subsec-
3 tion (a) by reason of paragraph (4)(B)(ii) of that subsection,
4 and who becomes entitled after 1982 to a monthly periodic
5 payment (or a payment determined under subsection
6 (a)(7)(D)) based (in whole or in part) upon his earnings in
7 noncovered service, his primary insurance amount for pur-
8 poses of his entitlement to old-age or disability insurance
9 benefits shall be the primary insurance amount computed or
10 recomputed under this subsection (without regard to this
11 paragraph and before the application of subsection (i)) re-
12 duced by an amount equal to the smaller of—

13 “(i) one-half of the primary insurance amount
14 (computed without regard to this paragraph and before
15 the application of subsection (i)); or

16 “(ii) one-half of the portion of the monthly period-
17 ic payment (or payment determined under subsection
18 (a)(7)(D)) attributable to noncovered service to which
19 that individual is entitled (or deemed to be entitled) for
20 the initial month of his eligibility for old-age or disabil-
21 ity insurance benefits.

22 The amount of such periodic payment for purposes of clause
23 (ii) shall be periodically recomputed at such times as the Sec-
24 retary determines there has been a significant change in the
25 amount of such periodic payment.

1 “(C) No primary insurance amount may be reduced by
2 reason of this paragraph below the amount of the primary
3 insurance amount as determined under subsection
4 (a)(1)(C)(i).”.

5 (e) Section 215(f) of such Act is amended by adding at
6 the end the following new paragraph:

7 “(9)(A) In the case of an individual who becomes enti-
8 tled to a periodic payment determined under subsection
9 (a)(7)(A) or (a)(7)(D) in a month subsequent to the first
10 month in which he becomes entitled to an old-age or disabil-
11 ity insurance benefit, and whose primary insurance amount
12 has been computed without regard to either such subsection
13 or subsection (d)(5), such individual's primary insurance
14 amount shall be recomputed, in accordance with either such
15 subsection or subsection (d)(5), as may be applicable, effec-
16 tive with the first month of his concurrent entitlement to
17 either such benefit and such periodic payment.

18 “(B) If an individual's primary insurance amount has
19 been computed under subsection (a)(7) or (d)(5), and it be-
20 comes necessary to recompute that primary insurance
21 amount under this subsection—

22 “(i) so as to increase the monthly benefit amount
23 payable with respect to such primary insurance amount
24 (other than in the case of the individual's death), such
25 increase shall be determined as though such primary

1 insurance amount had initially been computed without
2 regard to subsection (a)(7) or (d)(5), or

3 “(ii) by reason of the individual’s death, such pri-
4 mary insurance amount shall be recomputed without
5 regard to (and as though it had never been computed
6 with regard to) subsection (a)(7) or (d)(5).

7 “(C) In the case of any individual whose primary insur-
8 ance amount is subject to the requirements of subsection
9 (a)(7) or (d)(5), the amount of such primary insurance amount
10 shall be recomputed as may be required under such subsec-
11 tions by reason of a significant change in the amount of the
12 relevant periodic payment.”

13 (d) Sections 202(e)(2)(B)(i) and 202(f)(3)(B)(i) of such
14 Act are each amended by striking out “section 215(f)(5) or
15 (6)” and inserting in lieu thereof “section 215(f)(5), 215(f)(6),
16 or 215(f)(9)(B)”.

17 **BENEFITS FOR SURVIVING DIVORCED SPOUSES AND**
18 **DISABLED WIDOWS AND WIDOWERS WHO REMARRY**

19 **SEC. 203.** (a)(1) Section 202(e)(3) of the Social Security
20 Act is repealed.

21 (2) Section 202(e)(4) of such Act is amended to read as
22 follows:

23 “(4) For purposes of paragraph (1), if—

24 “(A) a widow or a surviving divorced wife marries
25 after attaining age 60, or

1 “(B) a disabled widow or disabled surviving di-
2 vorcee wife described in paragraph (1)(B)(ii) marries
3 after attaining age 50,
4 such marriage shall be deemed not to have occurred.”.

5 (b)(1) Section 202(f)(4) of such Act is repealed.

6 (2) Section 202(f)(5) of such Act is amended to read as
7 follows:

8 “(5) For purposes of paragraph (1), if—

9 “(A) a widower marries after attaining age 60, or

10 “(B) a disabled widower described in paragraph

11 (1)(B)(ii) marries after attaining age 50,

12 such marriage shall be deemed not to have occurred.”.

13 (c)(1) The amendments made by subsection (a) shall be
14 effective with respect to monthly benefits payable under title
15 II of the Social Security Act for months after December
16 1983.

17 (2) In the case of an individual who was not entitled to a
18 monthly benefit under title II of such Act for December
19 1983, no benefit shall be paid under such title by reason of
20 such amendments unless proper application for such benefit is
21 made.

1 **DETERMINATION OF PRIMARY INSURANCE AMOUNT FOR**
 2 **DEFERRED SURVIVOR BENEFITS**

3 **SEC. 204.** (a) Section 215(a) of the Social Security Act
 4 is amended by adding at the end thereof the following new
 5 paragraph:

6 “(8)(A) If a person is entitled to benefits under subsec-
 7 tion (e) or (f) of section 202 on the basis of the wages and
 8 self-employment income of a deceased individual whose pri-
 9 mary insurance amount would otherwise be determined under
 10 paragraph (1), the primary insurance amount of such de-
 11 ceased individual shall be determined, for purposes of deter-
 12 mining the amount of the benefit under such subsection, as if
 13 such deceased individual died in the year in which the person
 14 entitled to benefits under such subsection first became eligible
 15 for such benefits or, if earlier, the year in which such de-
 16 ceased individual would have attained age 60 if he had not
 17 died (except that the actual year of death of such deceased
 18 individual shall be used for purposes of section
 19 215(b)(2)(B)(ii)(II)).

20 “(B) Notwithstanding subparagraph (A), if a person—

21 “(i) is entitled to benefits under subsection (e) or
 22 (f) of section 202 on the basis of the wages and self-
 23 employment income of a deceased individual, and

24 “(ii) was entitled to benefits under this title on the
 25 basis of the wages and self-employment income of such

1 deceased individual in the month before the month in
2 which such person became eligible for the benefits de-
3 scribed in clause (i);

4 the primary insurance amount of such deceased individual
5 shall be the primary insurance amount determined under the
6 rules which would apply (but for subparagraph (A)) or the
7 primary insurance amount determined under subparagraph
8 (A), whichever is larger.

9 “(C) For purposes of determining the maximum family
10 benefit amount with respect to a deceased individual for
11 whom a primary insurance amount is determined under this
12 paragraph, the primary insurance amount of such deceased
13 individual shall be the primary insurance amount determined
14 under the rules which would apply (but for this paragraph) or
15 the primary insurance amount determined under this para-
16 graph, whichever is larger.”

17 (b) The amendments made by subsection (a) shall apply
18 to the benefits of individuals who become eligible for benefits
19 under section 202 (e) and (f) of the Social Security Act after
20 December 1982.

21 **BENEFITS FOR DIVORCED SPOUSE REGARDLESS OF**
22 **WHETHER FORMER SPOUSE HAS RETIRED**

23 **SEC. 205. (a)** Section 202(b) of the Social Security Act
24 is amended by adding at the end thereof the following new
25 paragraph:

1 subparagraph (B)(ii) and all that follows and inserting in lieu
2 thereof a period.

3 (2) Section 202(q)(6) of such Act is amended to read as
4 follows:

5 “(6) For purposes of this subsection, the ‘reduction
6 period’ for an old-age, wife’s, husband’s, widow’s, or widow-
7 er’s insurance benefit is the period beginning—

8 “(A) in the case of an old-age or husband’s insur-
9 ance benefit, with the first day of the first month for
10 which such individual is entitled to such benefit,

11 “(B) in the case of a wife’s insurance benefit, with
12 the first day of the first month for which a certificate
13 described in paragraph (5)(A)(i) is effective, or

14 “(C) in the case of a widow’s or widower’s insur-
15 ance benefit, with the first day of the first month for
16 which such individual is entitled to such benefit or the
17 first day of the month in which such individual attains
18 age 60, whichever is later,

19 and ending with the last day of the month before the month
20 in which such individual attains retirement age.”.

21 (3) Section 202(q)(7) of such Act is amended by striking
22 out the matter preceding subparagraph (A) and inserting in
23 lieu thereof the following:

24 “(7) For purposes of this subsection, the ‘adjusted re-
25 duction period’ for an old-age, wife’s, husband’s, widow’s, or

1 widower's insurance benefit is the reduction period prescribed
2 in paragraph (6) for such benefit, excluding—”.

3 (4) Paragraphs (1)(B)(i), (2)(E)(ii), and (2)(F)(ii) of sec-
4 tion 202(q) of such Act are each amended by striking out
5 “(6)(A)” and inserting in lieu thereof in each instance “(6)”.

6 (5) Section 202(q)(2)(G) of such Act is amended by
7 striking out “paragraph (6)(A) (or, if such paragraph does not
8 apply, the period specified in paragraph (6)(B))” and inserting
9 in lieu thereof “paragraph (6)”.

10 (6) Section 202(q)(10) of such Act is amended—

11 (A) by striking out “or an additional adjusted re-
12 duction period”;

13 (B) in subparagraphs (B)(i), (C)(i), and (C)(ii), by
14 striking out “, plus the number of months in the ad-
15 justed additional reduction period multiplied by $43/240$
16 of 1 percent”; and

17 (C) in subparagraph (B)(ii), by striking out “, plus
18 the number of months in the additional reduction
19 period multiplied by $43/240$ of 1 percent”.

20 (b)(1) The amendments made by this section shall be
21 effective with respect to monthly benefits under title II of the
22 Social Security Act for months after December 1982.

23 (2) In the case of an individual who was not entitled to a
24 monthly benefit under title II of such Act for December
25 1982, no benefit shall be paid under such title by reason of

1 such amendments unless proper application for such benefit is
2 made.

3 ~~ADJUSTMENT TO COST-OF-LIVING INCREASE WHEN TRUST~~
4 ~~FUND RATIO FALLS BELOW 20 PERCENT~~

5 ~~SEC. 207. (a) Section 215(i)(2)(A)(ii) of the Social Secu-~~
6 ~~rity Act is amended, in the matter following clause (III), by~~
7 ~~striking out "The increase shall be derived" and inserting in~~
8 ~~lieu thereof "Except as otherwise provided in paragraph (5),~~
9 ~~the increase shall be derived".~~

10 ~~(b) Section 215(i) of such Act is amended by adding at the~~
11 ~~end thereof the following new paragraph:~~

12 ~~"(5)(A) The amount of the increase under paragraph (2)~~
13 ~~to become effective for monthly benefits payable for Decem-~~
14 ~~ber 1988 or any December thereafter shall, if the Secretary~~
15 ~~makes a finding under this paragraph that the combined trust~~
16 ~~funds ratio (as defined in subparagraph (D)) as of the start of~~
17 ~~business on January 1 of the calendar year in which such~~
18 ~~December falls is less than 20 percent, be determined under~~
19 ~~paragraph (2) by substituting—~~

20 ~~"(i) the percentage (rounded to the nearest one-~~
21 ~~tenth of 1 percent) by which the average of the total~~
22 ~~wages for the preceding calendar year (as determined~~
23 ~~for purposes of subsection (b)(3)(A)(ii)) exceeds such~~
24 ~~average for the second preceding calendar year (and if~~

1 no increase in such wages took place, the percentage
2 shall be deemed to be zero); for

3 "(ii) the percentage otherwise applicable under
4 paragraph (2),

5 but only if the percentage determined under clause (i) is less
6 than the percentage determined under clause (ii).

7 "(B) In any case in which a cost-of-living adjustment
8 would not be made under this subsection on account of the
9 relevant increase in the Consumer Price Index being less
10 than 3 percent, no such cost-of-living increase shall be made
11 by reason of this paragraph. For purposes of any subsequent
12 determination of a cost-of-living increase based upon a period
13 of more than 12 months, the percentage of the cost-of-living
14 increase (if any) to be applied under paragraph (2) shall be
15 the sum of the percentage increases for each relevant 12-
16 month period in such longer period which would have been
17 effective under this subsection (including this paragraph) but
18 for the provision of paragraph (1) which limits such increases
19 only to cases in which the relevant increase in the Consumer
20 Price Index is equal to or greater than 3 percent.

21 "(C) The Secretary shall make the finding with respect
22 to the combined trust funds ratio (as of the start of business
23 on January 1 of each calendar year) on October 1 of each
24 calendar year, based upon the most recent data available as
25 of that time.

1 “(D) For purposes of this paragraph, the term ‘com-
2 bined trust funds ratio’ means the ratio of—

3 “(i) the combined balance in the Federal Old-Age
4 and Survivors Insurance Trust Fund and the Federal
5 Disability Insurance Trust Fund, reduced by the
6 amount of any outstanding loan (including interest
7 thereon) from the Federal Hospital Insurance Trust
8 Fund, as of the start of business on January 1 of any
9 calendar year, to

10 “(ii) the amount estimated by the Secretary to be
11 the total amount to be paid from the Federal Old-Age
12 and Survivors Insurance Trust Fund and the Federal
13 Disability Insurance Trust Fund during such calendar
14 year for all purposes authorized by section 201, but ex-
15 cluding any transfer payments between such trust
16 funds and reducing the amount of any transfer to the
17 Railroad Retirement Account by the amount of any
18 transfers into either such trust fund from the Railroad
19 Retirement Account.

20 “(E) If any increase under paragraph (2) has been deter-
21 mined on the basis of the substitute formula in subparagraph
22 (A)(i) of this paragraph, and, for any succeeding calendar
23 year, the Secretary determines that the combined trust funds
24 ratio is greater than 82 percent, the Secretary shall pay addi-

1 tional benefits with respect to the 12-month period beginning
2 with the following December in amounts not to exceed—

3 “(i) in the aggregate, a total amount which, ac-
4 cording to actuarial estimate, equals the amount by
5 which the balance in such trust funds on the date of
6 such determination exceeds the amount necessary to
7 effect a combined trust funds ratio of 32 percent for
8 the following year; and

9 “(ii) with respect to any individual, for benefits for
10 each month in such 12-month period, an amount equal
11 to one-twelfth of the total amount by which all benefits
12 paid to him during all previous years were less than
13 the amounts which would have been paid to him but
14 for the provisions of this paragraph.

15 Such additional benefits shall be paid as a percentage in-
16 crease in the monthly benefits otherwise payable for months
17 during such 12-month period. If there are not sufficient funds
18 available to pay additional benefits in the full amount to all
19 individuals (taking into account the limitation in clause (i));
20 amounts paid under this subparagraph shall be paid on a pro
21 rata basis to all individuals who are entitled to any such
22 amount and are entitled to a benefit under this title for the
23 months in which such additional amounts are being paid.

24 “(F) In any case in which additional payments are made
25 by reason of the provisions of subparagraph (E), for purposes

1 of determining benefit amounts for months after the 12-
2 month period for which such additional benefits were made,
3 the percentage increase under this subsection applicable to
4 benefits payable for such 12-month period shall be deemed to
5 be the actual percentage achieved by reason of such addition-
6 al payments (as measured with respect to payments which
7 are not subject to reduction under any other provision of this
8 Act).”.

9 (e) Only with respect to the determination made for Jan-
10 uary 1, 1988, the combined trust fund ratio for such year (for
11 purposes of determining the increase under section 215(i) of
12 the Social Security Act for benefits payable for December of
13 such year) shall be determined by using the actuarial esti-
14 mate of the Secretary of Health and Human services of the
15 ratio of—

16 (1) the combined balance which will be available
17 in the Federal Old-Age and Survivors Insurance Trust
18 Fund and the Federal Disability Insurance Trust Fund,
19 reduced by the amount of any outstanding loan (includ-
20 ing interest thereon) from the Federal Hospital Insur-
21 ance Trust Fund, at the close of business on December
22 31 of such calendar year, to

23 (2) the amount estimated by the Secretary to be
24 the total amount to be paid from the Federal Old-Age
25 and Survivors Insurance Trust Fund and the Federal

1 Disability Insurance Trust Fund for calendar year
 2 1988 for all purposes authorized by section 201 of
 3 such Act, but excluding any transfer payments between
 4 such trust funds, and reducing the amount of any
 5 transfer to the Railroad Retirement Account by the
 6 amount of any transfers into either such trust fund
 7 from the Railroad Retirement Account.

8 (d) Section 1617(a)(2) of the Social Security Act is
 9 amended by inserting “, or, if greater, the percentage by
 10 which benefit amounts under title II would be increased for
 11 such month but for the provisions of section 215(i)(5),” after
 12 “are increased for such month”.

13 INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON
 14 ACCOUNT OF DELAYED RETIREMENT

15 SEC. 208. (a) Section 202(w)(1)(A) of the Social Secu-
 16 rity Act is amended to read as follows:

17 “(A) the applicable percentage (as determined
 18 under paragraph (6)) of such amount, multiplied by”.

19 (b) Section 202(w) of such Act is amended by adding at
 20 the end thereof the following new paragraph:

21 “(6) For purposes of paragraph (1)(A), the applicable
 22 percentage is—

23 “(A) $\frac{1}{12}$ of 1 percent in the case of an individual
 24 who first becomes eligible for an old-age insurance
 25 benefit before 1970; and

1 “(B) in the case of all other individuals—

2 “(i) $\frac{1}{4}$ of 1 percent for increment months
3 earned prior to 1980,

4 “(ii) with respect to increment months
5 earned after 1980, a percentage equal to the per-
6 centage in effect under this subparagraph for
7 months in the preceding calendar year (as in-
8 creased pursuant to this clause), plus $\frac{1}{48}$ of 1
9 percent, and

10 “(iii) $\frac{2}{3}$ of 1 percent for increment months
11 earned after 2008.”

12 (e)(1) Paragraphs (2) (A) and (3) of section 202(w) of
13 such Act are each amended by striking out “age 72” and
14 inserting in lieu thereof “age 70”.

15 (2) The amendments made by paragraph (1) shall apply
16 with respect to increment months in calendar years after
17 1983.

18 TITLE III—REVENUE PROVISIONS

19 SEC. 301. AMENDMENT OF 1954 CODE.

20 Except as otherwise expressly provided, whenever in
21 this title an amendment or repeal is expressed in terms of an
22 amendment to, or repeal of, a section or other provision, the
23 reference shall be considered to be made to a section or other
24 provision of the Internal Revenue Code of 1954.

1 **SEC. 302. TAXATION OF 50 PERCENT OF SOCIAL SECURITY**
2 **BENEFITS OF HIGHER INCOME PERSONS.**

3 (a) **GENERAL RULE.**—Part II of subchapter B of chap-
4 ter 1 (relating to amounts specifically included in gross
5 income) is amended by redesignating section 86 as section 87
6 and by inserting after section 85 the following new section:
7 **“SEC. 86. SOCIAL SECURITY BENEFITS.**

8 **“(a) IN GENERAL.**—If the adjusted gross income (deter-
9 mined without regard to this section, section 105(d), or sec-
10 tion 221) of the taxpayer for the taxable year exceeds the
11 base amount, there shall be included in the gross income of
12 the taxpayer for the taxable year an amount equal to one-half
13 of the social security benefits paid to the taxpayer during the
14 taxable year.

15 **“(b) BASE AMOUNT.**—For purposes of this section, the
16 term ‘base amount’ means—

17 **“(1) except as provided in paragraphs (2) and (3),**
18 **\$20,000,**

19 **“(2) \$25,000, in the case of a joint return, and**

20 **“(3) zero, in the case of a taxpayer who—**

21 **“(A) is married at the close of the taxable**
22 **year (within the meaning of section 143) but does**
23 **not file a joint return for such year, and**

24 **“(B) does not live apart from his spouse at**
25 **all times during the taxable year.**

1 “(1) the name and address of the person making
2 such return, and

3 “(2) the aggregate amount of payments to the in-
4 dividual as shown on such return.

5 The written statement required under the preceding sentence
6 shall be furnished to the individual on or before January 31
7 of the year following the calendar year for which the return
8 under subsection (a) was made.”.

9 (c) APPROPRIATIONS AND TRANSFERS TO TRUST
10 FUNDS.—Section 201 of the Social Security Act is amended
11 by adding at the end thereof the following new subsection:

12 “(m)(1) There are appropriated, out of any moneys in
13 the Treasury not otherwise appropriated, for each fiscal
14 year—

15 “(A) to the Federal Old Age and Survivors Insur-
16 ance Trust Fund an amount which bears the same
17 ratio to the increase in tax liability under chapter 1 of
18 the Internal Revenue Code of 1954 which is attributa-
19 ble to section 86 of such Code and properly allocable
20 to such fiscal year as—

21 “(i) the amount which is appropriated to
22 such trust fund under subsection (a) for such fiscal
23 year, bears to

1 “(ii) the aggregate amounts appropriated
2 under subsections (a) and (b) for such fiscal year,
3 and

4 “(B) to the Federal Disability Insurance Trust
5 Fund an amount equal to the portion of the increase in
6 tax described in subparagraph (A) which is not appro-
7 priated under subparagraph (A).

8 “(2)(A) The Secretary of the Treasury shall estimate for
9 fiscal year 1984 (and each year thereafter) the amount appro-
10 priated under paragraph (1).

11 “(B) On the basis of the estimate under subparagraph
12 (A), the Secretary of the Treasury shall not less than quarter-
13 ly make transfers to the appropriate trust funds.

14 “(3)(A) The Secretary of the Treasury shall make
15 proper adjustments in the amounts subsequently transferred
16 under paragraph (2) to the extent prior estimates differed
17 from the amounts required to be appropriated.

18 “(B) For purposes of this subsection, the final determi-
19 nation of the amount required to be transferred under this
20 subsection for any fiscal year shall be based on the final sta-
21 tistics of income which are—

22 “(i) published under section 6108(a) of the Inter-
23 nal Revenue Code of 1954, and

24 “(ii) properly allocable to such fiscal year.”

1 (d) **EFFECTIVE DATE.**—The amendments made by this
 2 section shall apply to benefits received after December 31,
 3 1982, and attributable to periods after such date.

4 **SEC. 302. ACCELERATION OF INCREASE IN FICA TAXES; 1984**
 5 **EMPLOYEE FICA TAX CREDIT.**

6 (a) **ACCELERATION OF INCREASE IN FICA TAXES.**—

7 (1) **TAX ON EMPLOYEES.**—Subsection (a) of sec-
 8 tion 3101 (relating to rate of tax on employees for old-
 9 age, survivors, and disability insurance) is amended by
 10 striking out paragraphs (5), (6), and (7) and inserting in
 11 lieu thereof the following:

12 “(5) with respect to wages received during the
 13 calendar years 1982 and 1983, the rate shall be 5.40
 14 percent;

15 “(6) with respect to wages received during the
 16 calendar years 1984 through 1987, the rate shall be
 17 5.70 percent;

18 “(7) with respect to wages received during the
 19 calendar years 1988 and 1989, the rate shall be 6.06
 20 percent; and

21 “(8) with respect to wages received after Decem-
 22 ber 31, 1989, the rate shall be 6.20 percent.”.

23 (2) **TAX ON EMPLOYERS.**—Subsection (a) of sec-
 24 tion 3111 (relating to rate of tax on employers for old-
 25 age, survivors, and disability insurance) is amended by

1 striking out paragraphs (5) through (7) and inserting in
2 lieu thereof the following:

3 “(5) with respect to wages paid during the calen-
4 dar years 1982 and 1983, the rate shall be 5.40 per-
5 cent;

6 “(6) with respect to wages paid during the calen-
7 dar years 1984 through 1987, the rate shall be 5.70
8 percent;

9 “(7) with respect to wages paid during the calen-
10 dar years 1988 and 1989, the rate shall be 6.06 per-
11 cent; and

12 “(8) with respect to wages paid after December
13 31, 1989, the rate shall be 6.20 percent.”

14 (3) CONFORMING AMENDMENT TO RAILROAD RE-
15 TIREMENT TAX ACT.—Section 3231 (relating to defi-
16 nitions) is amended by adding at the end thereof the
17 following new subsection:

18 “(i) TAXES IMPOSED BY SECTIONS 3101(a) AND
19 3111(a).—For purposes of this chapter, the rates of tax im-
20 posed by sections 3101(a) and 3111(a) shall be determined
21 without regard to the amendments made by the Social Secu-
22 rity Amendments of 1983.”

23 (b) CREDIT FOR EMPLOYEE FICA TAXES ATTRIBUT-
24 ABLE TO ACCELERATION OF THE INCREASE IN THE RATE
25 OF TAX.—

1 (1) IN GENERAL.—Subchapter B of chapter 65
2 (relating to rules of special application for abatements,
3 credits, and refunds) is amended by inserting at the end
4 thereof the following new section:

5 **“SEC. 6430. CREDIT FOR CERTAIN 1984 EMPLOYEE FICA**
6 **TAXES.**

7 “(a) ALLOWANCE OF CREDIT.—There shall be allowed
8 as a credit against the tax imposed by subtitle A for any
9 taxable year which begins in (and ends with or after) calendar
10 year 1984 an amount equal to the product of—

11 “(1) .003, multiplied by

12 “(2) the amount of wages received by the taxpay-
13 er during calendar year 1984 with respect to which—

14 “(A) a tax was imposed by section 3101(a),

15 or

16 “(B) a payment was made under an agree-
17 ment under section 218 of the Social Security
18 Act.

19 “(b) CREDIT TO BE REFUNDABLE.—For purposes of
20 this title (other than subpart A of part IV of subchapter A of
21 chapter 1 and chapter 63), the credit allowed by subsection
22 (a) shall be treated as if it were allowed by section 31 and not
23 this section.

24 “(c) WAGES DEFINED.—For purposes of this section,
25 the term ‘wages’ has the meaning given to such term by

1 section 3121(a), except that such term also includes remuneration covered by an agreement under section 218 of the Social Security Act.

4 “(d) COORDINATION WITH ADVANCE PAYMENTS UNDER SECTION 3510.—

6 “(1) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—If any payment is made to the taxpayer by an employer under section 3510 during 1984, then the tax imposed by this chapter for the taxable year to which subsection (a) applies shall be increased by the aggregate amount of such payments.

13 “(2) EFFECT OF RECONCILIATION ON OTHER CREDITS.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.”.

19 “(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

“Sec. 6430. Credit for certain 1984 employee FICA taxes.”.

22 “(e) ADVANCE PAYMENT OF SOCIAL SECURITY CREDIT.—

1 (1) IN GENERAL.—Chapter 25 (relating to gener-
2 al provisions involving employment taxes) is amended
3 by adding at the end thereof the following new section:

4 **“SEC. 2510. ADVANCE PAYMENT OF 1984 FICA TAX CREDIT.**

5 “(a) IN GENERAL.—Except as otherwise provided in
6 this section, every employer making payment of wages to an
7 employee shall, at the time of paying such wages, make an
8 additional payment to such employee equal to the product
9 of—

10 “(1) .003, multiplied by,

11 “(2) the amount of such wages with respect to
12 which—

13 “(A) a tax is imposed by section 3101(a) for
14 the payroll period, or

15 “(B) a payment was made under an agree-
16 ment under section 218 of the Social Security
17 Act.

18 “(b) PAYMENTS TO BE TREATED AS PAYMENTS OF
19 FICA TAXES.—

20 “(1) EMPLOYEE PAYMENTS.—For purposes of
21 this title, payments made by an employer under sub-
22 section (a) to his employees for any payroll period—

23 “(A) shall not be treated as the payment of
24 compensation, and

1 “(B) shall be treated as made out of amounts
2 required to be deducted for the payroll period
3 under section 3102 (relating to FICA employee
4 taxes), and as if the employer had paid to the
5 Secretary, on the day on which the wages are
6 paid to the employees, an amount equal to such
7 payments.

8 “(2) FAILURE TO MAKE ADVANCE PAYMENTS.—

9 For purposes of this title (including penalties), failure
10 to make any advance payment under subsection (a) at
11 the time provided therefor shall be treated as the fail-
12 ure at such time to deduct and withhold under sub-
13 chapter A of chapter 24 an amount equal to the
14 amount of such advance payment.

15 “(e) DEFINITIONS.—For purposes of this section—

16 “(1) WAGES.—The term ‘wages’ has the meaning
17 given such term by section 6430(e).

18 “(2) EMPLOYER.—The term ‘employer’ includes
19 any person treated as an employer under any agree-
20 ment made pursuant to section 218 of the Social Secu-
21 rity Act.”.

22 (2) CONFORMING AMENDMENTS.—

23 (A) Section 6302 (relating to mode or time
24 of collection) is amended by adding at the end
25 thereof the following new subsection:

1 “(c) CROSS REFERENCE.—

 “**For treatment of payment of FICA tax credit advance amounts as payment of withholding and FICA taxes, see section 2510(b).**”.

2 (B) The table of sections for chapter 25 is
3 amended by adding at the end thereof the follow-
4 ing new item:

 “Sec. 2510. Advance payment of 1984 FICA tax credit.”.

5 (d) EFFECTIVE DATE.—The amendments made by this
6 section shall apply only with respect to remuneration re-
7 ceived or paid, and taxable years beginning, after December
8 31, 1983.

9 SEC. 304. SELF-EMPLOYMENT TAXES.

10 (a) INCREASE IN RATE OF TAX.—Subsection (a) of
11 section 1401 (relating to the old-age, survivors, and disability
12 insurance tax on self-employment income) is amended by
13 striking out paragraphs (5), (6), and (7) and inserting in lieu
14 thereof the following:

15 “(5) in the case of any taxable year beginning
16 after December 31, 1981, and before January 1, 1984,
17 the tax shall be equal to 8.05 percent of the amount of
18 the self-employment income for such taxable year;

19 “(6) in the case of any taxable year beginning
20 after December 31, 1983, and before January 1, 1988,
21 the tax shall be equal to 11.40 percent of the amount
22 of the self-employment income for such taxable year;

1 “(7) in the case of any taxable year beginning
2 after December 31, 1987, and before January 1, 1990,
3 the tax shall be equal to 12.12 percent of the amount
4 of the self-employment income for such taxable year;
5 and

6 “(8) in the case of any taxable year beginning
7 after December 31, 1989, the tax shall be equal to
8 12.40 percent of the amount of the self-employment
9 income for such taxable year.”.

10 (b) ALLOWANCE OF DEDUCTION FOR 50 PERCENT OF
11 ~~THE SELF-EMPLOYMENT TAX.—~~

12 (1) ALLOWANCE OF DEDUCTION.—

13 • (A) IN GENERAL.—Part VII of subchapter B
14 of chapter 1 (relating to additional itemized de-
15 ductions for individuals) is amended by redес-
16 ignating section 223 as section 224 and by insert-
17 ing after section 222 the following new section:

18 “~~SEC. 223. DEDUCTION FOR 50 PERCENT OF SELF-EMPLOY-~~
19 ~~MENT TAXES.~~

20 “There shall be allowed as a deduction for the taxable
21 year an amount equal to 50 percent of the tax imposed by
22 section 1401(a) which is paid or accrued by the taxpayer
23 during such taxable year.”.

24 (B) DEDUCTION ALLOWED IN COMPUTING
25 ADJUSTED GROSS INCOME.—Section 62 (defining

1 adjusted gross income) is amended by inserting
2 after paragraph (16) the following new paragraph:

3 “(17) ~~SELF-EMPLOYMENT TAXES.~~—The deduc-
4 tion allowed by section 223.”.

5 (2) ~~CONFORMING AMENDMENTS.~~—

6 (A) Paragraph (1) of section 275(a) (relating
7 to disallowance of deductions for certain taxes) is
8 amended—

9 (i) by striking out “and” at the end of
10 subparagraph (B);

11 (ii) by striking out the period at the end
12 of subparagraph (C) and inserting in lieu
13 thereof a semicolon and “and”; and

14 (iii) by adding at the end thereof the fol-
15 lowing new subparagraph:

16 “(D) the taxes imposed by section 1401 (re-
17 lating to self-employment taxes) to the extent a
18 deduction is not allowed with respect to such
19 taxes under section 223.”.

20 (B) Subsection (b) of section 1403 (relating
21 to cross references) is amended by adding at the
22 end thereof the following new paragraph:

23 “(4) For provisions relating to deductibility of
24 self-employment taxes, see sections 223 and
25 275(a)(1)(D).”.

1 ment under section 401(k) of the Internal Revenue
2 Code of 1954 or" after "unless such payment".

3 (b) ~~EFFECTIVE DATE.~~—The amendments made by sub-
4 section (a) shall apply with respect to payments made after
5 December 31, 1983.

6 **TITLE IV—MISCELLANEOUS FINANCING**

7 **PROVISIONS**

8 **ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND**

9 **SEC. 401.** (a) Section 201(b)(1) of the Social Security
10 Act is amended by striking out clauses (K) through (M) and
11 inserting in lieu thereof the following: "~~(K)~~ 1.65 per centum
12 of the wages (as so defined) paid after December 31, 1981,
13 and before January 1, 1984, and so reported, ~~(L)~~ 0.50 per
14 centum of the wages (as so defined) paid after December 31,
15 1983, and before January 1, 1985, and so reported, ~~(M)~~ 1.00
16 per centum of the wages (as so defined) paid after December
17 31, 1984, and before January 1, 1990, and so reported, and
18 ~~(N)~~ 1.60 per centum of the wages (as so defined) paid after
19 December 31, 1980, and so reported,".

20 (b) Section 201(b)(2) of such Act is amended by striking
21 out clauses (K) through (M) and inserting in lieu thereof the
22 following: "~~(K)~~ 1.2375 per centum of the amount of self-
23 employment income (as so defined) so reported for any tax-
24 able year beginning after December 31, 1981, and before
25 January 1, 1984, ~~(L)~~ 0.50 per centum of the amount of self-

1 employment income (as so defined) so reported for any tax-
 2 able year beginning after December 31, 1983, and before
 3 January 1, 1985, (M) 1.00 per centum of the amount of self-
 4 employment income (as so defined) so reported for any tax-
 5 able year beginning after December 31, 1984, and before
 6 January 1, 1990, and (N) 1.60 per centum of the self-em-
 7 ployment income (as so defined) so reported for any taxable
 8 year beginning after December 31, 1989.”

9 **INTERFUND BORROWING EXTENSION**

10 **SEC. 402.** (a) Section 201(l)(1) of the Social Security
 11 Act is amended by striking out “January 1983” and insert-
 12 ing in lieu thereof “January 1988”.

13 (b) Section 1817 of such Act is amended by striking out
 14 subsection (j) thereof.

15 **CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO**
 16 **TRUST FUNDS**

17 **SEC. 403.** (a) The Secretary of the Treasury shall take
 18 such actions as may be necessary to ensure that amounts of
 19 checks for benefits under title II of the Social Security Act
 20 which have not been presented for payment within a reason-
 21 able length of time (not to exceed twelve months) after issu-
 22 ance are credited to the Federal Old-Age and Survivors In-
 23 surance Trust Fund or the Federal Disability Insurance
 24 Trust Fund, whichever may be the fund from which the
 25 check was issued. Amounts of any such check shall be re-

1 charged to the fund from which they were issued if payment
2 is subsequently made on such check.

3 (b)(1) The Secretary of the Treasury shall transfer from
4 the general fund of the Treasury to the Federal Old-Age and
5 Survivors Insurance Trust Fund and to the Federal Disabil-
6 ity Insurance Trust Fund, as appropriate, such sums as may
7 be necessary to reimburse such Trust Funds in the total
8 amounts of all currently unnegotiated benefit checks. After
9 the amounts appropriated by this subsection have been trans-
10 ferred to the Trust Funds, the provisions of subsection (a)
11 shall be applicable. There are hereby appropriated into such
12 Trust Funds such sums as may be necessary to reimburse
13 such Trust Funds for the amount of currently unnegotiated
14 benefit checks. The first such transfer shall be made within
15 thirty days after the date of the enactment of this Act with
16 respect to all such unnegotiated checks as of such date of
17 enactment.

18 (2) As used in paragraph (1), the term "currently unne-
19 gotiated benefit checks" means the checks issued under title
20 II of the Social Security Act prior to the date of the enact-
21 ment of this Act, which remain unnegotiated after the twelfth
22 month following the date on which they were issued.

1 TRANSFER TO TRUST FUNDS FOR BENEFITS
2 ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957
3 SEC. 404. (a) Section 217(g) of the Social Security Act
4 is amended to read as follows:

5 “Appropriation to Trust Funds
6 “(g)(1) Within thirty days after the date of the enact-
7 ment of the Social Security Amendments of 1983, the Secre-
8 tary shall determine the amounts which are the amounts esti-
9 mated to be necessary to be transferred into each of the Fed-
10 eral Old Age and Survivors Insurance Trust Fund, the Fed-
11 eral Disability Insurance Trust Fund, and the Federal Hospi-
12 tal Insurance Trust Fund on such date of enactment so that
13 each such Trust Fund will be in the same position at the
14 close of September thirty, 2015 as each such Trust Fund
15 would otherwise be in at the close of September thirty, 2015
16 if section 210 of this Act as in effect prior to the Social Secu-
17 rity Act Amendments of 1950, and this section, had not been
18 enacted (less any amounts previously transferred under the
19 provisions of this subsection as in effect prior to the date of
20 the enactment of the Social Security Amendments of 1983).
21 The rate of interest to be used in initially determining such
22 amount shall be the rate determined under section 201(f) for
23 public debt obligations which were or could have been issued
24 for purchase by such Trust Funds on the date of the enact-
25 ment of the Social Security Amendments of 1983, and the

1 assumptions with respect to future increases in wage and
2 price levels shall be consistent with such rate of interest. The
3 Secretary of the Treasury shall transfer the amounts deter-
4 mined under this paragraph into such Trust Funds from the
5 general fund in the Treasury within thirty days after the date
6 of the enactment of the Social Security Amendments of
7 1983. There are hereby appropriated into such Trust Funds
8 sums equal to the amounts to be transferred in accordance
9 with this paragraph into such Trust Funds.

10 “(2) The Secretary shall revise the amount determined
11 under paragraph (1) within one year after the date of the
12 transfer made under paragraph (1), and every five years
13 thereafter, as warranted by data which may become available
14 to him after the date of the transfer under paragraph (1)
15 based upon actual benefits paid under this title and title
16 XVIII. Any amounts determined to be needed for transfer
17 shall be transferred annually by the Secretary of the Treas-
18 ury into the appropriate Trust Fund from the general fund in
19 the Treasury, or out of the appropriate Trust Fund into the
20 general fund in the Treasury, as may be appropriate. There
21 are authorized to be appropriated to such Trust Funds sums
22 equal to the amounts to be transferred in accordance with
23 this paragraph into such Trust Funds.”

1 PAYMENTS TO TRUST FUNDS OF AMOUNTS EQUIVALENT
2 TO TAXES ON SERVICE IN THE UNIFORMED SERVICES
3 PERFORMED AFTER 1956

4 SEC. 405. (a) Section 229(b) of the Social Security Act
5 is amended to read as follows:

6 “(b) There are authorized to be appropriated to the Fed-
7 eral Old-Age and Survivors Insurance Trust Fund, the Fed-
8 eral Disability Insurance Trust Fund, and the Federal Hospi-
9 tal Insurance Trust Fund, for each fiscal year, amounts equal
10 to the additional amounts which would be appropriated into
11 each such Trust Fund for such fiscal year under sections 201
12 and 1817 of this Act if the amounts of the additional wages
13 deemed to have been paid by reason of subsection (a) consti-
14 tuted remuneration for employment (as defined in section
15 3121(b) of the Internal Revenue Code of 1954) for purposes
16 of the taxes imposed by sections 3101 and 3111 of the Inter-
17 nal Revenue Code of 1954.”

18 (b) The amendment made by subsection (a) shall be ef-
19 fective with respect to wages deemed to have been paid for
20 calendar years after 1982.

21 (c)(1) Within thirty days after the date of the enactment
22 of this Act, the Secretary of Health and Human Services
23 shall determine the amounts equal to the additional amounts
24 which would have been appropriated into the Federal Old-
25 Age and Survivors Insurance Trust Fund, the Federal Dis-

1 ability Insurance Trust Fund, and the Federal Hospital In-
2 surance Trust Fund under sections 201 and 1817 of the
3 Social Security Act, if the additional wages deemed to have
4 been paid under section 220(a) of the Social Security Act
5 prior to 1983 had constituted remuneration for employment
6 (as defined in section 3121(b) of the Internal Revenue Code
7 of 1954) for purposes of the taxes imposed by sections 3101
8 and 3111 of the Internal Revenue Code of 1954, and the
9 amount of interest which would have been earned on such
10 amounts if they had been so appropriated.

11 (2)(A) The Secretary of the Treasury shall, within thirty
12 days after the date of the enactment of this Act, transfer into
13 each such Trust Fund, from the general fund in the Treasury,
14 an amount equal to the amount determined with respect to
15 such Trust Fund under paragraph (1), less any amount ap-
16 propriated into such Trust Fund under the provisions of sec-
17 tion 220(b) of the Social Security Act prior to the date of the
18 determination made under paragraph (1) with respect to
19 wages deemed to have been paid for calendar years prior to
20 1983. There are hereby appropriated into such Trust Funds
21 sums equal to the amounts to be transferred in accordance
22 with this subparagraph into such Trust Funds.

23 (B) The Secretary shall revise the amount determined
24 under subparagraph (A) within one year after the date of the
25 transfer made under paragraph (1), as warranted by data

1 which may become available to him after the date of the
2 transfer under subparagraph (A) based upon actual benefits
3 paid under this title and title XVIII. Any amounts deter-
4 mined to be needed for transfer shall be transferred by the
5 Secretary of the Treasury into the appropriate Trust Fund
6 from the general fund in the Treasury, or out of the appropri-
7 ate Trust Fund into the general fund in the Treasury, as may
8 be appropriate. There are authorized to be appropriated to
9 such Trust Funds sums equal to the amounts to be trans-
10 ferred in accordance with this subparagraph into such Trust
11 Funds.

12 TRUST FUND INVESTMENT PROCEDURE

13 SEC. 406. (a) Section 201 of the Social Security Act is
14 amended by striking out subsections (d), (e), and (f) and in-
15 serting in lieu thereof the following new subsections:

16 “(d) There are hereby created on the books of the
17 Treasury of the United States an account to be known as the
18 Old-Age and Survivors Insurance Depository Account and
19 an account to be known as the Disability Insurance Deposi-
20 tary Account.

21 “(e) The Managing Trustee shall deposit that portion of
22 the Federal Old-Age and Survivors Insurance Trust Fund
23 not required to meet current withdrawals from such Trust
24 Fund in the Old-Age and Survivors Insurance Depository

1 Account and that portion of the Federal Disability Insurance
2 Trust Fund not required to meet current withdrawals from
3 such Trust Fund in the Disability Insurance Depository Ac-
4 count.

5 “(1) The Secretary of the Treasury may apply moneys
6 deposited in an account pursuant to subsection (e) in any way
7 in which he is authorized by law to apply moneys in the
8 general fund of the Treasury.

9 “(2)(A) Moneys deposited in an account pursuant to sub-
10 section (e) shall be treated as indebtedness of the United
11 States for purposes of section 1305(2) of title 31, United
12 States Code, and shall earn interest, payable monthly, in an
13 amount equal to the product obtained by multiplying the
14 average balance of moneys in the account for such month by
15 the average market yield (computed by the Managing
16 Trustee on the basis of market quotations as of the end of
17 each day of the previous month) on all marketable interest-
18 bearing obligations of the United States then forming a part
19 of the public debt which are not due or callable until after the
20 expiration of four years from the end of such previous month,
21 except that ‘flower bonds’ shall not be included in such com-
22 putation.

23 “(B) For purposes of this paragraph, the term ‘flower
24 bond’ means a United States Treasury bond which was
25 issued before March 4, 1971 and which may, at the option of

1 the duly constituted representatives of the estate of a de-
2 ceased individual, be redeemed at par (face) value, plus ac-
3 crued interest to the date of payment, if—

4 “(i) it was owned by such deceased individual at
5 the time of his death,

6 “(ii) it is part of the estate of such deceased indi-
7 vidual; and

8 “(iii) such representatives authorize the Secretary
9 of the Treasury to apply the entire proceeds of the re-
10 demption of such bond to the payment of Federal
11 estate taxes.

12 “(3) The Managing Trustee may withdraw moneys de-
13 posited in an account pursuant to subsection (c) whenever he
14 determines that such moneys are necessary to meet current
15 withdrawals from the Trust Fund which deposited such
16 moneys, and the Secretary of the Treasury may sell obliga-
17 tions of the United States in the market in an amount not to
18 exceed the amount of such withdrawal if he determines that
19 such withdrawal necessitates an increase in the general fund
20 of the Treasury by an amount not exceeding such amount.”.

21 (b) Section 1817 of such Act is amended by striking out
22 subsections (e), (d), and (c) and inserting in lieu thereof the
23 following new subsections:

1 “(e) There is hereby created on the books of the Treas-
2 ury of the United States an account to be known as the Hos-
3 pital Insurance Depository Account.

4 “(d) The Managing Trustee shall deposit that portion of
5 the Federal Hospital Insurance Trust Fund not required to
6 meet current withdrawals from such Trust Fund in the Hos-
7 pital Insurance Depository Account.

8 “(e)(1) The Secretary of the Treasury may apply
9 moneys deposited in the account pursuant to subsection (d) in
10 any way in which he is authorized by law to apply moneys in
11 the general fund of the Treasury.

12 “(2)(A) Moneys deposited in the account pursuant to
13 subsection (d) shall be treated as indebtedness of the United
14 States for purposes of section 1305(2) of title 31, United
15 States Code, and shall earn interest, payable monthly, in an
16 amount equal to the product obtained by multiplying the
17 average balance of moneys in the account for such month by
18 the average market yield (computed by the Managing Trust-
19 ee on the basis of market quotations as of the end of each day
20 of the previous month) on all marketable interest-bearing ob-
21 ligations of the United States then forming a part of the
22 public debt which are not due or callable until after the expi-
23 ration of four years from the end of such previous month,
24 except that ‘flower bonds’ shall not be included in such com-
25 putation.

1 “(B) For purposes of this paragraph, the term ‘flower
2 bond’ means a United States Treasury bond which was
3 issued before March 4, 1971, and which may, at the option of
4 the duly constituted representatives of the estate of a de-
5 ceased individual, be redeemed at par (face) value, plus ac-
6 crued interest to the date of payment, if—

7 “(i) it was owned by such deceased individual at
8 the time of his death;

9 “(ii) it is part of the estate of such deceased indi-
10 vidual; and

11 “(iii) such representatives authorize the Secretary
12 of the Treasury to apply the entire proceeds of the re-
13 demption of such bond to the payment of Federal
14 estate taxes.

15 “(3) The Managing Trustee may withdraw moneys de-
16 posited in the account pursuant to subsection (d) whenever he
17 determines that such moneys are necessary to meet current
18 withdrawals from the Trust Fund; and the Secretary of the
19 Treasury may sell obligations of the United States in the
20 market in an amount not to exceed the amount of such with-
21 drawal if he determines that such withdrawal necessitates an
22 increase in the general fund of the Treasury by an amount
23 not exceeding such amount.”

1 (e) Section 1841 of such Act is amended by striking out
2 subsections (e), (d), and (c) and inserting in lieu thereof the
3 following new subsections:

4 “(e) There is hereby established on the books of the
5 Treasury an account to be known as the Supplementary
6 Medical Insurance Depository Account.

7 “(d) The Managing Trustee shall deposit that portion of
8 the Federal Supplementary Medical Insurance Trust Fund
9 not required to meet current withdrawals from such Trust
10 Fund in the Supplementary Medical Insurance Depository
11 Account.

12 “(e)(1) The Secretary of the Treasury may apply
13 moneys deposited in the account pursuant to subsection (d) in
14 any way in which he is authorized by law to apply moneys in
15 the general fund of the Treasury.

16 “(2)(A) Moneys deposited in the account pursuant to
17 subsection (d) shall be treated as indebtedness of the United
18 States for purposes of section 1305(2) of title 31, United
19 States Code, and shall earn interest, payable monthly, in an
20 amount equal to the product obtained by multiplying the
21 average balance of moneys in the account for such month by
22 the average market yield (computed by the Managing Trust-
23 ee on the basis of market quotations as of the end of each day
24 of the previous month) on all marketable interest-bearing ob-
25 ligations of the United States then forming a part of the

1 public debt which are not due or callable until after the expi-
2 ration of four years from the end of such previous month,
3 except that 'flower bonds' shall not be included in such com-
4 putation.

5 “(B) For purposes of this paragraph, the term 'flower
6 bond' means a United States Treasury bond which was
7 issued before March 4, 1971, and which may, at the option of
8 the duly constituted representatives of the estate of a de-
9 ceased individual, be redeemed at par (face) value, plus ac-
10 crued interest to the date of payment, if—

11 “(i) it was owned by such deceased individual at
12 the time of his death,

13 “(ii) it is part of the estate of such deceased indi-
14 vidual, and

15 “(iii) such representatives authorize the Secretary
16 of the Treasury to apply the entire proceeds of the re-
17 demption of such bond to the payment of Federal
18 estate taxes.

19 “(3) The Managing Trustee may withdraw moneys de-
20 posited in the account pursuant to subsection (d) whenever he
21 determines that such moneys are necessary to meet current
22 withdrawals from the Trust Fund, and the Secretary of the
23 Treasury may sell obligations of the United States in the
24 market in an amount not to exceed the amount of such with-
25 drawal if he determines that such withdrawal necessitates an

1 increase in the general fund of the Treasury by an amount
2 not exceeding such amount.”.

3 (d)(1) Not later than thirty days after the date of enact-
4 ment of this Act, the Secretary of the Treasury shall redeem
5 at par all outstanding obligations of the United States issued
6 under the Second Liberty Bond Act exclusively for purchase
7 by the Federal Old-Age Insurance Trust Fund, the Federal
8 Disability Insurance Trust Fund, the Federal Hospital Insur-
9 ance Trust Fund, and the Federal Supplementary Medical
10 Insurance Trust Fund (hereinafter in this subsection referred
11 to as the “Trust Funds”).

12 (2)(A) The Managing Trustee may sell any marketable
13 obligation of the United States held by the Trust Funds at
14 market price at any time and shall sell (or redeem) all
15 “flower bonds” held by the Trust Funds at market price
16 within thirty days of the date of enactment of this Act.

17 (B) For purposes of this paragraph, the term “flower
18 bond” means a United States Treasury bond which was
19 issued before March 4, 1971, and which may, at the option of
20 the duly constituted representatives of the estate of a de-
21 ceased individual, be redeemed at par (face) value, plus ac-
22 crued interest to the date of payment, if—

23 (i) it was owned by such deceased individual at
24 the time of his death,

PART D—MISCELLANEOUS FINANCING PROVISIONS

- Sec. 141. Allocation to Disability Insurance Trust Fund.*
- Sec. 142. Interfund borrowing extension.*
- Sec. 143. Crediting amounts of unnegotiated checks to trust funds.*
- Sec. 144. Transfer to trust funds for costs of benefits attributable to military service before 1957.*
- Sec. 145. Payment to trust funds of amounts equivalent to taxes on service in the uniformed services performed after 1956.*
- Sec. 146. Trust fund investment procedure.*
- Sec. 147. Addition of public members to trust fund board of trustees.*
- Sec. 148. Payment schedule by State and local governments.*
- Sec. 149. Normalized crediting of social security taxes to trust funds.*
- Sec. 150. Amounts received under certain deferred compensation and salary reduction arrangements treated as wages for FICA taxes.*
- Sec. 151. Codification of Rowan decision with respect to meals and lodging.*
- Sec. 152. Treatment of contributions under simplified employee pensions.*

TITLE II—SUPPLEMENTAL SECURITY INCOME

- Sec. 201. Increase in benefit standard.*
- Sec. 202. Adjustments in Federal SSI pass-through provisions.*
- Sec. 203. Notification with respect to SSI program.*

TITLE III—MEDICARE

- Sec. 301. Medicare payments for inpatient hospital services on the basis of prospective rates.*
- Sec. 302. Conforming amendments.*
- Sec. 303. Reports, experiments, and demonstration projects.*
- Sec. 304. Effective dates.*
- Sec. 305. Delay in provision relating to hospital-based skilled nursing facilities.*
- Sec. 306. Shift in part B premium to coincide with cost-of-living increase.*
- Sec. 307. Shift in voluntary part A premium to coincide with cost-of-living increase.*

TITLE IV—UNEMPLOYMENT COMPENSATION

PART A—FEDERAL SUPPLEMENTAL COMPENSATION

- Sec. 401. Extension of program.*
- Sec. 402. Number of weeks for which compensation payable.*
- Sec. 403. Effective date.*

PART B—PROVISIONS RELATING TO INTEREST AND CREDIT REDUCTIONS

- Sec. 411. Deferral of interest.*
- Sec. 412. Cap on credit reduction.*
- Sec. 413. Average employer contribution rate.*
- Sec. 414. Date for payment of interest.*
- Sec. 415. Recoupment of interest.*

PART C—MISCELLANEOUS PROVISIONS

- Sec. 421. Treatment of employees providing services to educational institutions.*
- Sec. 422. Extended benefits for individuals who are hospitalized or on jury duty.*

1 *TITLE I—SOCIAL SECURITY*

2 *PART A—CHANGES IN COVERAGE*

3 *COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES*

4 *SEC. 101. (a)(1) Section 210(a) of the Social Security*
5 *Act is amended by striking out paragraphs (5) and (6) and*
6 *inserting in lieu thereof the following:*

7 *“(5) Service performed in the employ of the*
8 *United States or any instrumentality of the United*
9 *States, if such service—*

10 *“(A) would not be included in the term ‘em-*
11 *ployment’ for purposes of this subsection by*
12 *reason of the provisions of paragraph (5) or (6) of*
13 *this subsection as in effect on January 1, 1983,*
14 *and*

15 *“(B) is performed by an individual who has*
16 *been continuously in the employ of the United*
17 *States or an instrumentality thereof (including,*
18 *solely for purposes of this paragraph, the receipt*
19 *of benefits under the Civil Service Retirement*
20 *and Disability Fund, or any other benefits (based*
21 *upon service as an employee) under another re-*
22 *irement system established by a law of the*
23 *United States for employees of the Federal Gov-*
24 *ernment or members of the Uniformed Services as*
25 *being ‘in the employ’ of the United States) since*

1 *December 31, 1983 (and for this purpose an indi-*
2 *vidual who returns to the performance of such*
3 *service after a separation from such service shall*
4 *nevertheless be considered upon such return as*
5 *having been continuously in the employ of the*
6 *United States or an instrumentality thereof, re-*
7 *gardless of whether the period of such separation*
8 *began before, on, or after December 31, 1983, if*
9 *the period of such separation does not exceed 365*
10 *days);*

11 *except that this paragraph shall not apply with respect*
12 *to—*

13 *“(i) service performed as the President or*
14 *Vice President of the United States,*

15 *“(ii) service performed as a Member, Dele-*
16 *gate, or Resident Commissioner of or to the Con-*
17 *gress,*

18 *“(iii) service performed as the Commissioner*
19 *of Social Security, or*

20 *“(iv) any other service in the legislative*
21 *branch of the Federal Government if such service*
22 *is performed by an individual who, on December*
23 *31, 1983, is not subject to subchapter III of chap-*
24 *ter 83 of title 5, United States Code.*

1 “(6) Service performed in the employ of the
2 United States or any instrumentality of the United
3 States if such service is performed—

4 “(A) in a penal institution of the United
5 States by an inmate thereof;

6 “(B) by any individual as an employee in-
7 cluded under section 5351(2) of title 5, United
8 States Code (relating to certain interns, student
9 nurses, and other student employees of hospitals of
10 the Federal Government), other than as a medical
11 or dental intern or a medical or dental resident in
12 training; or

13 “(C) by any individual as an employee serv-
14 ing on a temporary basis in case of fire, storm,
15 earthquake, flood, or other similar emergency;”.

16 (2) Section 210(p) of such Act is amended by striking
17 out “provisions of—” and all that follows and inserting in
18 lieu thereof “provisions of subsection (a)(5).”.

19 (b)(1) Section 3121(b) of the Internal Revenue Code of
20 1954 is amended by striking out paragraphs (5) and (6) and
21 inserting in lieu thereof the following:

22 “(5) service performed in the employ of the
23 United States or any instrumentality of the United
24 States, if such service—

1 “(A) would not be included in the term ‘em-
2 ployment’ for purposes of this subsection by
3 reason of the provisions of paragraph (5) or (6) of
4 this subsection as in effect on January 1, 1983,
5 and

6 “(B) is performed by an individual who has
7 been continuously in the employ of the United
8 States or an instrumentality thereof (including,
9 solely for purposes of this paragraph, the receipt
10 of benefits under the Civil Service Retirement
11 and Disability Fund, or any other benefits (based
12 upon service as an employee) under another re-
13 tirement system established by a law of the
14 United States for employees of the Federal Gov-
15 ernment or members of the Uniformed Services as
16 being ‘in the employ’ of the United States) since
17 December 31, 1983 (and for this purpose an indi-
18 vidual who returns to the performance of such
19 service after a separation from such service shall
20 nevertheless be considered upon such return as
21 having been continuously in the employ of the
22 United States or an instrumentality thereof, re-
23 gardless of whether the period of such separation
24 began before, on, or after December 31, 1983, if

1 *the period of such separation does not exceed 365*
2 *days);*

3 *except that this paragraph shall not apply with respect*
4 *to—*

5 “(i) *service performed as the President or*
6 *Vice President of the United States,*

7 “(ii) *service performed as a Member, Dele-*
8 *gate, or Resident Commissioner of or to the Con-*
9 *gress,*

10 “(iii) *service performed as the Commissioner*
11 *of Social Security, or*

12 “(iv) *any other service in the legislative*
13 *branch of the Federal Government if such service*
14 *is performed by an individual who, on December*
15 *31, 1983, is not subject to subchapter III of chap-*
16 *ter 83 of title 5, United States Code;*

17 “(6) *service performed in the employ of the*
18 *United States or any instrumentality of the United*
19 *States if such service is performed—*

20 “(A) *in a penal institution of the United*
21 *States by an inmate thereof;*

22 “(B) *by any individual as an employee in-*
23 *cluded under section 5351(2) of title 5, United*
24 *States Code (relating to certain interns, student*
25 *nurses, and other student employees of hospitals of*

1 *the Federal Government), other than as a medical*
 2 *or dental intern or a medical or dental resident in*
 3 *training; or*

4 *“(C) by any individual as an employee serv-*
 5 *ing on a temporary basis in case of fire, storm,*
 6 *earthquake, flood, or other similar emergency;”.*

7 (2) *Section 3121(u)(1) of such Code is amended to read*
 8 *as follows:*

9 *“(1) IN GENERAL.—For purposes of the taxes*
 10 *imposed by sections 3101(b) and 3111(b), subsection*
 11 *(b) shall be applied without regard to paragraph (5)*
 12 *thereof.”.*

13 (c) *The amendments made by this section shall be effec-*
 14 *tive with respect to remuneration paid after December 31,*
 15 *1983.*

16 (d) *Nothing in this Act shall reduce the accrued entitle-*
 17 *ments to future benefits under the Federal Retirement*
 18 *System of current and retired Federal employees and their*
 19 *families.*

20 COVERAGE OF EMPLOYEES OF NONPROFIT

21 ORGANIZATIONS

22 SEC. 102. (a) *Section 210(a)(8) of the Social Security*
 23 *Act is amended by striking out subparagraph (B) thereof and*
 24 *by striking out “(A)” after “(8)”.*

1 **(b)(1)** *Section 3121(b)(8) of the Internal Revenue Code*
 2 *of 1954 is amended by striking out subparagraph (B) thereof*
 3 *and by striking out “(A)” after “(8)”.*

4 **(2)** *Subsection (k) of section 3121 of such Code is re-*
 5 *pealed.*

6 **(c)** *The amendments made by this section shall be effec-*
 7 *tive with respect to remuneration paid after December 31,*
 8 *1983.*

9 **(d)** *Notwithstanding any provision of section 3121(k) of*
 10 *the Internal Revenue Code of 1954 (or any other provision of*
 11 *law) the period for which a certificate is in effect under such*
 12 *section may not be terminated on or after the date of the*
 13 *enactment of this Act.*

14 **DURATION OF AGREEMENT FOR COVERAGE OF STATE AND**
 15 **LOCAL EMPLOYEES**

16 **SEC. 103.** *(a) Subsection (g) of section 218 of the*
 17 *Social Security Act is amended to read as follows:*

18 *“Duration of Agreement*

19 *“(g) No agreement under this section may be terminat-*
 20 *ed, in its entirety or with respect to any coverage group, on or*
 21 *after the date of the enactment of the Social Security Amend-*
 22 *ments of 1983.”.*

23 **(b)** *The amendment made by subsection (a) shall apply*
 24 *to any agreement in effect under section 218 of the Social*
 25 *Security Act on the date of the enactment of this Act, without*

1 regard to whether a notice of termination was in effect on
2 such date, and to any agreement or modification thereof
3 which may become effective under such section 218 after that
4 date.

5 *EXCLUSION OF SERVICES PERFORMED BY MEMBERS OF*
6 *CERTAIN RELIGIOUS SECTS*

7 *SEC. 104. (a) Section 3121 of the Internal Revenue*
8 *Code of 1954 is amended by adding at the end thereof the*
9 *following new subsection:*

10 *“(v) MEMBERS OF CERTAIN RELIGIOUS FAITHS.—*

11 *“(1) EXEMPTION.—Any individual may file an*
12 *application (in such form and manner, and with such*
13 *official, as may be prescribed by regulations under this*
14 *chapter) for an exemption from the tax imposed by this*
15 *chapter with respect to wages paid to such individual*
16 *by an employer who is exempt from the tax imposed*
17 *under section 1401 by reason of an exemption granted*
18 *under section 1402(g), if such individual is a member*
19 *of a recognized religious sect or division thereof and is*
20 *an adherent of established tenets or teachings of such*
21 *sect or division by reason of which he is conscientious-*
22 *ly opposed to acceptance of the benefits of any private*
23 *or public insurance which makes payments in the*
24 *event of death, disability, old-age, or retirement or*
25 *makes payments toward the cost of, or provides services*

1 *for, medical care (including the benefits of any insur-*
2 *ance system established by the Social Security Act).*
3 *Such exemption may be granted only if the application*
4 *contains or is accompanied by—*

5 *“(A) such evidence of such individual’s*
6 *membership in, and adherence to the tenets or*
7 *teachings of the sect or division thereof as the*
8 *Secretary may require for purposes of determin-*
9 *ing such individual’s compliance with the preced-*
10 *ing sentence, and*

11 *“(B) his waiver of all benefits and other*
12 *payments under titles II and XVIII of the Social*
13 *Security Act on the basis of his wages and self-*
14 *employment income as well as all such benefits*
15 *and other payments to him on the basis of the*
16 *wages and self-employment income of any other*
17 *person,*

18 *and only if the Secretary of Health and Human Serv-*
19 *ices finds that—*

20 *“(i) such sect or division thereof has the es-*
21 *tablished tenets or teachings referred to in the pre-*
22 *ceding sentence,*

23 *“(ii) it is the practice, and has been for a*
24 *period of time which he deems to be substantial,*
25 *for members of such sect or division thereof to*

1 *make provision for their dependent members*
2 *which in his judgment is reasonable in view of*
3 *their general level of living, and*

4 “(iii) such sect or division thereof has been
5 *in existence at all times since December 31,*
6 *1950.*

7 *An exemption may not be granted to any individual if*
8 *any benefit or other payment referred to in subpara-*
9 *graph (B) became payable (or, but for section 203 or*
10 *222(b) of the Social Security Act, would have become*
11 *payable) at or before the time of the filing of such*
12 *waiver.*

13 “(2) *PERIOD FOR WHICH EXEMPTION EFFEC-*
14 *TIVE.—An exemption granted to any individual pur-*
15 *suant to this subsection shall apply with respect to all*
16 *taxable years beginning after December 31, 1983,*
17 *except that such exemption shall not apply for any cal-*
18 *endar year—*

19 “(A) beginning (i) before the calendar year
20 *in which such individual first met the require-*
21 *ments of the first sentence of paragraph (1), or*
22 *(ii) before the time as of which the Secretary of*
23 *Health and Human Services finds that the sect or*
24 *division thereof of which such individual is a*

1 member met the requirements of clauses (i) and
2 (ii) of paragraph (1), or

3 “(B) ending (i) after the time such individu-
4 al ceases to meet the requirements of the first sen-
5 tence of paragraph (1), or (ii) after the time as of
6 which the Secretary of Health and Human Serv-
7 ices finds that the sect or division thereof of which
8 he is a member ceases to meet the requirements of
9 clauses (i) and (ii) of paragraph (1).”.

10 (b) Section 210(a) of the Social Security Act is amend-
11 ed—

12 (1) by striking out “or” at the end of paragraph
13 (19);

14 (2) by striking out the period at the end of para-
15 graph (20) and inserting in lieu thereof “; or”; and

16 (3) by adding at the end thereof the following new
17 paragraph:

18 “(21) Service performed, in the employ of an em-
19 ployer who is exempt from the tax imposed under sec-
20 tion 1401 of the Internal Revenue Code of 1954 by
21 reason of an exemption granted under section 1402(g)
22 of such Code, by an individual with respect to whom
23 an exemption has been granted (and is applicable)
24 under section 3121(v) of such Code.”.

1 (c) Section 3121(b) of the Internal Revenue Code of
2 1954 is amended—

3 (1) by striking out “or” at the end of paragraph
4 (19);

5 (2) by striking out the period at the end of para-
6 graph (20) and inserting in lieu thereof “; or”; and

7 (3) by adding at the end thereof the following new
8 paragraph:

9 “(21) service performed, in the employ of an em-
10 ployer who is exempt from the tax imposed under sec-
11 tion 1401 by reason of an exemption granted under
12 section 1402(g), by an individual with respect to whom
13 an exemption has been granted (and is applicable)
14 under subsection (v) of this section.”

15 (d) Section 202(v) of the Social Security Act is amend-
16 ed by inserting “or 3121(v)” after “1402(g)” each place it
17 appears.

18 (e) The amendments made by this section shall apply
19 with respect to remuneration paid after December 31, 1983.

20 PART B—CHANGES IN BENEFITS

21 SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR

22 YEAR BASIS

23 SEC. 111. (a)(1) Section 215(i)(2)(A)(ii) of the Social
24 Security Act is amended by striking out “June” and insert-
25 ing in lieu thereof “December”.

1 (2) Section 215(i)(2)(A)(iii) of such Act is amended by
2 striking out "May" and inserting in lieu thereof "Novem-
3 ber".

4 (3) Section 215(i)(2)(B) of such Act is amended by
5 striking out "May" each place it appears and inserting in
6 lieu thereof in each instance "November".

7 (4) Section 203(f)(8)(A) of such Act is amended by
8 striking out "June" and inserting in lieu thereof "Decem-
9 ber".

10 (5) Section 230(a) of such Act is amended by striking
11 out "June" and inserting in lieu thereof "December".

12 (6) Section 215(i)(2) of such Act as in effect in Decem-
13 ber 1978, and as applied in certain cases under the provi-
14 sions of such Act as in effect after December 1978, is amend-
15 ed by striking out "June" in subparagraph (A)(ii) and in-
16 serting in lieu thereof "December", and by striking out
17 "May" each place it appears in subparagraph (B) and in-
18 serting in lieu thereof in each instance "November".

19 (7) Section 202(m) of such Act (as it applies in certain
20 cases by reason of section 2 of Public Law 97-123) is
21 amended by striking out "May" and inserting in lieu thereof
22 "November".

23 (8) The amendments made by this subsection shall
24 apply with respect to cost-of-living increases determined

1 *under section 215(i) of the Social Security Act for years*
2 *after 1982.*

3 *(b)(1) Section 215(i)(1)(A) of the Social Security Act*
4 *is amended by striking out "March 31" and inserting in lieu*
5 *thereof "September 30", and by striking out "1974" and*
6 *inserting in lieu thereof "1982".*

7 *(2) Section 215(i)(1)(A) of such Act as in effect in De-*
8 *cember 1978, and as applied in certain cases under the provi-*
9 *sions of such Act as in effect after December 1978, is amend-*
10 *ed by striking out "March 31" and inserting in lieu thereof*
11 *"September 30".*

12 *(3) The amendments made by this subsection shall*
13 *apply with respect to cost-of-living increases determined*
14 *under section 215(i) of the Social Security Act for years*
15 *after 1983.*

16 *(c) Section 215(i)(4) of such Act is amended by insert-*
17 *ing ", and as amended by section 201 (a)(6) and (b)(2) of the*
18 *Social Security Amendments of 1983," after "as in effect in*
19 *December 1978".*

20 *(d) Notwithstanding any provision to the contrary in*
21 *section 215(i) of the Social Security Act, the "base quarter"*
22 *(as defined in paragraph (1)(A)(i) of such section) in the*
23 *calendar year 1983 shall be a "cost-of-living computation*
24 *quarter" within the meaning of paragraph (1)(B) of such sec-*
25 *tion (and shall be deemed to have been determined by the*

1 *Secretary of Health and Human Services to be a "cost-of-*
2 *living computation quarter" under paragraph (2)(A) of such*
3 *section) for all of the purposes of such Act as amended by this*
4 *section and by other provisions of this Act, without regard to*
5 *the extent by which the Consumer Price Index has increased*
6 *since the last prior cost-of-living computation quarter which*
7 *was established under such paragraph (1)(B).*

8 **ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS**

9 **RECEIVING PENSIONS FROM NONCOVERED EMPLOY-**
10 **MENT**

11 **SEC. 112.** (a) *Section 215(a) of the Social Security*
12 *Act is amended by adding at the end thereof the following*
13 *new paragraph:*

14 *"(7)(A) In the case of an individual who was not eligi-*
15 *ble for an old-age or disability insurance benefit for Decem-*
16 *ber 1983 and whose primary insurance amount would be*
17 *computed under paragraph (1) of this subsection, and who*
18 *first becomes eligible after 1983 to a monthly periodic pay-*
19 *ment (or a payment determined under subparagraph (D))*
20 *based (in whole or in part) upon his earnings for service*
21 *which did not constitute 'employment' as defined in section*
22 *210 for purposes of this title (hereafter in this paragraph and*
23 *in subsection (d)(5) referred to as 'noncovered service') of at*
24 *least one year's duration, the primary insurance amount of*
25 *that individual during his entitlement to old-age or disability*

1 *insurance benefits shall be computed or recomputed under*
2 *subparagraph (B) with respect to the initial month in which*
3 *the individual becomes eligible for such benefits, and shall be*
4 *periodically recomputed thereafter at such times as the Secre-*
5 *tary determines there has been a significant change in the*
6 *amount of such periodic payment.*

7 “(B)(ii) *If paragraph (1) of this subsection would apply*
8 *to that individual (except for subparagraph (A) of this para-*
9 *graph), there shall first be computed an amount equal to the*
10 *individual’s primary insurance amount under this subsection*
11 *(other than this paragraph), except that for purposes of such*
12 *computation the percentage of the individual’s average in-*
13 *dexed monthly earnings established by subparagraph (A)(i)*
14 *of paragraph (1) shall be the percent specified in clause (ii).*
15 *There shall then be computed (without regard to this para-*
16 *graph) a second amount, which shall be equal to the individ-*
17 *ual’s primary insurance amount under this subsection (other*
18 *than this paragraph), except that such second amount shall*
19 *be reduced by an amount equal to the applicable fraction (as*
20 *determined under subparagraph (E)) of the portion of the*
21 *monthly periodic payment attributable to noncovered service*
22 *to which the individual is entitled (or deemed to be entitled)*
23 *for the month for which such old-age or disability insurance*
24 *benefits are payable. For purposes of the preceding sentence,*
25 *the portion of the monthly periodic payment attributable to*

1 *noncovered service shall be that portion of such payment*
2 *which bears the same ratio to the amount of such payment as*
3 *the number of months of service in noncovered service to*
4 *which such benefit is attributable (but only counting any*
5 *such months occurring after 1956) bears to the total number*
6 *of months of service to which such benefit is attributable. The*
7 *individual's primary insurance amount shall be the larger of*
8 *the two amounts computed under this subparagraph (before*
9 *the application of subsection (i)) and shall be deemed to be*
10 *computed under paragraph (1) of this subsection for the pur-*
11 *pose of applying other provisions of this title.*

12 “(i) For purposes of clause (i), the percent specified in
13 this clause is—

14 “(I) 78.4 percent, with respect to individuals who
15 initially become eligible for old age or disability insur-
16 ance benefits, or who die (before becoming eligible for
17 such benefits) in 1984;

18 “(II) 66.8 percent with respect to individuals who
19 so become eligible or die in 1985;

20 “(III) 55.2 percent with respect to individuals
21 who so become eligible or die in 1986;

22 “(IV) 43.6 percent with respect to individuals
23 who so become eligible or die in 1987; and

24 “(V) 32.0 percent with respect to individuals who
25 so become eligible or die in 1988 or thereafter.

1 “(C) No primary insurance amount may be reduced by
2 reason of this paragraph below the amount of the primary
3 insurance amount as determined under paragraph (1)(C)(i).

4 “(D)(i) Any periodic payment that otherwise meets the
5 requirements of subparagraph (A), but which is paid on other
6 than a monthly basis, shall be allocated on a basis equivalent
7 to a monthly payment (as determined by the Secretary), and
8 such equivalent monthly payment shall constitute a monthly
9 periodic payment for purposes of this paragraph.

10 “(ii) In the case of an individual who has elected to
11 receive a periodic payment that has been reduced so as to
12 provide a survivors benefit to any other individual, the pay-
13 ment is deemed to be increased (for the purpose of any com-
14 putation under this paragraph) by such reduction.

15 “(iii) If an individual to whom subparagraph (A) ap-
16 plies is eligible for a periodic payment beginning with a
17 month that is subsequent to the month in which he becomes
18 eligible for old-age or disability insurance benefits, the
19 amount of that payment for purposes of subparagraph (B)
20 shall be deemed to be the amount to which he is, or is deemed,
21 to become entitled (subject to clauses (i), (ii), and (iv) of this
22 subparagraph) in such subsequent month.

23 “(iv) For purposes of this subparagraph, the term ‘peri-
24 odic payment’ includes a payment payable in a lump sum if
25 it is a commutation of, or a substitute for, periodic payments.

1 “(E) For purposes of subparagraph (B), the applicable
2 fraction is—

3 “(i) in the case of an individual who first becomes
4 eligible during 1984 to a monthly periodic payment de-
5 scribed in subparagraph (A), one-fifteenth,

6 “(ii) in the case of an individual who first be-
7 comes eligible during 1985 to a monthly periodic pay-
8 ment described in subparagraph (A), two-fifteenths,

9 “(iii) in the case of an individual who first be-
10 comes eligible during 1986 to a monthly periodic pay-
11 ment described in subparagraph (A), one-fifth,

12 “(iv) in the case of an individual who first be-
13 comes eligible during 1987 to a monthly periodic pay-
14 ment described in subparagraph (A), four-fifteenths,
15 and

16 “(v) in the case of an individual who first be-
17 comes eligible during 1988 or thereafter to a monthly
18 periodic payment described in subparagraph (A), one-
19 third.

20 “(F) This paragraph shall not apply in the case of an
21 individual who has more than 30 years of coverage (as de-
22 fined in paragraph (1)(C)(ii). In the case of an individual
23 who has more than 24 years of coverage (as so defined), the
24 figure ‘32 percent’ in subparagraph (B) shall, if larger, be
25 deemed to be—

1 “(i) 90 percent, in the case of an individual who
2 has 30 or more of such years of coverage;

3 “(ii) 80 percent, in the case of an individual who
4 has 29 of such years;

5 “(iii) 70 percent, in the case of an individual who
6 has 28 of such years;

7 “(iv) 60 percent, in the case of an individual who
8 has 27 of such years;

9 “(v) 50 percent, in the case of an individual who
10 has 26 of such years; and

11 “(vi) 40 percent, in the case of an individual who
12 has 25 of such years.”

13 (b) Section 215(d) of such Act is amended by adding at
14 the end thereof the following new paragraph:

15 “(5)(A) In the case of an individual who was not eligi-
16 ble for an old-age or disability insurance benefit for Decem-
17 ber 1983 and whose primary insurance amount is not com-
18 puted under paragraph (1) of subsection (a) by reason of
19 paragraph (4)(B)(ii) of that subsection, and who first be-
20 comes eligible after 1983 to a monthly periodic payment (or a
21 payment determined under subsection (a)(7)(D)) based (in
22 whole or in part) upon his earnings in noncovered service of
23 at least one year’s duration, his primary insurance amount
24 for purposes of his entitlement to old-age or disability insur-
25 ance benefits shall be the primary insurance amount comput-

1 *ed or recomputed under this subsection (without regard to*
2 *this paragraph and before the application of subsection (i))*
3 *reduced by an amount equal to the smaller of—*

4 “(i) *one-half of the primary insurance amount*
5 *(computed without regard to this paragraph and before*
6 *the application of subsection (i)), or*

7 “(ii) *the applicable fraction (as determined under*
8 *subparagraph (B)) of the portion of the monthly peri-*
9 *odic payment (or payment determined under subsection*
10 *(a)(7)(D)) attributable to noncovered service to which*
11 *that individual is entitled (or deemed to be entitled) for*
12 *the initial month of his eligibility for old-age or dis-*
13 *ability insurance benefits.*

14 *For purposes of the preceding sentence, the portion of the*
15 *monthly periodic payment attributable to noncovered service*
16 *shall be that portion of such payment which bears the same*
17 *ratio to the amount of such payment as the number of months*
18 *of service in noncovered service to which such benefit is at-*
19 *tributable bears to the total number of months of service to*
20 *which such benefit is attributable. The amount of such peri-*
21 *odic payment for purposes of clause (ii) shall be periodically*
22 *recomputed at such times as the Secretary determines there*
23 *has been a significant change in the amount of such periodic*
24 *payment.*

1 “(B) For purposes of subparagraph (A), the applicable
2 fraction is—

3 “(i) in the case of an individual who first becomes
4 eligible during 1984 to a monthly periodic payment de-
5 scribed in subparagraph (A), one-fifteenth,

6 “(ii) in the case of an individual who first be-
7 comes eligible during 1985 to a monthly periodic pay-
8 ment described in subparagraph (A), two-fifteenths,

9 “(iii) in the case of an individual who first be-
10 comes eligible during 1986 to a monthly periodic pay-
11 ment described in subparagraph (A), one-fifth,

12 “(iv) in the case of an individual who first be-
13 comes eligible during 1987 to a monthly periodic pay-
14 ment described in subparagraph (A), four-fifteenths,
15 and

16 “(v) in the case of an individual who first be-
17 comes eligible during 1988 or thereafter to a monthly
18 periodic payment described in subparagraph (A), one-
19 third.”.

20 “(C) No primary insurance amount may be reduced by
21 reason of this paragraph below the amount of the primary
22 insurance amount as determined under subsection
23 (a)(1)(C)(i).”.

24 (c) Section 215(f) of such Act is amended by adding at
25 the end the following new paragraph:

1 “(9)(A) *In the case of an individual who first becomes*
2 *eligible for a periodic payment determined under subsection*
3 *(a)(7)(A) or (a)(7)(D) in a month subsequent to the first*
4 *month in which he becomes eligible for an old-age or disabil-*
5 *ity insurance benefit, and whose primary insurance amount*
6 *has been computed without regard to either such subsection or*
7 *subsection (d)(5), such individual’s primary insurance*
8 *amount shall be recomputed, in accordance with either such*
9 *subsection or subsection (d)(5), as may be applicable, effec-*
10 *tive with the first month of his concurrent eligibility for*
11 *either such benefit and such periodic payment.*

12 “(B) *If an individual’s primary insurance amount has*
13 *been computed under subsection (a)(7) or (d)(5), and it be-*
14 *comes necessary to recompute that primary insurance*
15 *amount under this subsection—*

16 “(i) *so as to increase the monthly benefit amount*
17 *payable with respect to such primary insurance*
18 *amount (other than in the case of the individual’s*
19 *death), such increase shall be determined as though*
20 *such primary insurance amount had initially been*
21 *computed without regard to subsection (a)(7) or (d)(5),*
22 *or*

23 “(ii) *by reason of the individual’s death, such pri-*
24 *mary insurance amount shall be recomputed without*

1 regard to (and as though it had never been computed
2 with regard to) subsection (a)(7) or (d)(5).

3 “(C) In the case of any individual whose primary in-
4 surance amount is subject to the requirements of subsection
5 (a)(7) or (d)(5), the amount of such primary insurance
6 amount shall be recomputed as may be required under such
7 subsections by reason of a significant change in the amount
8 of the relevant periodic payment.”

9 (d) Sections 202(e)(2)(B)(i) and 202(f)(3)(B)(i) of such
10 Act are each amended by striking out “section 215(f)(5) or
11 (6)” and inserting in lieu thereof “section 215(f)(5),
12 215(f)(6), or 215(f)(9)(B)”.

13 **BENEFITS FOR SURVIVING DIVORCED SPOUSES AND**
14 **DISABLED WIDOWS AND WIDOWERS WHO REMARRY**

15 **SEC. 113.** (a)(1) Section 202(e)(3) of the Social Secu-
16 rity Act is repealed.

17 (2) Section 202(e)(4) of such Act is amended to read as
18 follows:

19 “(4) For purposes of paragraph (1), if—

20 “(A) a widow or a surviving divorced wife mar-
21 ries after attaining age 60, or

22 “(B) a disabled widow or disabled surviving di-
23 vorced wife described in paragraph (1)(B)(ii) marries
24 after attaining age 50,

25 such marriage shall be deemed not to have occurred.”

1 **(b)(1)** *Section 202(f)(4) of such Act is repealed.*

2 **(2)** *Section 202(f)(5) of such Act is amended to read as*
3 *follows:*

4 “(5) *For purposes of paragraph (1), if—*

5 “(A) *a widower marries after attaining age 60, or*

6 “(B) *a disabled widower described in paragraph*

7 **(1)(B)(i)** *marries after attaining age 50,*

8 *such marriage shall be deemed not to have occurred.”.*

9 **(c)(1)** *The amendments made by subsection (a) shall be*
10 *effective with respect to monthly benefits payable under title*
11 *II of the Social Security Act for months after December*
12 *1983.*

13 **(2)** *In the case of an individual who was not entitled to*
14 *a monthly benefit under title II of such Act for December*
15 *1983, no benefit shall be paid under such title by reason of*
16 *such amendments unless proper application for such benefit*
17 *is made.*

18 **DETERMINATION OF PRIMARY INSURANCE AMOUNT FOR**
19 **DEFERRED SURVIVOR BENEFITS**

20 **SEC. 114.** *(a) Section 215(a) of the Social Security*
21 *Act is amended by adding at the end thereof the following*
22 *new paragraph:*

23 “(8)(A) *If a person is entitled to benefits under subsec-*
24 *tion (e) or (f) of section 202 on the basis of the wages and*
25 *self-employment income of a deceased individual whose pri-*

1 *mary insurance amount would otherwise be determined*
2 *under paragraph (1), the primary insurance amount of such*
3 *deceased individual shall be determined, for purposes of de-*
4 *termining the amount of the benefit under such subsection, as*
5 *if such deceased individual died in the year in which the*
6 *person entitled to benefits under such subsection first became*
7 *eligible for such benefits or, if earlier, the year in which such*
8 *deceased individual would have attained age 62 if he had not*
9 *died (except that the actual year of death of such deceased*
10 *individual shall be used for purposes of section*
11 *215(b)(2)(B)(i)(II)).*

12 *“(B) Notwithstanding subparagraph (A), if a person—*

13 *“(i) is entitled to benefits under subsection (e) or*
14 *(f) of section 202 on the basis of the wages and self-*
15 *employment income of a deceased individual, and*

16 *“(ii) was entitled to benefits under this title on*
17 *the basis of the wages and self-employment income of*
18 *such deceased individual in the month before the month*
19 *in which such person became eligible for the benefits*
20 *described in clause (i),*

21 *the primary insurance amount of such deceased individual*
22 *shall be the primary insurance amount determined under the*
23 *rules which would apply (but for subparagraph (A)) or the*
24 *primary insurance amount determined under subparagraph*
25 *(A), whichever is larger.”.*

1 **(b)** *The amendments made by subsection (a) shall apply*
2 *to the benefits of individuals who become eligible for benefits*
3 *under section 202 (e) and (f) of the Social Security Act after*
4 *December 1984.*

5 **BENEFITS FOR DIVORCED SPOUSE REGARDLESS OF**
6 **WHETHER FORMER SPOUSE HAS RETIRED**

7 **SEC. 115. (a)** *Section 202(b) of the Social Security*
8 *Act is amended by adding at the end thereof the following*
9 *new paragraph:*

10 “(5) *For purposes of determining the entitlement of a*
11 *divorced wife to a benefit under this subsection and the*
12 *amount of such benefit, in the case of a wife who has been*
13 *divorced from her former husband for a period of not less*
14 *than 24 months—*

15 “(A) *such former husband shall be deemed to be*
16 *entitled to an old-age insurance benefit if he would be*
17 *entitled to such a benefit if he applied therefor; and*

18 “(B) *the amount of such benefit for such divorced*
19 *wife shall be determined without regard to reductions*
20 *which are or would be made under section 203 on ac-*
21 *count of work performed by such former husband.”.*

22 **(b)(1)** *The amendment made by subsection (a) shall be*
23 *effective with respect to monthly benefits payable under title*
24 *II of the Social Security Act for months after December*
25 *1984.*

1 *first day of the month in which such individual attains*
 2 *age 60, whichever is later,*
 3 *and ending with the last day of the month before the month in*
 4 *which such individual attains retirement age.”*

5 (3) Section 202(q)(7) of such Act is amended by strik-
 6 ing out the matter preceding subparagraph (A) and inserting
 7 in lieu thereof the following:

8 “(7) For purposes of this subsection, the ‘adjusted re-
 9 duction period’ for an old-age, wife’s, husband’s, widow’s, or
 10 widower’s insurance benefit is the reduction period prescribed
 11 in paragraph (6) for such benefit, excluding—”

12 (4) Paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii) of
 13 section 202(q) of such Act are each amended by striking out
 14 “(6)(A)” and inserting in lieu thereof in each instance “(6)”.

15 (5) Section 202(q)(3)(G) of such Act is amended by
 16 striking out “paragraph (6)(A) (or, if such paragraph does
 17 not apply, the period specified in paragraph (6)(B))” and
 18 inserting in lieu thereof “paragraph (6)”.

19 (6) Section 202(q)(10) of such Act is amended—

20 (A) by striking out “or an additional adjusted re-
 21 duction period”;

22 (B) in subparagraphs (B)(i), (C)(i), and (C)(ii),
 23 by striking out “, plus the number of months in the
 24 adjusted additional reduction period multiplied by $\frac{43}{240}$
 25 of 1 percent”; and

1 (C) in subparagraph (B)(ii), by striking out “,
2 plus the number of months in the additional reduction
3 period multiplied by $\frac{43}{240}$ of 1 percent”.

4 (b)(1) The amendments made by this section shall be
5 effective with respect to monthly benefits under title II of the
6 Social Security Act for months after December 1983.

7 (2) In the case of an individual who was not entitled to
8 a monthly benefit under title II of such Act for December
9 1983, no benefit shall be paid under such title by reason of
10 such amendments unless proper application for such benefit
11 is made.

12 ADJUSTMENT TO COST-OF-LIVING INCREASE WHEN TRUST
13 FUND RATIO FALLS BELOW 20 PERCENT

14 SEC. 117. (a) Section 215(i)(2)(A)(ii) of the Social Se-
15 curity Act is amended, in the matter following clause (III),
16 by striking out “The increase shall be derived” and inserting
17 in lieu thereof “Except as otherwise provided in paragraph
18 (5), the increase shall be derived”.

19 (b) Section 215(i) of such Act is amended by adding at
20 the end thereof the following new paragraph:

21 “(5)(A) The amount of the increase under paragraph
22 (2) to become effective for monthly benefits payable for De-
23 cember 1988 or any December thereafter shall, if the Secre-
24 tary makes a finding under this paragraph that the combined
25 trust funds ratio (as defined in subparagraph (D)) as of the

1 *start of business on January 1 of the calendar year in which*
2 *such December falls is less than 20.0 percent, be determined*
3 *under paragraph (2) by substituting—*

4 “(i) *the percentage (rounded to the nearest one-*
5 *tenth of 1 percent) by which the average of the total*
6 *wages for the preceding calendar year (as determined*
7 *for purposes of subsection (b)(3)(A)(ii)) exceeds such*
8 *average for the second preceding calendar year (and if*
9 *no increase in such wages took place, the percentage*
10 *shall be deemed to be zero), for*

11 “(ii) *the percentage otherwise applicable under*
12 *paragraph (2),*
13 *but only if the percentage determined under clause (i) is less*
14 *than the percentage determined under clause (ii).*

15 “(B) *In any case in which a cost-of-living adjustment*
16 *would not be made under this subsection on account of the*
17 *relevant increase in the Consumer Price Index being less*
18 *than 3 percent, no such cost-of-living increase shall be made*
19 *by reason of this paragraph. For purposes of any subsequent*
20 *determination of a cost-of-living increase based upon a period*
21 *of more than 12 months, the percentage of the cost-of-living*
22 *increase (if any) to be applied under paragraph (2) shall be*
23 *the sum of the percentage increases for each relevant 12-*
24 *month period in such longer period which would have been*
25 *effective under this subsection (including this paragraph) but*

1 *for the provision of paragraph (1) which limits such increases*
2 *only to cases in which the relevant increase in the Consumer*
3 *Price Index is equal to or greater than 3 percent.*

4 “(C) *The Secretary shall make the finding with respect*
5 *to the combined trust funds ratio (as of the start of business*
6 *on January 1 of each calendar year) on October 1 of each*
7 *calendar year, based upon the most recent data available as*
8 *of that time.*

9 “(D) *For purposes of this paragraph, the term ‘com-*
10 *bined trust funds ratio’ means the ratio of—*

11 “(i) *the combined balance in the Federal Old-Age*
12 *and Survivors Insurance Trust Fund and the Federal*
13 *Disability Insurance Trust Fund, reduced by the*
14 *amount of any outstanding loan (including interest*
15 *thereon) from the Federal Hospital Insurance Trust*
16 *Fund, as of the start of business on January 1 of any*
17 *calendar year, to*

18 “(ii) *the amount estimated by the Secretary to be*
19 *the total amount to be paid from the Federal Old-Age*
20 *and Survivors Insurance Trust Fund and the Federal*
21 *Disability Insurance Trust Fund during such calendar*
22 *year for all purposes authorized by section 201, but ex-*
23 *cluding any transfer payments between such trust*
24 *funds and reducing the amount of any transfer to the*
25 *Railroad Retirement Account by the amount of any*

1 *transfers into either such trust fund from the Railroad*
2 *Retirement Account.*

3 “(E) *If any increase under paragraph (2) has been de-*
4 *termined on the basis of the substitute formula in subpara-*
5 *graph (A)(i) of this paragraph, and, for any succeeding cal-*
6 *endar year, the Secretary determines that the combined trust*
7 *funds ratio is greater than 32.0 percent, the Secretary shall*
8 *pay additional benefits with respect to the 12-month period*
9 *beginning with the following December in amounts not to*
10 *exceed—*

11 “(i) *in the aggregate, a total amount which, ac-*
12 *cording to actuarial estimate, equals the amount by*
13 *which the balance in such trust funds on the date of*
14 *such determination exceeds the amount necessary to*
15 *effect a combined trust funds ratio of 32.0 percent for*
16 *the following year; and*

17 “(ii) *with respect to any individual, for benefits*
18 *for each month in such 12-month period, an amount*
19 *equal to one-twelfth of the total amount by which all*
20 *benefits paid to him during all previous years were less*
21 *than the amounts which would have been paid to him*
22 *but for the provisions of this paragraph.*

23 *Such additional benefits shall be paid as a percentage in-*
24 *crease in the monthly benefits otherwise payable for months*
25 *during such 12-month period. If there are not sufficient*

1 *funds available to pay additional benefits in the full amount*
2 *to all individuals (taking into account the limitation in*
3 *clause (i)), amounts paid under this subparagraph shall be*
4 *paid on a pro rata basis to all individuals who are entitled to*
5 *any such amount and are entitled to a benefit under this title*
6 *for the months in which such additional amounts are being*
7 *paid.*

8 “(F) *In any case in which additional payments are*
9 *made by reason of the provisions of subparagraph (E), for*
10 *purposes of determining benefit amounts for months after the*
11 *12-month period for which such additional benefits were*
12 *made, the percentage increase under this subsection applica-*
13 *ble to benefits payable for such 12-month period shall be*
14 *deemed to be the actual percentage achieved by reason of such*
15 *additional payments (as measured with respect to payments*
16 *which are not subject to reduction under any other provision*
17 *of this Act).”.*

18 (c) *Only with respect to the determination made for*
19 *January 1, 1988, the combined trust fund ratio for such year*
20 *(for purposes of determining the increase under section*
21 *215(i) of the Social Security Act for benefits payable for*
22 *December of such year) shall be determined by using the ac-*
23 *tuarial estimate of the Secretary of Health and Human serv-*
24 *ices of the ratio of—*

1 (1) *the combined balance which will be available*
2 *in the Federal Old-Age and Survivors Insurance*
3 *Trust Fund and the Federal Disability Insurance*
4 *Trust Fund, reduced by the amount of any outstanding*
5 *loan (including interest thereon) from the Federal Hos-*
6 *pital Insurance Trust Fund, at the close of business on*
7 *December 31 of such calendar year, to*

8 (2) *the amount estimated by the Secretary to be*
9 *the total amount to be paid from the Federal Old-Age*
10 *and Survivors Insurance Trust Fund and the Federal*
11 *Disability Insurance Trust Fund for calendar year*
12 *1988 for all purposes authorized by section 201 of such*
13 *Act, but excluding any transfer payments between such*
14 *trust funds, and reducing the amount of any transfer*
15 *to the Railroad Retirement Account by the amount of*
16 *any transfers into either such trust fund from the Rail-*
17 *road Retirement Account.*

18 (d) *Section 1617(a)(2) of the Social Security Act is*
19 *amended by inserting “, or, if greater, the percentage by*
20 *which benefit amounts under title II would be increased for*
21 *such month but for the provisions of section 215(i)(5),” after*
22 *“are increased for such month”.*

1 INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON
2 ACCOUNT OF DELAYED RETIREMENT

3 SEC. 118. (a) Section 202(w)(1)(A) of the Social Secu-
4 rity Act is amended to read as follows:

5 “(A) the applicable percentage (as determined
6 under paragraph (6)) of such amount, multiplied by”.

7 (b) Section 202(w) of such Act is amended by adding at
8 the end thereof the following new paragraph:

9 “(6) For purposes of paragraph (1)(A), the applicable
10 percentage is—

11 “(A) $\frac{1}{12}$ of 1 percent in the case of an individual
12 who first becomes eligible for an old-age insurance
13 benefit before 1979; and

14 “(B) $\frac{1}{4}$ of 1 percent in the case of an individual
15 who first becomes so eligible after 1978, and before
16 1990;

17 “(C) in the case of an individual who first be-
18 comes so eligible after 1989 and before 2009, a per-
19 centage equal to the percentage in effect under this sub-
20 paragraph for individuals who first became eligible in
21 the preceding calendar year (as increased pursuant to
22 this clause), plus $\frac{1}{48}$ of 1 percent, and

23 “(D) in the case of an individual who first be-
24 comes so eligible after 2008, $\frac{2}{3}$ of 1 percent.”

1 (c)(1) Paragraphs (2)(A) and (3) of section 202(w) of
2 such Act are each amended by striking out “age 72” and
3 inserting in lieu thereof “age 70”.

4 (2) The amendments made by paragraph (1) shall apply
5 with respect to increment months in calendar years after
6 1983.

7 **INCREASE IN RETIREMENT AGE**

8 SEC. 119. (a) Section 216 of the Social Security Act is
9 amended by inserting before subsection (b) the following new
10 subsection:

11 *“Retirement Age*

12 “(a) (1) The term ‘retirement age’ means—

13 “(A) with respect to an individual who attains the
14 early retirement age (as defined in paragraph (2))
15 before January 1, 2000, 65 years of age;

16 “(B) with respect to an individual who attains
17 early retirement age after December 31, 1999, and
18 before January 1, 2012, 65 years of age plus the
19 number of months in the age increase factor (as deter-
20 mined under paragraph (3)) for the year in which such
21 individual attains early retirement age; and

22 “(C) with respect to an individual who attains
23 early retirement age after December 31, 2014, 66
24 years of age.

1 “(2) The term ‘early retirement age’ means age 62 in
2 the case of an old-age, wife’s, or husband’s benefit, and age
3 60 in the case of a widow’s or widower’s benefit.

4 “(3) The age increase factor for individuals who attain
5 early retirement age in the period described in subparagraph
6 (B) shall be equal to one-twelfth of the number of months in
7 the period beginning with January 2000 and ending with
8 December of the year in which the individual attains early
9 retirement age.

10 (b)(1) Section 202(q)(9) of such Act is amended to read
11 as follows:

12 “(9) The amount of the reduction for early retirement
13 specified in paragraph (1) shall be periodically revised by the
14 Secretary such that—

15 “(A) for old-age insurance benefits, wife’s insur-
16 ance benefits, and husband’s insurance benefits, the re-
17 duction applicable to an individual entitled to such a
18 benefit at an age not more than 3 years lower than the
19 retirement age applicable to such individual, shall be
20 the same as under such paragraph (1), and such reduc-
21 tion shall be increased by five-twelfths of 1 percent for
22 each month below that age which is 3 years lower than
23 the applicable retirement age; and

24 “(B) for widow’s insurance benefits and widow-
25 er’s insurance benefits, the reduction for those entitled

1 to such benefits at the earliest possible early retirement
2 age shall be the same as specified in paragraph (1),
3 and those for later ages shall be established by linear
4 interpolation between the applicable reduction for such
5 earliest possible early retirement age and a factor of
6 unity at the applicable retirement age.”.

7 (2) Section 202(q)(1) of such Act is amended by strik-
8 ing out “If” and inserting in lieu thereof “Subject to para-
9 graph (9), if”.

10 (c) The Social Security Act is amended—

11 (1) by striking out “age 65” or “age of 65”, as
12 the case may be, each place it appears in the following
13 sections and inserting in lieu thereof in each instance
14 “retirement age (as defined in section 216(a))”:

15 (A) subsections (a), (b), (c), (d), (e), (f), (g),
16 (r), and (w) of section 202,

17 (B) subsections (c) and (f) of section 203,

18 (C) section 211(b)(3),

19 (D) subsection (f) of section 215,

20 (E) subsections (h) and (i) of section 216,

21 (F) section 223(a),

22 (G) subsections (a), (b), (c), and (e) of sec-
23 tion 226,

24 (H) section 1811,

25 (I) section 1818(a)(1),

1 *(J) section 1836(2),*
 2 *(K) section 1837,*
 3 *(L) subsections (c) and (f) of section 1839,*
 4 *(M) section 1838,*
 5 *(N) section 1844(a), and*
 6 *(O) section 1876(a)(5);*

7 *(2) by striking out “age sixty-five” in section*
 8 *203(c) and inserting in lieu thereof “retirement age (as*
 9 *defined in section 216(a))”; and*

10 *(3) by striking out “age of sixty-five” in section*
 11 *223(a) and inserting in lieu thereof “retirement age*
 12 *(as defined in section 216(a))”.*

13 *ADJUSTMENTS IN OASDI BENEFIT FORMULA*

14 *SEC. 120. (a) Section 215(a)(1)(A) of the Social Secu-*
 15 *riety Act is amended by striking out “90 percent” in clause*
 16 *(i), “32 percent” in clause (ii), and “15 percent” in clause*
 17 *(iii) and inserting in lieu thereof in each instance “the appli-*
 18 *cable percentage (determined under paragraph (8))”.*

19 *(b) The first sentence of section 215(a)(7)(B) of such*
 20 *Act (as added by section 113(a) of this Act) is amended by*
 21 *striking out “61 percent” and inserting in lieu thereof “the*
 22 *applicable percentage as determined under paragraph (8))”.*

23 *(c) Section 215(a) of such Act is further amended by*
 24 *adding at the end thereof (after the new paragraph added by*
 25 *section 113 of this Act) the following new paragraph:*

1 “(8) The ‘applicable percentages’ for purposes of clauses
2 (i), (ii), and (iii) of paragraph (1)(A), and the ‘applicable
3 percentage’ for purposes of the first sentence of paragraph
4 (7)(B), shall be determined as follows:

| “For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits) in— | The ‘applicable percentage’— | | |
|--|--|--|--|
| | for purposes of clause (i) of paragraph (1)(A) is— | for purposes of clause (ii) of paragraph (1)(A) and the first sentence of paragraph (7)(B) is— | for purposes of clause (iii) of paragraph (1)(A) is— |
| any year from 1979 | | | |
| through 1999 | 90.0 | 32.0 | 15.0 |
| 2000..... | 89.4 | 31.8 | 14.9 |
| 2001..... | 88.8 | 31.6 | 14.8 |
| 2002..... | 88.2 | 31.4 | 14.7 |
| 2003..... | 87.6 | 31.1 | 14.6 |
| 2004..... | 87.0 | 30.9 | 14.5 |
| 2005..... | 86.4 | 30.7 | 14.4 |
| 2006..... | 85.8 | 30.5 | 14.3 |
| 2007 or thereafter | 85.2 | 30.3 | 14.2 |

5 **PHASEOUT OF EARNINGS LIMITATION FOR BENEFICI-**
6 **ARIES WHO HAVE ATTAINED RETIREMENT AGE**

7 **SEC. 121. (a) Section 203(f)(8)(D) of the Social Secu-**
8 **rity Act is amended by inserting “(i)” after “(D)” and**
9 **adding at the end thereof the following new clause:**

10 “(i) Notwithstanding any other provision of this sub-
11 section, the exempt amount applicable to any individual who
12 has attained retirement age, as otherwise determined under
13 this subsection, shall be increased by—

14 “(I) \$250 for each month in any taxable year
15 ending after 1989 and before 1991;

16 “(II) \$500 for each month in any taxable year
17 ending after 1990 and before 1992;

1 “(III) \$750 for each month in any taxable year
2 ending after 1991 and before 1993;

3 “(IV) \$1,000 for each month in any taxable year
4 ending after 1992 and before 1994; and

5 “(V) \$1,250 for each month in any taxable year
6 ending after 1993 and before 1995.”.

7 (b) Section 203(c)(1) of the Social Security Act is
8 amended by striking out “the age of seventy” and inserting
9 in lieu thereof “retirement age”.

10 (c) The last sentence of section 203(c) of such Act is
11 amended by striking out “nor shall any deduction” and all
12 that follows and inserting in lieu thereof “nor shall any de-
13 duction be made under this subsection from any widow’s or
14 widower’s insurance benefits if the widow, surviving divorced
15 wife, widower, or surviving divorced husband involved
16 became entitled to such benefit prior to attaining age 60.”.

17 (d) Section 203(d)(1) of such Act is amended by strik-
18 ing out “the age of seventy” and inserting in lieu thereof
19 “retirement age”.

20 (e) Section 203(f)(1) of such Act is amended—

21 (1) in clause (B), by striking out “the age of sev-
22 enty” and inserting in lieu thereof “retirement age”;

23 (2) by amending clause (D) to read as follows:

24 “(D) for which such individual is entitled to widow’s

1 or widower's insurance benefits if such individual
2 became so entitled prior to attaining age 60,"; and

3 (3) by striking out "the applicable exempt
4 amount" each place it appears and inserting in lieu
5 thereof in each instance "the exempt amount".

6 (f) Section 203(f)(3) of such Act is amended—

7 (1) by striking out "applicable exempt amount"
8 and inserting in lieu thereof "exempt amount"; and

9 (2) by striking out "age 70" and inserting in lieu
10 thereof "retirement age".

11 (g) Section 203(f)(4)(B) of such Act is amended by
12 striking out "applicable exempt amount" and inserting in
13 lieu thereof "exempt amount".

14 (h) Section 203(f)(8)(A) of such Act is amended by
15 striking out "exempt amounts (separately stated for individ-
16 uals described in subparagraph (D) and for other individ-
17 uals) which are to be applicable" and inserting in lieu thereof
18 "exempt amount which is to be applicable".

19 (i) Section 203(f)(8)(B) of such Act is amended—

20 (1) by striking out "Except as otherwise provided
21 in subparagraph (D), the exempt amount which is ap-
22 plicable to individuals described in such subparagraph
23 and the exempt amount which is applicable to other in-
24 dividuals, for each month of a particular taxable year,
25 shall each be" and inserting in lieu thereof "The

1 *exempt amount for each month of a particular taxable*
2 *year shall be”;*

3 (2) *in clause (i), by striking out “corresponding”;*
4 *and*

5 (3) *in the matter following clause (ii), by striking*
6 *out “an exempt amount” and inserting in lieu thereof*
7 *“the exempt amount”.*

8 (j) *Section 203(f)(8) of such Act is amended by striking*
9 *out subparagraph (D) thereof.*

10 (k) *Section 203(h)(1)(A) of such Act is amended—*

11 (1) *by striking out “applicable exempt amount”*
12 *and inserting in lieu thereof “exempt amount”; and*

13 (2) *by striking out “age 70” each place it appears*
14 *and inserting in lieu thereof in each instance “retire-*
15 *ment age”.*

16 (l) *Section 203(j) of such Act is amended—*

17 (1) *by striking out “Age Seventy” in the heading*
18 *thereof and inserting in lieu thereof “Retirement Age”;*
19 *and*

20 (2) *by striking out “seventy years of age” and in-*
21 *serting in lieu thereof “retirement age”.*

22 (m) *Section 202(w)(2) of such Act (as amended by sec-*
23 *tion 118 of this Act) is further amended by inserting “for*
24 *months prior to 1984” before “and prior”.*

1 *which such individual is confined in a jail, prison, or other*
2 *penal institution or correctional facility, pursuant to his con-*
3 *viction of an offense which constituted a felony under appli-*
4 *cable law.*

5 “(2) *Benefits which would be payable to any individual*
6 *(other than a confined individual to whom benefits are not*
7 *payable by reason of paragraph (1)) under this title on the*
8 *basis of the wages and self-employment income of such a con-*
9 *fin ed individual but for the provisions of paragraph (1), shall*
10 *be payable as though such confined individual were receiving*
11 *such benefits.*

12 “(3) *Notwithstanding the provisions of section 552a of*
13 *title 5, United States Code, or any other provision of Federal*
14 *or State law, any agency of the United States Government*
15 *or of any State (or political subdivision thereof) shall make*
16 *available to the Secretary, upon written request, the name*
17 *and social security account number of any individual who is*
18 *confined in a jail, prison, or other penal institution or correc-*
19 *tional facility under the jurisdiction of such agency, pursu-*
20 *ant to his conviction of an offense which constituted a felony*
21 *under applicable law, which the Secretary may require to*
22 *carry out the provisions of this subsection.”.*

23 (b) *Section 223 of such Act is amended by striking out*
24 *subsection (f).*

1 (c) *The amendments made by subsections (a) and (b)*
2 *shall apply with respect to monthly benefits payable for*
3 *months beginning on or after the date of the enactment of this*
4 *Act.*

5 LIMITATIONS ON PAYMENTS TO NONRESIDENT ALIENS

6 SEC. 124. (a) *Section 202(t)(1) of the Social Security*
7 *Act is amended to read as follows:*

8 “(1)(A) *Notwithstanding any other provision of this*
9 *title (but subject to subparagraphs (B) through (D) of this*
10 *paragraph), no monthly benefit shall be paid under this sec-*
11 *tion or section 223 for any month to any individual who is*
12 *not a citizen or national of the United States if such individ-*
13 *ual is outside the United States.*

14 “(B) *For purposes of this paragraph, an individual*
15 *shall be considered to be outside the United States in any*
16 *month only if such month occurs—*

17 “(i) *after the sixth consecutive calendar month*
18 *during all of which (as determined by the Secretary on*
19 *the basis of information furnished to him by the Attor-*
20 *ney General or information which otherwise comes to*
21 *his attention) such individual is outside the United*
22 *States, and*

23 “(ii) *prior to the first month thereafter during all*
24 *of which such individual has been in the United*
25 *States;*

1 *but in applying the preceding provisions of this subparagraph*
2 *an individual who has been outside the United States for any*
3 *period of 30 consecutive days shall be treated as remaining*
4 *outside the United States until he has been in the United*
5 *States for a period of 30 consecutive days.*

6 “(C)(i) *An individual who is otherwise prevented by*
7 *subparagraph (A) from receiving benefits under this title*
8 *shall nevertheless be paid such benefits, as though such sub-*
9 *paragraph were inapplicable, until the total amount of such*
10 *benefits (excluding amounts withheld from such benefits*
11 *under section 1441 of the Internal Revenue Code of 1954)*
12 *equals the total amount of the taxes payable under sections*
13 *3101 and 1401 of the Internal Revenue Code of 1954 (or the*
14 *corresponding provisions of prior law) with respect to the*
15 *wages and self-employment income on which such benefits*
16 *are based (as determined by the Secretary on the basis of*
17 *such wages and self-employment income) plus interest (as de-*
18 *termined under clause (ii)).*

19 “(ii) *In determining the total amount of benefits pay-*
20 *able to an individual under clause (i) with respect to the*
21 *wages and self-employment income of any individual, the*
22 *Secretary shall take into account all benefits paid before such*
23 *determination is made on the basis of such wages and self-*
24 *employment income (wherever paid).*

1 “(iii) For purposes of this subparagraph, interest on
2 taxes payable under sections 3101 and 1401 of the Internal
3 Revenue Code of 1954 (or corresponding provisions of prior
4 law) shall be compounded annually from July 1 of the year
5 in which such taxes were payable only until the last day of
6 the year preceding the year in which the individual on the
7 basis of whose wages and self-employment income benefits
8 are to be paid attains age 62, becomes disabled, or dies,
9 whichever occurs first, at a rate of 3.0 percent for the period
10 after 1936 and before 1951, and, for each year after 1950, at
11 a rate equal to the average of the twelve monthly interest rates
12 determined under section 201 for such year.

13 “(D) For purposes of this paragraph, the term ‘United
14 States’ (when used in either a geographical or political sense)
15 means the States, the District of Columbia, the Common-
16 wealth of Puerto Rico, the Virgin Islands, Guam, American
17 Samoa, the Trust Territory of the Pacific Islands, and any
18 other territory or possession of the United States.”

19 (b) Section 202(t)(2) of such Act is repealed.

20 (c) Section 202(t)(3) of such Act is amended to read as
21 follows:

22 “(3) Paragraph (1) shall not apply—

23 “(A) in any case where its application would be
24 contrary to any treaty obligation of the United States

1 *in effect on the date of the enactment of the Social Se-*
2 *curity Amendments of 1983, or*

3 *“(B) to individuals who are citizens or residents*
4 *of a country with which the United States has con-*
5 *cluded an international social security agreement pur-*
6 *suant to section 233, unless otherwise provided by such*
7 *agreement.”.*

8 *(d) Section 202(t)(4) of such Act is amended—*

9 *(1) by striking out subparagraphs (A) and (B);*

10 *(2) by redesignating subparagraphs (C), (D), and*
11 *(E) as subparagraphs (A), (B), and (C); and*

12 *(3) by striking out the semicolon at the end of*
13 *subparagraph (C) (as so redesignated) and all that fol-*
14 *lows and inserting in lieu thereof a period.*

15 *(e) The heading of section 202(t) of such Act is amended*
16 *by adding at the end thereof the following: “; Prohibition*
17 *Against Payment of Benefits to Aliens Not Permanent Resi-*
18 *dents”.*

19 *(f)(1) The amendments made by the preceding subsec-*
20 *tions shall apply with respect to any individual who initially*
21 *becomes eligible for benefits under section 202 or 223 of the*
22 *Social Security Act after December 31, 1984.*

23 *(2) Section 202(t) of the Social Security Act (as in*
24 *effect on the day before the date of enactment of this Act)*
25 *shall apply with respect to individuals who are eligible for*

1 *benefits under section 202 or 223 of such Act before January*
2 *1, 1985.*

3 *REDUCTION OF COST-OF-LIVING INCREASE IF TRUST*
4 *FUNDS RATIO IS BELOW 20 PERCENT AND DECLINING*

5 *SEC. 125. (a) Section 215(i) of the Social Security Act*
6 *is amended by adding at the end thereof the following new*
7 *paragraph:*

8 *“(5)(A) On or before July 1 of each calendar year after*
9 *1983, the Secretary shall determine whether the estimated*
10 *OASDI trust fund ratio for the second calendar year follow-*
11 *ing such calendar year will be—*

12 *“(i) less than 20.0 percent; and*

13 *“(ii) less than the estimated OASDI trust fund*
14 *ratio for the first calendar year following the year in*
15 *which such determination is made.*

16 *“(B) If the Secretary finds that the OASDI trust fund*
17 *ratio for the second calendar year following such calendar*
18 *year will be less than each of the ratios described in clauses*
19 *(i) and (ii) of subparagraph (A), the Secretary shall—*

20 *“(i) notify the Congress on or before July 1 of*
21 *such calendar year that, absent a change of circum-*
22 *stances, it will be necessary to reduce the amount of*
23 *the percentage cost-of-living increase otherwise payable*
24 *under this subsection with respect to benefits for*
25 *months after November of such calendar year; and*

1 “(ii) absent a change of circumstances before such
2 cost-of-living increase is determined that will allow the
3 full amount of benefits otherwise payable to be paid in
4 a timely fashion, reduce the amount of such percentage
5 increase (but not below zero) in accordance with sub-
6 paragraph (C) to the extent necessary to ensure that
7 the OASDI trust fund ratio for the second calendar
8 year following the calendar year in which the determi-
9 nation is made will not fall below the lower of—

10 “(I) 20.0 percent, or

11 “(II) the OASDI trust fund ratio for the
12 calendar year following the calendar year in
13 which the determination is made.

14 “(C) In reducing a cost-of-living percentage increase
15 under subparagraph (B), the Secretary shall first apply such
16 reduction to the percentage increase otherwise payable with
17 respect to monthly benefits payable under this section that are
18 based on a primary insurance amount of \$250 or more for
19 the month preceding such cost-of-living increase; the percent-
20 age increase applied to the primary insurance amount used to
21 determine all other monthly benefits shall not be such as to
22 increase such primary insurance amounts above \$250. If
23 further reduction in outgo is required, a reduction in the per-
24 centage increase applicable with respect to monthly benefits

1 *based on a primary insurance amount of less than \$250 for*
2 *such preceding month shall be made.*

3 “(D) *For purposes of this paragraph, the term ‘OASDI*
4 *trust fund ratio’ shall mean, with respect to any calendar*
5 *year, the ratio of—*

6 “(i) *the amount estimated by the Secretary to be*
7 *equal to the combined balance in the Federal Old-Age*
8 *and Survivors Insurance Trust Fund and the Federal*
9 *Disability Insurance Trust Fund as of the start of*
10 *business on January 1 of such calendar year, taking*
11 *into account any cost-of-living increase that otherwise*
12 *would be made with respect to benefits paid during*
13 *such year, and any actions possible to be taken under*
14 *sections 201(l) and 1817(j) (relating to interfund bor-*
15 *rowing) and 201 (a) and (m) (relating to normalized*
16 *crediting of social security taxes), to*

17 “(ii) *the amount estimated by the Secretary to be*
18 *the total amount to be paid from such Trust Funds*
19 *during such calendar year (other than payments of in-*
20 *terest on, and repayments of loans from), such Trust*
21 *Funds, and reducing the amount of any transfer to the*
22 *Railroad Retirement Account by the amount of any*
23 *transfer to such account from any such Trust Fund.*

24 “(E) *With respect to any calendar year beginning*
25 *before January 1988 for which a determination is required to*

1 *be made under subparagraph (A), the estimated OASDI*
 2 *trust fund ratio for the second calendar year following such*
 3 *calendar year shall be treated as exceeding the estimated*
 4 *OASDI trust fund ratio for the first calendar year following*
 5 *such calendar year if ratio of the estimated combined bal-*
 6 *ances in the Federal Old-Age and Survivors Insurance*
 7 *Trust Fund, the Federal Disability Insurance Trust Fund,*
 8 *and the Federal Hospital Insurance Trust Fund for such*
 9 *second following calendar year to the amounts estimated to be*
 10 *paid from all such Trust Funds during such second following*
 11 *calendar year exceeds the ratio of the estimated balances in*
 12 *all such Trust Funds to estimated payments from all such*
 13 *Trust Funds for such first following calendar year.”*

14 **PART C—REVENUE PROVISIONS**

15 **SEC. 131. TAXATION OF SOCIAL SECURITY AND TIER 1 RAIL-**
 16 **ROAD RETIREMENT BENEFITS.**

17 (a) **GENERAL RULE.**—*Part II of subchapter B of*
 18 *chapter 1 of the Internal Revenue Code of 1954 (relating to*
 19 *amounts specifically included in gross income) is amended*
 20 *by redesignating section 86 as section 87 and by inserting*
 21 *after section 85 the following new section:*

1 **“SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIRE-**
 2 **MENT BENEFITS.**

3 *“(a) IN GENERAL.—Gross income for the taxable year*
 4 *of any taxpayer described in subsection (b) includes social*
 5 *security benefits in an amount equal to the lesser of—*

6 *“(1) one-half of the social security benefits re-*
 7 *ceived during the taxable year, or*

8 *“(2) one-half of the excess described in subsection*
 9 *(b).*

10 **“(b) TAXPAYERS TO WHOM SUBSECTION (a) AP-**
 11 **PLIES.—**

12 *“(1) IN GENERAL.—A taxpayer is described in*
 13 *this subsection if—*

14 *“(A) the sum of—*

15 *“(i) the adjusted gross income of the*
 16 *taxpayer for the taxable year, plus*

17 *“(ii) one-half of the social security*
 18 *benefits received during the taxable year, ex-*
 19 *ceeds*

20 *“(B) the base amount.*

21 **“(2) ADJUSTED GROSS INCOME.—For purposes**
 22 **of this subsection, the adjusted gross income of the tax-**
 23 **payer for the taxable year shall be—**

24 *“(A) determined without regard to this sec-*
 25 *tion and sections 221, 911, and 931, and*

1 “(B) increased by the amount of interest of
2 the taxpayer which is exempt from tax for the
3 taxable year.

4 “(c) *BASE AMOUNT.*—For purposes of this section, the
5 term ‘base amount’ means—

6 “(1) except as otherwise provided in this subsec-
7 tion, \$25,000,

8 “(2) \$32,000, in the case of a joint return, and

9 “(3) zero, in the case of a taxpayer who—

10 “(A) is married at the close of the taxable
11 year (within the meaning of section 143) but does
12 not file a joint return for such year, and

13 “(B) does not live apart from his spouse at
14 all times during the taxable year.

15 “(d) *SOCIAL SECURITY BENEFIT.*—

16 “(1) *IN GENERAL.*—For purposes of this section,
17 the term ‘social security benefit’ means any amount re-
18 ceived by the taxpayer by reason of entitlement to—

19 “(A) a monthly benefit under title II of the
20 Social Security Act (determined without regard to
21 section 203(i) of the Social Security Act), or

22 “(B) a tier 1 railroad retirement benefit.

23 “(2) *ADJUSTMENT FOR REPAYMENTS DURING*
24 *YEAR.*—

1 “(A) *IN GENERAL.*—For purposes of this
2 section, the amount of social security benefits re-
3 ceived during any taxable year shall be reduced
4 by any repayment made by the taxpayer during
5 the taxable year of a social security benefit previ-
6 ously received by the taxpayer (whether or not
7 such benefit was received during the taxable
8 year).

9 “(B) *DENIAL OF DEDUCTION.*—If (but for
10 this subparagraph) any portion of the repayments
11 referred to in subparagraph (A) would have been
12 allowable as a deduction for the taxable year
13 under section 165, such portion shall be allowable
14 as a deduction only to the extent it exceeds the
15 social security benefits received by the taxpayer
16 during the taxable year (and not repaid during
17 such taxable year).

18 “(3) *TIER 1 RAILROAD RETIREMENT BENE-*
19 *FIT.*—For purposes of paragraph (1), the term ‘tier 1
20 railroad retirement benefit’ means a monthly benefit
21 under section 3(a), 4(a), or 4(f) of the Railroad Retire-
22 ment Act of 1974.

23 “(e) *LIMITATION ON AMOUNT INCLUDED WHERE*
24 *TAXPAYER RECEIVES LUMP-SUM PAYMENT.*—

25 “(1) *LIMITATION.*—If—

1 “(A) any portion of a lump-sum payment of
2 social security benefits received during the taxable
3 year is attributable to prior taxable years, and

4 “(B) the taxpayer makes an election under
5 this subsection for the taxable year,

6 then the amount included in gross income under this section
7 for the taxable year by reason of the receipt of such portion
8 shall not exceed the sum of the increases in gross income
9 under this chapter for prior taxable years which would result
10 solely from taking into account such portion in the taxable
11 years to which it is attributable.

12 “(2) SPECIAL RULES.—

13 “(A) YEAR TO WHICH BENEFIT ATTRIBUT-
14 ABLE.—For purposes of this subsection, a social
15 security benefit is attributable to a taxable year if
16 the generally applicable payment date for such
17 benefit occurred during such taxable year.

18 “(B) ELECTION.—An election under this
19 subsection shall be made at such time and in such
20 manner as the Secretary shall by regulations pre-
21 scribe. Such election, once made, may be revoked
22 only with the consent of the Secretary.

23 “(f) TREATMENT AS PENSION OR ANNUITY FOR CER-
24 TAIN PURPOSES.—For purposes of—

25 “(1) section 43(c)(2) (defining earned income),

1 “(2) the name and address of such individual.

2 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
3 UALS WITH RESPECT TO WHOM INFORMATION IS FUR-
4 NISHED.—Every person making a return under subsection
5 (a) shall furnish to each individual whose name is set forth
6 in such return a written statement showing—

7 “(1) the name of the agency making the pay-
8 ments, and

9 “(2) the aggregate amount of payments, of repay-
10 ments, and of reductions, with respect to the individual
11 as shown on such return.

12 The written statement required under the preceding sentence
13 shall be furnished to the individual on or before January 31
14 of the year following the calendar year for which the return
15 under subsection (a) was made.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) APPROPRIATE FEDERAL OFFICIAL.—The
18 term ‘appropriate Federal official’ means—

19 “(A) the Secretary of Health and Human
20 Services in the case of social security benefits de-
21 scribed in section 86(d)(1)(A), and

22 “(B) the Railroad Retirement Board in the
23 case of social security benefits described in section
24 86(d)(1)(B).

1 “(2) *SOCIAL SECURITY BENEFIT.*—*The term*
2 *‘social security benefit’ has the meaning given to such*
3 *term by section 86(d)(1).’*”

4 *(c) TREATMENT OF NONRESIDENT ALIENS.*—

5 (1) *AMENDMENT OF SECTION 871(a).*—*Subsec-*
6 *tion (a) of section 871 of such Code (relating to tax on*
7 *income not connected with United States business) is*
8 *amended by adding at the end thereof the following*
9 *new paragraph:*

10 “(3) *TAXATION OF SOCIAL SECURITY BENE-*
11 *FITS.*—*For purposes of this section and section*
12 *1441—*

13 “(A) *one-half of any social security benefit*
14 *(as defined in section 86(d)) shall be included in*
15 *gross income, and*

16 “(B) *section 86 shall not apply.*”

17 (2) *DISCLOSURE OF INFORMATION TO SOCIAL*
18 *SECURITY ADMINISTRATION OR RAILROAD RETIRE-*
19 *MENT BOARD.*—

20 (A) *IN GENERAL.*—*Subsection (h) of section*
21 *6103 of such Code (relating to disclosure to cer-*
22 *tain Federal officers and employees for purposes*
23 *of tax administration, etc.) is amended by adding*
24 *at the end thereof the following new paragraph:*

1 “(6) *SOCIAL SECURITY BENEFITS.*—Upon writ-
2 ten request, the Secretary may disclose available
3 return information from the master files of the Internal
4 Revenue Service with respect to the address and status
5 of an individual as a nonresident alien or as a citizen
6 or resident of the United States to the Social Security
7 Administration or the Railroad Retirement Board for
8 purposes of carrying out its responsibilities under sec-
9 tion 1441 with respect to social security benefits (as
10 defined in section 86(d)).”

11 (B) *CONFORMING AMENDMENT.*—Para-
12 graph (4) of section 6103(p) of such Code (relat-
13 ing to safeguards) is amended by inserting
14 “(h)(6),” after “(h)(2),” in the material preceding
15 subparagraph (A) and in subparagraph (F)(i)
16 thereof.

17 (d) *SOCIAL SECURITY BENEFITS TREATED AS*
18 *UNITED STATES SOURCED.*—Subsection (a) of section 861
19 of such Code (relating to income from sources within the
20 United States) is amended by adding at the end thereof the
21 following new paragraph:

22 “(8) *SOCIAL SECURITY BENEFITS.*—Any social
23 security benefit (as defined in section 86(d)).”

24 (e) *TRANSFERS TO TRUST FUNDS.*—

1 (1) *IN GENERAL.*—*There are hereby appropriated*
2 *to each payor fund amounts equivalent to the aggregate*
3 *increase in tax liabilities under chapter 1 of the Inter-*
4 *nal Revenue Code of 1954 which is attributable to the*
5 *application of sections 86 and 871(a)(3) of such Code*
6 *(as added by this section) to payments from such payor*
7 *fund.*

8 (2) *TRANSFERS.*—*The amounts appropriated by*
9 *paragraph (1) to any payor fund shall be transferred*
10 *from time to time (but not less frequently than quarter-*
11 *ly) from the general fund of the Treasury on the basis*
12 *of estimates made by the Secretary of the Treasury of*
13 *the amounts referred to in such paragraph. Any such*
14 *quarterly payment shall be made on the first day of*
15 *such quarter and shall take into account social security*
16 *benefits estimated to be received during such quarter.*
17 *Proper adjustments shall be made in the amounts sub-*
18 *sequently transferred to the extent prior estimates were*
19 *in excess of or less than the amounts required to be*
20 *transferred.*

21 (3) *DEFINITIONS.*—*For purposes of this subsec-*
22 *tion—*

23 (A) *PAYOR FUND.*—*The term “payor fund”*
24 *means any trust fund or account from which pay-*
25 *ments of social security benefits are made.*

1 (B) *SOCIAL SECURITY BENEFITS.*—*The*
2 *term “social security benefits” has the meaning*
3 *given such term by section 86(d)(1) of the Inter-*
4 *nal Revenue Code of 1954.*

5 (4) *REPORTS.*—*The Secretary of the Treasury*
6 *shall submit annual reports to the Congress and to the*
7 *Secretary of Health and Human Services and the*
8 *Railroad Retirement Board on—*

9 (A) *the transfers made under this subsection*
10 *during the year, and the methodology used in de-*
11 *termining the amount of such transfers and the*
12 *funds or account to which made, and*

13 (B) *the anticipated operation of this subsec-*
14 *tion during the next 5 years.*

15 (f) *TECHNICAL AMENDMENTS.*—

16 (1) *Subsection (a) of section 85 of such Code is*
17 *amended by striking out “this section,” and inserting*
18 *in lieu thereof “this section, section 86,”.*

19 (2) *Subparagraph (B) of section 128(c)(3) of such*
20 *Code (as in effect for taxable years beginning after De-*
21 *cember 31, 1984) is amended by striking out “85,”*
22 *and inserting in lieu thereof “85, 86,”.*

23 (3) *The table of sections for part II of subchapter*
24 *B of chapter 1 of such Code is amended by striking*

1 out the item relating to section 86 and inserting in lieu
2 thereof the following:

“Sec. 86. Social security and tier 1 railroad retirement benefits.

“Sec. 87. Alcohol fuel credit.”.

3 (4) The table of sections for subpart B of part III
4 of subchapter A of chapter 61 of such Code is amended
5 by adding at the end thereof the following new item:

“Sec. 6050F. Returns relating to social security benefits.”.

6 (g) **EFFECTIVE DATES.**—

7 (1) **IN GENERAL.**—Except as provided in para-
8 graph (2), the amendments made by this section shall
9 apply to benefits received after December 31, 1983, in
10 taxable years ending after such date.

11 (2) **TREATMENT OF CERTAIN LUMP-SUM PAY-**
12 **MENTS RECEIVED AFTER DECEMBER 31, 1983.**—The
13 amendments made by this section shall not apply to
14 any portion of a lump-sum payment of social security
15 benefits (as defined in section 86(d) of the Internal
16 Revenue Code of 1954) received after December 31,
17 1983, if the generally applicable payment date for such
18 portion was before January 1, 1984.

19 **SEC. 132. ACCELERATION OF INCREASES IN FICA TAXES; 1984**

20 **EMPLOYEE TAX CREDIT.**

21 (a) **ACCELERATION OF INCREASES IN FICA**
22 **TAXES.**—

23 (1) **TAX ON EMPLOYEES.**—Subsection (a) of sec-
24 tion 3101 of the Internal Revenue Code of 1954 (relat-

1 *ing to rate of tax on employees for old-age, survivors,*
 2 *and disability insurance) is amended by striking out*
 3 *paragraphs (1) through (7) and inserting in lieu there-*
 4 *of the following:*

| <i>“In cases of wages received</i> | <i>The rate shall be:</i> |
|---------------------------------------|---------------------------|
| <i>during:</i> | |
| <i>1984, 1985, 1986, or 1987.....</i> | <i>5.7 percent</i> |
| <i>1988 or 1989.....</i> | <i>6.06 percent</i> |
| <i>1990 or thereafter.....</i> | <i>6.2 percent.”.</i> |

5 *(2) EMPLOYER TAX.—Subsection (a) of section*
 6 *3111 of such Code is amended by striking out para-*
 7 *graphs (1) through (7) and inserting in lieu thereof the*
 8 *following:*

| <i>“In cases of wages paid during:</i> | <i>The rate shall be:</i> |
|--|---------------------------|
| <i>1984, 1985, 1986, or 1987.....</i> | <i>5.7 percent</i> |
| <i>1988 or 1989.....</i> | <i>6.06 percent</i> |
| <i>1990 or thereafter.....</i> | <i>6.2 percent.”.</i> |

9 *(3) EFFECTIVE DATE.—The amendments made*
 10 *by this subsection shall apply to remuneration paid*
 11 *after December 31, 1983.*

12 *(b) 1984 EMPLOYEE TAX CREDIT.—*

13 *(1) IN GENERAL.—Chapter 25 of such Code is*
 14 *amended by adding at the end thereof the following*
 15 *new section:*

16 **“SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EM-**
 17 **PLOYEE TAXES AND RAILROAD RETIREMENT**
 18 **TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.**

19 *“(a) GENERAL RULE.—There shall be allowed as a*
 20 *credit against the tax imposed by section 3101(a) on wages*

1 received during 1984 an amount equal to $\frac{3}{10}$ of 1 percent of
2 the wages so received.

3 “(b) *TIME CREDIT ALLOWED.*—The credit under sub-
4 section (a) shall be taken into account in determining the
5 amount of the tax deducted under section 3102(a).

6 “(c) *WAGES.*—For purposes of this section, the term
7 ‘wages’ has the meaning given to such term by section
8 3121(a).

9 “(d) *APPLICATION TO AGREEMENTS UNDER SEC-*
10 *TION 218 OF THE SOCIAL SECURITY ACT.*—For purposes
11 of determining amounts equivalent to the tax imposed by sec-
12 tion 3101(a) with respect to remuneration which—

13 “(1) is covered by an agreement under section
14 218 of the Social Security Act, and

15 “(2) is paid during 1984,
16 the credit allowed by subsection (a) shall be taken into ac-
17 count. A similar rule shall also apply in the case of an agree-
18 ment under section 3121(l).

19 “(e) *CREDIT AGAINST RAILROAD RETIREMENT EM-*
20 *PLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.*—

21 “(1) *IN GENERAL.*—There shall be allowed as a
22 credit against the taxes imposed by sections 3201(a)
23 and 3211(a) on compensation paid during 1984 and
24 subject to such taxes an amount equal to $\frac{3}{10}$ of 1 per-
25 cent of such compensation.

1 “(2) *TIME CREDIT ALLOWED.*—*The credit under*
2 *paragraph (1) shall be taken into account in determin-*
3 *ing the amount of the tax deducted under section*
4 *3202(a) (or the amount of the tax under section*
5 *3211(a)).*

6 “(3) *COMPENSATION.*—*For purposes of this sub-*
7 *section, the term ‘compensation’ has the meaning given*
8 *to such term by section 3231(e).*

9 “(f) *COORDINATION WITH SECTION 6413(c).*—*For*
10 *purposes of subsection (c) of section 6413, in determining the*
11 *amount of the tax imposed by section 3101 or 3201, any*
12 *credit allowed by this section shall be taken into account.”.*

13 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
14 *tions for chapter 25 of such Code is amended by*
15 *adding at the end thereof the following new item:*

*“Sec. 3510. Credit for increased social security employee taxes and
railroad retirement tier 1 employee taxes imposed
during 1984.”.*

16 (3) *EFFECTIVE DATE.*—*The amendments made*
17 *by this subsection shall apply to remuneration paid*
18 *during 1984.*

19 (4) *DEPOSITS IN SOCIAL SECURITY TRUST*
20 *FUNDS.*—*For purposes of subsection (h) of section 218*
21 *of the Social Security Act (relating to deposits in*
22 *social security trust funds of amounts received under*
23 *section 218 agreements), amounts allowed as a credit*
24 *pursuant to subsection (d) of section 3510 of the Inter-*

1 *nal Revenue Code of 1954 (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.*

6 (5) *DEPOSITS IN RAILROAD RETIREMENT ACCOUNT.—For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974, amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1954 shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code.*

13 (6) *STATEMENTS FURNISHED TO EMPLOYEES.—Any written statement which is required to be furnished to an employee under section 6051(a) with respect to remuneration paid during 1984 shall include—*

18 (A) *the total amount which would have been deducted and withheld as a tax under section 3101 if the credit allowable under section 3510 had not been taken into account, and*

22 (B) *the amount of the credit allowable under section 3510.*

1 **SEC. 133. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT**
 2 **AGAINST SUCH TAXES.**

3 (a) **INCREASE IN RATES.**—Subsections (a) and (b) of
 4 section 1401 of the Internal Revenue Code of 1954 (relating
 5 to rates of tax on self-employment income) are amended to
 6 read as follows:

7 “(a) **OLD-AGE, SURVIVORS, AND DISABILITY INSUR-**
 8 **ANCE.**—In addition to other taxes, there shall be imposed for
 9 each taxable year, on the self-employment income of every
 10 individual, a tax equal to the following percent of the amount
 11 of the self-employment income for such taxable year:

“In the case of a taxable year

| Beginning after: | And before: | Percent: |
|-------------------------|----------------------|-----------------|
| December 31, 1983..... | January 1, 1988..... | 11.40 |
| December 31, 1987..... | January 1, 1990..... | 12.12 |
| December 31, 1989..... | | 12.40 |

12 (b) **HOSPITAL INSURANCE.**—In addition to the tax
 13 imposed by the preceding subsection, there shall be imposed
 14 for each taxable year, on the self-employment income of every
 15 individual, a tax equal to the following percent of the amount
 16 of the self-employment income for such taxable year:

“In the case of a taxable year

| Beginning after: | And before: | Percent: |
|-------------------------|----------------------|-----------------|
| December 31, 1983..... | January 1, 1985..... | 2.60 |
| December 31, 1984..... | January 1, 1986..... | 2.70 |
| December 31, 1985..... | | 2.90.” |

1 **(b) CREDIT AGAINST SELF-EMPLOYMENT TAXES.**—

2 Section 1401 of such Code is amended by redesignating sub-
3 section (c) as subsection (d) and by inserting after subsection
4 (b) the following new subsection:

5 “(c) **CREDIT AGAINST TAXES IMPOSED BY THIS**
6 **SECTION.**—

7 “(1) **IN GENERAL.**—There shall be allowed as a
8 credit against the taxes imposed by this section for any
9 taxable year an amount equal to the applicable percent-
10 age of the self-employment income of the individual for
11 such taxable year.

12 “(2) **APPLICABLE PERCENTAGE.**—For purposes
13 of paragraph (1), the applicable percentage shall be de-
14 termined in accordance with the following table:

| “In the case of taxable years beginning in: | The applicable percentage is: |
|--|--|
| 1984..... | 2.9 |
| 1985..... | 2.5 |
| 1986..... | 2.2 |
| 1987, 1988, or 1989..... | 2.1 |
| 1990 or thereafter..... | 2.3.”. |

15 **(c) EFFECTIVE DATE.**—The amendments made by this
16 section shall apply to taxable years beginning after December
17 31, 1983.

18 **PART D—MISCELLANEOUS FINANCING PROVISIONS**

19 **ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND**

20 **SEC. 141.** (a) Section 201(b)(1) of the Social Security
21 Act is amended by striking out clauses (K) through (M) and
22 inserting in lieu thereof the following: “(K) 1.65 per centum of

1 *the wages (as so defined) paid after December 31, 1981, and*
2 *before January 1, 1984, and so reported, (L) 1 per centum of*
3 *the wages (as so defined) paid after December 31, 1983, and*
4 *before January 1, 1988, and so reported, (M) 1.06 per*
5 *centum of the wages (as so defined) paid after December 31,*
6 *1987, and before January 1, 1990, and so reported, (N) 1.20*
7 *per centum of the wages (as so defined) paid after December*
8 *31, 1989, and before January 1, 2000, and (M) 1.30 per*
9 *centum of the wages (as so defined) paid after December 31,*
10 *1999, and so reported,”.*

11 *(b) Section 201(b)(2) of such Act is amended by striking*
12 *out clauses (K) through (M) and inserting in lieu thereof the*
13 *following: “(K) 1.2375 per centum of the amount of self-*
14 *employment income (as so defined) so reported for any taxable*
15 *year beginning after December 31, 1981, and before January 1,*
16 *1984, (L) 1 per centum of the amount of self-employment*
17 *income (as so defined) so reported for any taxable year*
18 *beginning after December 31, 1983, and before January 1,*
19 *1988, (M) 1.06 per centum of the amount of self-employment*
20 *income (as so defined) so reported for any taxable year*
21 *beginning after December 31, 1987, and before January 1,*
22 *1990, (N) 1.20 per centum of the self-employment income (as*
23 *so defined) so reported for any taxable year beginning after*
24 *December 31, 1989, and before January 1, 2000, and (M)*
25 *1.30 per centum of the amount of self-employment income (as*

1 *so defined) so reported for any taxable year beginning after*
2 *December 31, 1999,”.*

3 *INTERFUND BORROWING EXTENSION*

4 *SEC. 142. (a)(1) Section 201(l)(1) of the Social Secu-*
5 *rity Act is amended—*

6 *(A) by striking out “January 1983” and insert-*
7 *ing in lieu thereof “January 1988”; and*

8 *(B) by inserting after “or” the second place it ap-*
9 *pears “, subject to paragraph (5),”.*

10 *(2) (A) Section 201(l)(2) of such Act is amended—*

11 *(i) by striking out “from time to time” and insert-*
12 *ing in lieu thereof “on the last day of each month after*
13 *such loan is made”;*

14 *(ii) by striking out “interest” and inserting in*
15 *lieu thereof “the total interest accrued to such day”;*
16 *and*

17 *(iii) by striking out “the loan were an investment*
18 *under subsection (d)” and inserting in lieu thereof*
19 *“such amount had remained in the Depository Account*
20 *established with respect to such lending Trust Fund*
21 *under subsection (d) or section 1817(c)”.*

22 *(B) The amendment made by this paragraph shall*
23 *apply with respect to months beginning more than thirty days*
24 *after the date of enactment of this Act.*

25 *(3) Section 201(l)(3) of such Act is amended—*

1 (A) by inserting “(A)” after the paragraph desig-
2 nation; and

3 (B) by adding at the end thereof the following
4 new subparagraphs:

5 “(B)(i) If on the last day of any year after a loan has
6 been made under paragraph (1) by the Federal Hospital In-
7 surance Trust Fund to the Federal Old Age and Survivors
8 Trust Fund or the Federal Disability Insurance Trust
9 Fund, the Managing Trustee determines that the OASDI
10 trust fund ratio exceeds 15 percent, he shall transfer from the
11 borrowing Trust Fund to the Federal Hospital Insurance
12 Trust Fund an amount that—

13 “(I) together with any amounts transferred from
14 another borrowing Trust Fund under this paragraph
15 for such year, will reduce the OASDI trust fund ratio
16 to 15 percent; and

17 “(II) does not exceed the outstanding balance of
18 such loan.

19 “(ii) Amounts required to be transferred under clause
20 (i) shall be transferred on the last day of the first month of
21 the year succeeding the year in which the determination de-
22 scribed in clause (i) is made.

23 “(iii) For purposes of this subparagraph, the term
24 ‘OASDI trust fund ratio’ means, with respect to any calen-
25 dar year, the ratio of—

1 “(I) the combined balance in the Federal Old Age
2 and Survivors Insurance Trust Fund and the Federal
3 Disability Insurance Trust Fund, reduced by the out-
4 standing amount of any loan (including interest there-
5 on) theretofore made to either such Fund from the Fed-
6 eral Hospital Insurance Trust Fund, as of the last day
7 of such calendar year, to

8 “(II) the amount estimated by the Secretary to be
9 the total amount to be paid from the Federal Old Age
10 and Survivors Insurance Trust Fund and the Federal
11 Disability Insurance Trust Fund during the calendar
12 year following such calendar year for all purposes au-
13 thorized by section 201 (other than payments of inter-
14 est on, and repayments of, loans from the Federal Hos-
15 pital Insurance Trust Fund under paragraph (1)), but
16 excluding any transfer payments between such trust
17 funds and reducing the amount of any transfer to the
18 Railroad Retirement Account by the amount of any
19 transfers into either such trust fund from that Account.

20 “(C)(i) The full amount of all loans made under para-
21 graph (1) (whether made before or after January 1, 1983)
22 shall be repaid at the earliest feasible date and in any event
23 no later than December 31, 1989.

24 “(ii) For the period after December 31, 1987, and
25 before January 1, 1990, the Managing Trustee shall transfer

1 *each month to the Federal Hospital Insurance Trust Fund*
2 *from any Trust Fund with any amount outstanding on a*
3 *loan made from the Federal Hospital Insurance Trust Fund*
4 *under paragraph (1) an amount equal to one twenty-fourth of*
5 *the amount owed to the Federal Hospital Insurance Trust*
6 *Fund by such Trust Fund at the beginning of such period*
7 *(plus the interest accrued on the outstanding balance of such*
8 *loan during such month).”.*

9 (4) *Section 201(l) of such Act is further amended by*
10 *adding at the end thereof the following new paragraph:*

11 “(5)(A) *No amounts may be borrowed from the Federal*
12 *Hospital Insurance Trust Fund under paragraph (1) during*
13 *any month if the Hospital Insurance Trust Fund ratio for*
14 *such month is less than 10 percent.*

15 “(B) *For purposes of this paragraph, the term ‘Hospital*
16 *Insurance trust fund ratio’ means, with respect to any*
17 *month, the ratio of—*

18 “(i) *the balance in the Federal Hospital Insur-*
19 *ance Trust Fund, reduced by the outstanding amount*
20 *of any loan (including interest thereon) theretofore*
21 *made to such Trust Fund under this subsection, as of*
22 *the last day of the second month preceding such month,*
23 *to*

24 “(ii) *the amount obtained by multiplying by*
25 *twelve the total amount which (as estimated by the*

1 *Secretary) will be paid from the Federal Hospital In-*
2 *surance Trust Fund during the month for which such*
3 *ratio is to be determined (other than payments of inter-*
4 *est on, or repayments of loans from another Trust*
5 *Fund under this subsection), and reducing the amount*
6 *of any transfers to the Railroad Retirement Account by*
7 *the amount of any transfer into the Hospital Insurance*
8 *Trust Fund from that Account.”.*

9 *(b)(1) Section 1817(j)(1) of such Act is amended—*

10 *(A) by striking out “January 1983” and insert-*
11 *ing in lieu thereof “January 1988”; and*

12 *(B) by inserting “, subject to paragraph (5),”*
13 *after “may”.*

14 *(2)(A) Section 1817(j)(2) of such Act is amended—*

15 *(i) by striking out “from time to time” and insert-*
16 *ing in lieu thereof “on the last day of each month after*
17 *such loan is made”;*

18 *(ii) by striking out “interest” and inserting in*
19 *lieu thereof “the total interest accrued to such day”;*
20 *and*

21 *(iii) by striking out “the loan were an investment*
22 *under subsection (c)” and inserting in lieu thereof*
23 *“such amount had remained in the Depository Account*
24 *established with respect to such lending Trust Fund*
25 *under section 201(d)”.*

1 (B) *The amendment made by this paragraph shall*
2 *apply with respect to months beginning more than 30 days*
3 *after the date of enactment of this Act.*

4 (3) *Section 1817(j)(3) of such Act is amended—*

5 (A) *by inserting “(A)” after the paragraph desig-*
6 *nation; and*

7 (B) *by adding at the end thereof the following*
8 *new subparagraphs:*

9 “(B)(i) *If on the last day of any year after a loan has*
10 *been made under paragraph (1) by the Federal Old Age and*
11 *Survivors Insurance Trust Fund or the Federal Disability*
12 *Insurance Trust Fund to the Federal Hospital Insurance*
13 *Trust Fund, the Managing Trustee determines that the Hos-*
14 *pital Insurance Trust Fund ratio exceeds 15 percent, he*
15 *shall transfer from such Trust Fund to the lending trust fund*
16 *an amount that—*

17 “(I) *together with any amounts transferred to an-*
18 *other lending trust fund under this paragraph for such*
19 *year, will reduce Hospital Insurance Trust Fund ratio*
20 *to 15 percent; and*

21 “(II) *does not exceed the outstanding balance of*
22 *such loan.*

23 “(i) *Amounts required to be transferred under clause*
24 *(i) shall be transferred on the last day of the first month of*

1 *the year succeeding the year in which the determination de-*
2 *scribed in clause (i) is made.*

3 “(iii) *For purposes of this subparagraph, the term ‘Hos-*
4 *pital Insurance Trust Fund ratio’ means, with respect to any*
5 *calendar year, the ratio of—*

6 “(I) *the balance in the Federal Hospital Insur-*
7 *ance Trust Fund, reduced by the amount of any out-*
8 *standing loan (including interest thereon) from the*
9 *Federal Old Age and Survivors Insurance Trust Fund*
10 *and the Federal Disability Insurance Trust Fund, as*
11 *of the last day of such calendar year; to*

12 “(II) *the amount estimated by the Secretary to be*
13 *the total amount to be paid from the Federal Hospital*
14 *Insurance Trust Fund during the calendar year fol-*
15 *lowing such calendar year (other than payments of in-*
16 *terest on, and repayments of, loans from the Federal*
17 *Old Age and Survivors Insurance Trust Fund and the*
18 *Federal Disability Insurance Trust Fund under para-*
19 *graph (1)), and reducing the amount of any transfer to*
20 *the Railroad Retirement Account by the amount of any*
21 *transfers into such Trust Fund from the Railroad Re-*
22 *tirement Account.*

23 “(C)(i) *The full amount of all loans made under para-*
24 *graph (1) (whether made before or after January 1, 1983)*

1 *shall be repaid at the earliest feasible date and in any event*
2 *no later than December 31, 1989.”.*

3 “(ii) *For the period after December 31, 1987 and before*
4 *January 1, 1990, the Managing Trustee shall transfer each*
5 *month from the Federal Hospital Insurance Trust Fund to*
6 *any Trust Fund that is owed any amount by the Federal*
7 *Hospital Insurance Trust Fund on a loan made under para-*
8 *graph (1), an amount equal to 1/24 of the amount owed to*
9 *such Trust Fund by the Federal Hospital Insurance Trust*
10 *Fund at the beginning of such period (plus the interest ac-*
11 *rued on the outstanding balance of such loan during such*
12 *month).”.*

13 “(4) *Section 1817(j) of such Act is further amended by*
14 *adding at the end thereof the following new paragraph:*

15 “(5)(A) *No amounts may be loaned by the Federal Old*
16 *Age and Survivors Insurance Trust Fund or the Federal*
17 *Disability Insurance Trust Fund under paragraph (1)*
18 *during any month if the OASDI trust fund ratio for such*
19 *month is less than 10 percent.*

20 “(B) *For purposes of this paragraph, the term ‘OASDI*
21 *trust fund ratio’ means, with respect to any month, the ratio*
22 *of—*

23 “(i) *the combined balance in the Federal Old Age*
24 *and Survivors Insurance Trust Fund and the Federal*
25 *Disability Insurance Trust Fund, reduced by the out-*

1 *standing amount of any loan (including interest there-*
 2 *on) theretofore made to either such Trust Fund from*
 3 *the Federal Hospital Insurance Trust Fund under sec-*
 4 *tion 201(l), as of the last day of the second month pre-*
 5 *ceding such month, to*

6 *“(i) the amount obtained by multiplying by*
 7 *twelve the total amount which (as estimated by the*
 8 *Secretary) will be paid from the Federal Old Age and*
 9 *Survivors Insurance Trust Fund and the Federal Dis-*
 10 *ability Insurance Trust Fund during the month for*
 11 *which such ratio is to be determined for all purposes*
 12 *authorized by section 201 (other than payments of in-*
 13 *terest on, or repayments of, loans from the Federal*
 14 *Hospital Insurance Trust Fund under section 201(l)),*
 15 *but excluding any transfer payments between such*
 16 *trust funds and reducing the amount of any transfers*
 17 *to the Railroad Retirement Account by the amount of*
 18 *any transfers into either such trust fund from that Ac-*
 19 *count.”.*

20 *CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO*
 21 *TRUST FUNDS*

22 *SEC. 143. (a) The Secretary of the Treasury shall take*
 23 *such actions as may be necessary to ensure that amounts of*
 24 *checks for benefits under title II of the Social Security Act*
 25 *which have not been presented for payment within a reason-*

1 *able length of time (not to exceed twelve months) after issu-*
2 *ance are credited to the Federal Old-Age and Survivors In-*
3 *surance Trust Fund or the Federal Disability Insurance*
4 *Trust Fund, whichever may be the fund from which the check*
5 *was issued. Amounts of any such check shall be recharged to*
6 *the fund from which they were issued if payment is subse-*
7 *quently made on such check.*

8 *(b)(1) The Secretary of the Treasury shall transfer from*
9 *the general fund of the Treasury to the Federal Old-Age and*
10 *Survivors Insurance Trust Fund and to the Federal Disabil-*
11 *ity Insurance Trust Fund, as appropriate, such sums as may*
12 *be necessary to reimburse such Trust Funds in the total*
13 *amounts of all currently unnegotiated benefit checks. After*
14 *the amounts appropriated by this subsection have been trans-*
15 *ferred to the Trust Funds, the provisions of subsection (a)*
16 *shall be applicable. There are hereby appropriated into such*
17 *Trust Funds such sums as may be necessary to reimburse*
18 *such Trust Funds for the amount of currently unnegotiated*
19 *benefit checks. The first such transfer shall be made within*
20 *thirty days after the date of the enactment of this Act with*
21 *respect to all such unnegotiated checks as of such date of*
22 *enactment.*

23 *(2) As used in paragraph (1), the term "currently unne-*
24 *gotiated benefit checks" means the checks issued under title*
25 *II of the Social Security Act prior to the date of the enact-*

1 *ment of this Act, which remain unnegotiated after the twelfth*
2 *month following the date on which they were issued.*

3 *TRANSFER TO TRUST FUNDS FOR BENEFITS*

4 *ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957*

5 *SEC. 144. (a) Section 217(g) of the Social Security Act*
6 *is amended to read as follows:*

7 “*APPROPRIATION TO TRUST FUNDS*

8 “*(g)(1) Within thirty days after the date of the enact-*
9 *ment of the Social Security Amendments of 1983, the Secre-*
10 *tary shall determine the amount equal to the excess of—*

11 “*(A) the actuarial present value as of such date of*
12 *enactment of the past and future benefit payments from*
13 *the Federal Old-Age and Survivors Insurance Trust*
14 *Fund, the Federal Disability Insurance Trust Fund,*
15 *and the Federal Hospital Insurance Trust Fund under*
16 *this title and title XVIII, together with associated ad-*
17 *ministrative costs, resulting from the operation of this*
18 *section (other than this subsection) and section 210 of*
19 *this Act as in effect before the enactment of the Social*
20 *Security Act Amendments of 1950, over*

21 “*(B) any amounts previously transferred from the*
22 *general fund of the Treasury to such Trust Funds pur-*
23 *suant to the provisions of this subsection as in effect*
24 *immediately before the date of the enactment of the*
25 *Social Security Amendments of 1983.*

1 *Such actuarial present value shall be based on the relevant*
2 *actuarial assumptions set forth in the report of the Board of*
3 *Trustees of each such Trust Fund for 1983 under sections*
4 *201(c) and 1817(b). Within thirty days after the date of the*
5 *enactment of the Social Security Amendments of 1983, the*
6 *Secretary of the Treasury shall transfer the amount deter-*
7 *mined under this paragraph with respect to each such Trust*
8 *Fund to such Trust Fund from amounts in the general fund*
9 *of the Treasury not otherwise appropriated.*

10 “(2) *The Secretary shall revise the amount determined*
11 *under paragraph (1) with respect to each such Trust Fund in*
12 *1985 and each fifth year thereafter, as determined appropri-*
13 *ate by the Secretary from data which becomes available to*
14 *him after the date of the determination under paragraph (1)*
15 *on the basis of the amount of benefits and administrative*
16 *expenses actually paid from such Trust Fund under this title*
17 *or title XVIII and the relevant actuarial assumptions set*
18 *forth in the report of the Board of Trustees of such Trust*
19 *Fund for such year under section 201(c) or 1817(b). Within*
20 *30 days after any such revision, the Secretary of the Treas-*
21 *ury, to the extent provided in advance in appropriation Acts,*
22 *shall transfer to such Trust Fund, from amounts in the gen-*
23 *eral fund of the Treasury not otherwise appropriated, or from*
24 *such Trust Fund to the general fund of the Treasury, such*

1 *amounts as the Secretary of the Treasury determines neces-*
2 *sary to compensate for such revision.”.*

3 *PAYMENTS TO TRUST FUNDS OF AMOUNTS EQUIVALENT*
4 *TO TAXES ON SERVICE IN THE UNIFORMED SERV-*
5 *ICES PERFORMED AFTER 1956*

6 *SEC. 145. (a) Section 229(b) of the Social Security*
7 *Act is amended to read as follows:*

8 *“(b) There are authorized to be appropriated to each of*
9 *the Trust Funds, consisting of the Federal Old-Age and Sur-*
10 *vivors Insurance Trust, the Federal Disability Insurance*
11 *Trust Fund, and the Federal Hospital Insurance Trust*
12 *Fund, for transfer on July 1 of each calendar year to such*
13 *Trust Fund from amounts in the general fund in the Treas-*
14 *ury not otherwise appropriated, an amount equal to the total*
15 *of the additional amounts which would be appropriated to*
16 *such Trust Fund for the fiscal year ending September 30 of*
17 *such calendar year under section 201 or 1817 of this Act if*
18 *the amounts of the additional wages deemed to have been paid*
19 *for such calendar year by reason of subsection (a) constituted*
20 *remuneration for employment (as defined in section 3121(b)*
21 *of the Internal Revenue Code of 1954) for purposes of the*
22 *taxes imposed by sections 3101 and 3111 of the Internal*
23 *Revenue Code of 1954. Amounts authorized to be appropri-*
24 *ated under this subsection for transfer on July 1 of each cal-*
25 *endar year shall be determined on the basis of estimates of*

1 *the Secretary of the wages deemed to be paid for such calen-*
2 *dar year under subsection (a); and proper adjustments shall*
3 *be made in amounts authorized to be appropriated for subse-*
4 *quent transfer to the extent prior estimates were in excess of*
5 *or were less than such wages so deemed to be paid.”*

6 (b) *The amendment made by subsection (a) shall be ef-*
7 *fective with respect to wages deemed to have been paid for*
8 *calendar years after 1983.*

9 (c)(1) *Within thirty days after the date of the enactment*
10 *of this Act, the Secretary of Health and Human Services*
11 *shall determine the additional amounts which would have*
12 *been appropriated into the Federal Old-Age and Survivors*
13 *Insurance Trust Fund, the Federal Disability Insurance*
14 *Trust Fund, and the Federal Hospital Insurance Trust*
15 *Fund under sections 201 and 1817 of the Social Security*
16 *Act, if the additional wages deemed to have been paid under*
17 *section 229(a) of the Social Security Act prior to 1984 had*
18 *constituted remuneration for employment (as defined in sec-*
19 *tion 3121(b) of the Internal Revenue Code of 1954) for pur-*
20 *poses of the taxes imposed by sections 3101 and 3111 of the*
21 *Internal Revenue Code of 1954, and the amount of interest*
22 *which would have been earned on such amounts if they had*
23 *been so appropriated.*

24 (2)(A) *The Secretary of the Treasury shall, within*
25 *thirty days after the date of the enactment of this Act, trans-*

1 *fer into each such Trust Fund, from the general fund in the*
2 *Treasury, an amount equal to the amount determined with*
3 *respect to such Trust Fund under paragraph (1), less any*
4 *amount appropriated into such Trust Fund under the provi-*
5 *sions of section 229(b) of the Social Security Act prior to the*
6 *date of the determination made under paragraph (1) with re-*
7 *spect to wages deemed to have been paid for calendar years*
8 *prior to 1984. There are hereby appropriated into such Trust*
9 *Funds sums equal to the amounts to be transferred in accord-*
10 *ance with this subparagraph into such Trust Funds.*

11 *(B) The Secretary shall revise the amount determined*
12 *under subparagraph (A) within one year after the date of the*
13 *transfer made under paragraph (1), as warranted by data*
14 *which may become available to him after the date of the*
15 *transfer under subparagraph (A) based upon actual benefits*
16 *paid under this title and title XVIII. Any amounts deter-*
17 *mined to be needed for transfer shall be transferred by the*
18 *Secretary of the Treasury into the appropriate Trust Fund*
19 *from the general fund in the Treasury, or out of the appropri-*
20 *ate Trust Fund into the general fund in the Treasury, as*
21 *may be appropriate. There are authorized to be appropriated*
22 *to such Trust Funds sums equal to the amounts to be trans-*
23 *ferred in accordance with this subparagraph into such Trust*
24 *Funds.*

1 *TRUST FUND INVESTMENT PROCEDURE*

2 *SEC. 146. (a) Section 201 of the Social Security Act is*
3 *amended by striking out subsections (d), (e), and (f) and in-*
4 *serting in lieu thereof the following new subsections:*

5 *“(d) There are hereby created on the books of the Treas-*
6 *ury of the United States an account to be known as the Old-*
7 *Age and Survivors Insurance Depository Account and an*
8 *account to be known as the Disability Insurance Depository*
9 *Account.*

10 *“(e) The Managing Trustee shall deposit that portion of*
11 *the Federal Old-Age and Survivors Insurance Trust Fund*
12 *not required to meet current withdrawals from such Trust*
13 *Fund in the Old-Age and Survivors Insurance Depository*
14 *Account and that portion of the Federal Disability Insurance*
15 *Trust Fund not required to meet current withdrawals from*
16 *such Trust Fund in the Disability Insurance Depository Ac-*
17 *count.*

18 *“(f)(1) The Secretary of the Treasury may apply*
19 *moneys deposited in an account pursuant to subsection (e) in*
20 *any way in which he is authorized by law to apply moneys*
21 *in the general fund of the Treasury.*

22 *“(2)(A) Moneys deposited in an account pursuant to*
23 *subsection (e) shall be treated as indebtedness of the United*
24 *States for purposes of section 1305(2) of title 31, United*
25 *States Code, and shall earn interest, payable monthly, in an*

1 amount equal to the product obtained by multiplying the
2 average balance of moneys in the account for such month by
3 the average market yield (computed by the Managing Trustee
4 on the basis of market quotations as of the end of each busi-
5 ness day of such month) on all marketable interest-bearing
6 obligations of the United States then forming a part of the
7 public debt which are not due or callable until after the expi-
8 ration of four years from the end of such month, except that
9 'flower bonds' shall not be included in such computation.

10 “(B) For purposes of this paragraph, the term ‘flower
11 bond’ means a United States Treasury bond which was
12 issued before March 4, 1971 and which may, at the option of
13 the duly constituted representatives of the estate of a deceased
14 individual, be redeemed at par (face) value, plus accrued in-
15 terest to the date of payment, if—

16 “(i) it was owned by such deceased individual at
17 the time of his death,

18 “(ii) it is part of the estate of such deceased indi-
19 vidual, and

20 “(iii) such representatives authorize the Secretary
21 of the Treasury to apply the entire proceeds of the re-
22 demption of such bond to the payment of Federal estate
23 taxes.

24 “(3) The Managing Trustee may withdraw moneys de-
25 posited in an account pursuant to subsection (e) whenever he

1 *determines that such moneys are necessary to meet current*
2 *withdrawals from the Trust Fund which deposited such*
3 *moneys, and the Secretary of the Treasury may sell obliga-*
4 *tions of the United States in the market in an amount not to*
5 *exceed the amount of such withdrawal if he determines that*
6 *such withdrawal necessitates an increase in the general fund*
7 *of the Treasury by an amount not exceeding such amount.”*

8 *(b) Section 1817 of such Act is amended by striking out*
9 *subsections (c), (d), and (e) and inserting in lieu thereof the*
10 *following new subsections:*

11 *“(c) There is hereby created on the books of the Treas-*
12 *ury of the United States an account to be known as the Hos-*
13 *pital Insurance Depository Account.*

14 *“(d) The Managing Trustee shall deposit that portion of*
15 *the Federal Hospital Insurance Trust Fund not required to*
16 *meet current withdrawals from such Trust Fund in the Hos-*
17 *pital Insurance Depository Account.*

18 *“(e)(1) The Secretary of the Treasury may apply*
19 *moneys deposited in the account pursuant to subsection (d) in*
20 *any way in which he is authorized by law to apply moneys*
21 *in the general fund of the Treasury.*

22 *“(2)(A) Moneys deposited in the account pursuant to*
23 *subsection (d) shall be treated as indebtedness of the United*
24 *States for purposes of section 1305(2) of title 31, United*
25 *States Code, and shall earn interest, payable monthly, in an*

1 amount equal to the product obtained by multiplying the
2 average balance of moneys in the account for such month by
3 the average market yield (computed by the Managing Trustee
4 on the basis of market quotations as of the end of each busi-
5 ness day of such month) on all marketable interest-bearing
6 obligations of the United States then forming a part of the
7 public debt which are not due or callable until after the expi-
8 ration of four years from the end of such month, except that
9 'flower bonds' shall not be included in such computation.

10 “(B) For purposes of this paragraph, the term 'flower
11 bond' means a United States Treasury bond which was
12 issued before March 4, 1971, and which may, at the option of
13 the duly constituted representatives of the estate of a deceased
14 individual, be redeemed at par (face) value, plus accrued in-
15 terest to the date of payment, if—

16 “(i) it was owned by such deceased individual at
17 the time of his death,

18 “(ii) it is part of the estate of such deceased indi-
19 vidual, and

20 “(iii) such representatives authorize the Secretary
21 of the Treasury to apply the entire proceeds of the re-
22 demption of such bond to the payment of Federal estate
23 taxes.

24 “(3) The Managing Trustee may withdraw moneys de-
25 posited in the account pursuant to subsection (d) whenever he

1 *determines that such moneys are necessary to meet current*
2 *withdrawals from the Trust Fund, and the Secretary of the*
3 *Treasury may sell obligations of the United States in the*
4 *market in an amount not to exceed the amount of such with-*
5 *drawal if he determines that such withdrawal necessitates an*
6 *increase in the general fund of the Treasury by an amount*
7 *not exceeding such amount.”.*

8 *(c) Section 1841 of such Act is amended by striking out*
9 *subsections (c), (d), and (e) and inserting in lieu thereof the*
10 *following new subsections:*

11 *“(c) There is hereby established on the books of the*
12 *Treasury an account to be known as the Supplementary*
13 *Medical Insurance Depository Account.*

14 *“(d) The Managing Trustee shall deposit that portion of*
15 *the Federal Supplementary Medical Insurance Trust Fund*
16 *not required to meet current withdrawals from such Trust*
17 *Fund in the Supplementary Medical Insurance Depository*
18 *Account.*

19 *“(e)(1) The Secretary of the Treasury may apply*
20 *moneys deposited in the account pursuant to subsection (d) in*
21 *any way in which he is authorized by law to apply moneys*
22 *in the general fund of the Treasury.*

23 *“(2)(A) Moneys deposited in the account pursuant to*
24 *subsection (d) shall be treated as indebtedness of the United*
25 *States for purposes of section 1305(2) of title 31, United*

1 *States Code, and shall earn interest, payable monthly, in an*
2 *amount equal to the product obtained by multiplying the*
3 *average balance of moneys in the account for such month by*
4 *the average market yield (computed by the Managing Trustee*
5 *on the basis of market quotations as of the end of each busi-*
6 *ness day of such month) on all marketable interest-bearing*
7 *obligations of the United States then forming a part of the*
8 *public debt which are not due or callable until after the expi-*
9 *ration of four years from the end of such month, except that*
10 *'flower bonds' shall not be included in such computation.*

11 “(B) *For purposes of this paragraph, the term 'flower*
12 *bond' means a United States Treasury bond which was*
13 *issued before March 4, 1971, and which may, at the option of*
14 *the duly constituted representatives of the estate of a deceased*
15 *individual, be redeemed at par (face) value, plus accrued in-*
16 *terest to the date of payment, if—*

17 “(i) *it was owned by such deceased individual at*
18 *the time of his death,*

19 “(ii) *it is part of the estate of such deceased indi-*
20 *vidual, and*

21 “(iii) *such representatives authorize the Secretary*
22 *of the Treasury to apply the entire proceeds of the re-*
23 *demption of such bond to the payment of Federal estate*
24 *taxes.*

1 “(3) *The Managing Trustee may withdraw moneys de-*
2 *posited in the account pursuant to subsection (d) whenever he*
3 *determines that such moneys are necessary to meet current*
4 *withdrawals from the Trust Fund, and the Secretary of the*
5 *Treasury may sell obligations of the United States in the*
6 *market in an amount not to exceed the amount of such with-*
7 *drawal if he determines that such withdrawal necessitates an*
8 *increase in the general fund of the Treasury by an amount*
9 *not exceeding such amount.”.*

10 *(d)(1) No later than the date on which this section takes*
11 *effect, the Secretary of the Treasury shall redeem at par all*
12 *outstanding obligations of the United States issued under the*
13 *Second Liberty Bond Act exclusively for purchase by the*
14 *Federal Old-Age Insurance Trust Fund, the Federal Dis-*
15 *ability Insurance Trust Fund, the Federal Hospital Insur-*
16 *ance Trust Fund, and the Federal Supplementary Medical*
17 *Insurance Trust Fund (hereinafter in this subsection re-*
18 *ferred to as the “Trust Funds”).*

19 *(2)(A) The Managing Trustee may sell any marketable*
20 *obligation of the United States held by the Trust Funds at*
21 *market price at any time and shall sell (or redeem) all*
22 *“flower bonds” held by the Trust Funds on the date of enact-*
23 *ment of this section at market price no later than the date on*
24 *which this section takes effect.*

1 (B) For purposes of this paragraph, the term “flower
2 bond” means a United States Treasury bond which was
3 issued before March 4, 1971, and which may, at the option of
4 the duly constituted representatives of the estate of a deceased
5 individual, be redeemed at par (face) value, plus accrued in-
6 terest to the date of payment, if—

7 (i) it was owned by such deceased individual at
8 the time of his death,

9 (ii) it is part of the estate of such deceased indi-
10 vidual, and

11 (iii) such representatives authorize the Secretary
12 of the Treasury to apply the entire proceeds of the re-
13 demption of such bond to the payment of Federal estate
14 taxes.

15 (3) The proceeds from the redemption and sale of obliga-
16 tions of the United States pursuant to paragraphs (1) and
17 (2) shall be paid to the Trust Fund selling or redeeming such
18 obligations and that portion of such proceeds which is not
19 required to meet current withdrawals from such Trust Fund
20 shall be deposited in the account established with respect to
21 such Trust Fund by subsection (a), (b), or (c) of this Act.

22 (e) The amendments made by this section shall take
23 effect on the first day of the first month beginning more than
24 30 days after the date of enactment of this Act.

1 ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARDS
2 OF TRUSTEES

3 SEC. 147. (a) Sections 201(c), 1817(b), and 1841(b) of
4 the Social Security Act are each amended—

5 (1) by striking out the period at the end of the
6 first sentence and inserting in lieu thereof a comma
7 and “and of two members of the public (both of whom
8 may not be from the same political party), who shall be
9 nominated by the President for a term of four years
10 and subject to confirmation by the Senate; and

11 (2) by adding at the end thereof the following new
12 sentence: “A member of the public serving on the
13 Board of Trustees shall not be considered to be a fidu-
14 ciary and shall not be personally liable for actions
15 taken in such capacity with respect to the Trust
16 Funds.”.

17 (b) The amendments made by subsection (a) shall
18 become effective on the date of enactment of this Act.

19 PAYMENT SCHEDULE BY STATE AND LOCAL
20 GOVERNMENTS

21 SEC. 148. (a) Section 218(e)(1)(A) of the Social Secu-
22 rity Act is amended by striking out “within the thirty-day
23 period immediately following the last day of each calendar
24 month” and inserting in lieu thereof “in accordance with the
25 same payment schedule as applies to payment by employers

1 of the taxes imposed under sections 3101 and 3111 of the
2 Internal Revenue Code of 1954”.

3 (b) The amendment made by subsection (a) shall be ef-
4 fective with respect to payments due on or after January 1,
5 1984.

6 NORMALIZED CREDITING OF SOCIAL SECURITY TAXES TO
7 TRUST FUNDS

8 SEC. 149. (a) Section 201(a) of the Social Security
9 Act is amended by striking out “The amounts appropriated”
10 in the last sentence and inserting in lieu thereof “Except as
11 provided in subsection (m), the amounts appropriated”.

12 (b) Section 201 of such Act is further amended by
13 adding at the end thereof the following new subsection:

14 “(m)(1) The procedures in effect on January 1, 1983,
15 with respect to the transfer of the amounts appropriated by
16 clauses (3) and (4) of subsection (a) and the amounts appro-
17 priated by clauses (1) and (2) of subsection (b) shall apply to
18 a calendar month unless the Secretary makes a finding
19 under this paragraph that the OASDI trust fund ratio as of
20 the first day of such calendar month is less than 12 percent.

21 “(2) If the Secretary makes the finding described in
22 paragraph (1) with respect to a calendar month, the amounts
23 appropriated by clauses (3) and (4) shall be transferred on
24 the first day of such calendar month from the general fund of
25 the Treasury to the Federal Old-Age and Survivors Insur-

1 *ance Trust Fund, and the amounts appropriated by clauses*
2 *(1) and (2) of subsection (b) shall be transferred on the first*
3 *day of such calendar month from the general fund of the*
4 *Treasury to the Federal Disability Insurance Trust Fund,*
5 *such amounts to be determined on the basis of estimates by*
6 *the Secretary of the Treasury of the taxes, specified in*
7 *clauses (3) and (4) of subsection (a), to be paid to or deposit-*
8 *ed into the Treasury during such calendar month.*

9 “(3) *Proper adjustments shall be made in amounts sub-*
10 *sequently transferred to the extent prior estimates were in*
11 *excess of or were less than the taxes specified in clauses (3)*
12 *and (4) of subsection (a).*

13 “(4) *All amounts transferred to either Trust Fund*
14 *under paragraph (2) shall be treated by the Managing*
15 *Trustee in the same manner and to the same extent as the*
16 *other assets of such Trust Fund; and such Trust Fund shall*
17 *pay interest to the general fund on the amount so transferred*
18 *at a rate (calculated on a daily basis, and applied against the*
19 *difference between the amount so transferred on such first*
20 *day and the amount which would have been transferred to the*
21 *Trust Fund up to that day under the procedures in effect on*
22 *January 1, 1983) equal to the average 91-day Treasury bill*
23 *rate during such month (payable on the last day of such*
24 *month).*

1 “(5) For purposes of this subsection, the term ‘OASDI
2 trust fund ratio’ means, with respect to any month, the ratio
3 of—

4 “(A) the combined balance in the Federal Old-
5 Age and Survivors Insurance Trust Fund and the
6 Federal Disability Insurance Trust Fund, reduced by
7 the outstanding amount of any loan (including interest
8 thereon) theretofore made to either such Trust Fund
9 from the Federal Hospital Insurance Trust Fund
10 under subsection (l), and determined without regard to
11 amounts transferred theretofore under this subsection,
12 as of the last day of the second month preceding such
13 month, to

14 “(B) the amount obtained by multiplying by
15 twelve the total amount which (as estimated by the
16 Secretary) will be paid from the Federal Old-Age and
17 Survivors Insurance Trust Fund and the Federal Dis-
18 ability Insurance Trust Fund during the month for
19 which such ratio is to be determined for all purposes
20 authorized by section 201 (other than payments of in-
21 terest on, or repayments of, loans from the Federal
22 Hospital Insurance Trust Fund under subsection (l)),
23 but excluding any transfer payments between such
24 trust funds and reducing the amount of any transfers
25 to the Railroad Retirement Account by the amount of

1 *any transfers into either such trust fund from that Ac-*
 2 *count.”.*

3 *(c) The amendments made by this section shall apply to*
 4 *calendar months beginning after the date of enactment of this*
 5 *section and before January 1, 1988.*

6 *AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COM-*
 7 *PENSATION AND SALARY REDUCTION ARRANGE-*
 8 *MENTS TREATED AS WAGES FOR FICA TAXES*

9 *SEC. 150. (a)(1) Section 3121 of the Internal Revenue*
 10 *Code of 1954 (relating to definitions) is amended by adding*
 11 *at the end thereof the following new subsection:*

12 *“(v) TREATMENT OF CERTAIN DEFERRED COMPEN-*
 13 *SATION AND SALARY REDUCTION ARRANGEMENTS.—*

14 *“(1) CERTAIN EMPLOYER CONTRIBUTIONS*
 15 *TREATED AS WAGES.—Nothing in any paragraph of*
 16 *subsection (a) (other than paragraph (1)) shall exclude*
 17 *from the term ‘wages’ any employer contribution—*

18 *“(A) under a qualified cash or deferred ar-*
 19 *rangement (as defined in section 401(k)) to the*
 20 *extent not included in gross income by reason of*
 21 *section 402(a)(8), or*

22 *“(B) under a cafeteria plan (as defined in*
 23 *section 125(d)) which includes an arrangement*
 24 *described in subparagraph (A) to the extent the*
 25 *employee had the right to choose cash, property, or*

1 *other benefits which would be wages for purposes*
2 *of this chapter.*

3 “(2) *GOVERNMENTAL PLANS.—For purposes of*
4 *subsection (a)—*

5 “(A) *IN GENERAL.—Except as provided in*
6 *subparagraph (B), the term ‘wages’ shall not in-*
7 *clude any payment to or from a Governmental*
8 *plan (within the meaning of section 414(d)).*

9 “(B) *EXCEPTIONS.—The term ‘wages’ shall*
10 *include any amount—*

11 “(i) *deferred under a plan described in*
12 *section 457(a) (at the time the services which*
13 *relate to such payment were performed),*

14 “(ii) *deferred under a plan described in*
15 *subsection (e)(1), (e)(2)(D), or (e)(2)(E) of*
16 *section 457, or*

17 “(iii) *which is treated as wages under*
18 *subsection (a)(5)(E) by reason of a salary*
19 *reduction agreement.”.*

20 (2) *Paragraph (5) of section 3121(a) of such Code (de-*
21 *fining wages) is amended—*

22 (A) *by striking out “or” at the end of subpara-*
23 *graph (C),*

1 (B) by striking out the semicolon at the end of
2 subparagraph (D) and inserting in lieu thereof a
3 comma and “or”, and

4 (C) by adding at the end thereof the following
5 new subparagraph:

6 “(E) under an annuity contract described in sec-
7 tion 403(b), other than a payment for the purchase of
8 such contract which is made by reason of a salary re-
9 duction agreement;”.

10 (3) Subsection (a) of section 3121 of such Code (defin-
11 ing wages) is amended—

12 (A) in paragraph (2), by striking out subpara-
13 graph (A) and redesignating subparagraphs (B), (C),
14 and (D) as subparagraphs (A), (B), and (C), respec-
15 tively,

16 (B) by striking out paragraphs (3) and (9),

17 (C) in paragraph (13)(A)—

18 (i) by inserting “or” after “death,”, and

19 (ii) by striking out “or (iii) retirement after
20 attaining an age specified in the plan referred to
21 in subparagraph (B) or in a pension plan of the
22 employer,”, and

23 (D) by striking out “subparagraph (B)” in the
24 last sentence thereof and inserting in lieu thereof “sub-
25 paragraph (A)”.

1 **(b)(1)** *Section 3306 of the Internal Revenue Code of*
 2 *1954 (relating to definitions) is amended by adding at the*
 3 *end thereof the following new subsection:*

4 “(r) **TREATMENT OF CERTAIN DEFERRED COMPEN-**
 5 **SATION AND SALARY REDUCTION ARRANGEMENTS.—**

6 “(1) **CERTAIN EMPLOYER CONTRIBUTIONS**
 7 **TREATED AS WAGES.—***Nothing in any paragraph of*
 8 *subsection (b) (other than paragraph (1)) shall exclude*
 9 *from the term ‘wages’ any employer contribution—*

10 “(A) *under a qualified cash or deferred ar-*
 11 *rangement (as defined in section 401(k)) to the*
 12 *extent not included in gross income by reason of*
 13 *section 402(a)(8), or*

14 “(B) *under a cafeteria plan (as defined in*
 15 *section 125(d)) which includes an arrangement*
 16 *described in subparagraph (A) to the extent the*
 17 *employee had the right to choose cash, property, or*
 18 *other benefits which would be wages for purposes*
 19 *of this chapter.*

20 “(2) **GOVERNMENTAL PLANS.—***For purposes of*
 21 *subsection (b)—*

22 “(A) **IN GENERAL.—***Except as provided in*
 23 *subparagraph (B), the term ‘wages’ shall not in-*
 24 *clude any payment to or from a governmental*
 25 *plan (within the meaning of section 414(d)).*

1 “(B) *EXCEPTIONS.*—*The term ‘wages’ shall*
2 *include any amount—*

3 “(i) *deferred under a plan described in*
4 *section 457(a) (at the time the services which*
5 *relate to such payment were performed),*

6 “(ii) *deferred under a plan described in*
7 *subsection (e)(1), (e)(2)(D), or (e)(2)(E) of*
8 *section 457, or*

9 “(iii) *which is treated as wages under*
10 *subsection (b)(5)(E) by reason of a salary*
11 *reduction agreement.”.*

12 (2) *Paragraph (5) of section 3306(b) of such Code (de-*
13 *fining wages) is amended—*

14 (A) *by striking out “or” at the end of subpara-*
15 *graph (C),*

16 (B) *by striking out the semicolon at the end of*
17 *subparagraph (D) and inserting in lieu thereof a*
18 *comma and “or”, and*

19 (C) *by adding at the end thereof the following*
20 *new subparagraph:*

21 “(E) *under an annuity contract described in sec-*
22 *tion 403(b), other than a payment for the purchase of*
23 *such contract which is made by reason of a salary re-*
24 *duction agreement;”.*

1 (3) *Subsection (b) of section 3306 of such Code (defin-*
2 *ing wages) is amended—*

3 (A) *in paragraph (2), by striking out subpara-*
4 *graph (A) and redesignating subparagraphs (B), (C),*
5 *and (D) as subparagraphs (A), (B), and (C), respec-*
6 *tively,*

7 (B) *by striking out paragraphs (3) and (8), and*
8 *(C) in paragraph (10)(A)—*

9 (i) *by inserting “or” after “death,” and*

10 (ii) *by striking out “or (iii) retirement after*
11 *attaining an age specified in the plan referred to*
12 *in subparagraph (B) or in a pension plan of the*
13 *employer,”.*

14 (4)(A) *Subparagraph (A) of section 3306(b)(2) of such*
15 *Code, as redesignated by paragraph (3)(A), is amended to*
16 *read as follows:*

17 “(A) *sickness or accident disability (but, in*
18 *the case of payments made to an employee or any of*
19 *his dependents, this subparagraph shall exclude*
20 *from the term ‘wages’ only payments which are*
21 *received under a workman’s compensation law),*
22 *or”.*

23 (B) *Subsection (b) of section 3306 of such Code (defin-*
24 *ing wages) is amended by adding at the end thereof the fol-*
25 *lowing new flush sentence:*

1 *“Except as otherwise provided in regulations prescribed by*
2 *the Secretary, any third party which makes a payment in-*
3 *cluded in wages solely by reason of the parenthetical matter*
4 *contained in subparagraph (A) of paragraph (2) shall be*
5 *treated for purposes of this chapter and chapter 22 as the*
6 *employer with respect to such wages.”*

7 *(C) Rules similar to the rules of subsections (d) and (e)*
8 *of section 3 of the Act entitled “An Act to amend the Omni-*
9 *bus Reconciliation Act of 1981 to restore minimum benefits*
10 *under the Social Security Act” (Public Law 97-123), ap-*
11 *proved December 29, 1981, shall apply in the administration*
12 *of section 3306(b)(2)(A) of such Code (as amended by sub-*
13 *paragraph (A)).*

14 *(c)(1) Section 209 of the Social Security Act is amend-*
15 *ed by adding at the end thereof (as amended by this Act) the*
16 *following new paragraphs:*

17 *“Nothing in any of the foregoing provisions of this sec-*
18 *tion (other than subsection (a)) shall exclude from the term*
19 *‘wages’ any employer contribution—*

20 *“(1) under a qualified cash or deferred arrange-*
21 *ment (as defined in section 401(k)) to the extent not*
22 *included in gross income by reason of section*
23 *402(a)(8), or*

24 *“(2) under a cafeteria plan (as defined in section*
25 *125(d)) which includes an arrangement described in*

1 paragraph (1) to the extent the employee had the right
2 to choose cash, property, or other benefits which would
3 be wages for purposes of this chapter.

4 For purposes of this section—

5 “(1) the term ‘wages’ shall not include any pay-
6 ment to or from a governmental plan (within the
7 meaning of section 414(d) of the Internal Revenue
8 Code of 1954); except that

9 “(2) the term ‘wages’ shall include any amount—

10 “(A) deferred under a plan described in sec-
11 tion 457(a) of such Code (at the time the services
12 which relate to such payment were performed),

13 “(B) deferred under a plan described in sub-
14 section (e)(1), (e)(2)(D), or (e)(2)(E) of section
15 457 of such Code, or

16 “(C) which is treated as wages under subsec-
17 tion (e)(5) by reason of a salary reduction agree-
18 ment.”.

19 (2) Subsection (e) of section 209 of such Act is amended
20 by adding before the semicolon at the end thereof the follow-
21 ing: “, or (5) under an annuity contract described in section
22 403(b) of the Internal Revenue Code of 1954, other than a
23 payment for the purchase of such contract which is made by
24 reason of a salary reduction agreement;”.

25 (3) Section 209 of such Act is amended—

1 *furnishing it is reasonable to believe that the employee*
2 *will be able to exclude such items from income under*
3 *section 119.”.*

4 *(2) Section 209 of the Social Security Act is amended*
5 *by striking out “or” at the end of subsection (p), by striking*
6 *out the period at the end of subsection (q) and inserting in*
7 *lieu thereof “; or”, and by inserting after subsection (q) the*
8 *following new subsection:*

9 *“(r) The value of any meals or lodging furnished by or*
10 *on behalf of the employer if at the time of such furnishing it*
11 *is reasonable to believe that the employee will be able to ex-*
12 *clude such items from income under section 119 of the Inter-*
13 *nal Revenue Code of 1954.”.*

14 *(b)(1) Subsection (a) of section 3121 of such Code is*
15 *amended by inserting after paragraph (19) (as added by sub-*
16 *section (a) of this section) the following new sentence: “Noth-*
17 *ing in the regulations prescribed for purposes of chapter 24*
18 *(relating to income tax withholding) which provides an exclu-*
19 *sion from ‘wages’ as used in such chapter shall be construed*
20 *to require a similar exclusion from ‘wages’ in the regulations*
21 *prescribed for purposes of this chapter.”.*

22 *(2) Section 209 of the Social Security Act is amended*
23 *by inserting immediately after subsection (r) (as added by*
24 *subsection (a) of this section) the following new sentence:*

1 *“Nothing in the regulations prescribed for purposes of chap-*
2 *ter 24 of the Internal Revenue Code of 1954 (relating to*
3 *income tax withholding) which provides an exclusion from*
4 *‘wages’ as used in such chapter shall be construed to require*
5 *a similar exclusion from ‘wages’ in the regulations prescribed*
6 *for purposes of this title.”*

7 (c) *Subsection (b) of section 3306 of the Internal Reve-*
8 *nue Code of 1954 (defining wages) is amended—*

9 (1) *by striking out “or” at the end of paragraph*
10 *(12),*

11 (2) *by striking out the period at the end of para-*
12 *graph (13) and inserting in lieu thereof “, or”,*

13 (3) *by adding immediately after paragraph (13)*
14 *the following new paragraph:*

15 *“(14) the value of any meals or lodging furnished*
16 *by or on behalf of the employer if at the time of such*
17 *furnishing it is reasonable to believe that the employee*
18 *will be able to exclude such items from income under*
19 *section 119.”, and*

20 (4) *by adding at the end thereof the following new*
21 *flush sentence:*

22 *“Nothing in the regulations prescribed for purposes of chap-*
23 *ter 24 (relating to income tax withholding) which provides an*
24 *exclusion from ‘wages’ as used in such chapter shall be con-*

1 *strued to require a similar exclusion from 'wages' in the reg-*
 2 *ulations prescribed for purposes of this chapter."*

3 *(d)(1) Except as provided in paragraph (2), the amend-*
 4 *ments made by subsections (a) and (b) shall apply to remu-*
 5 *neration paid after December 31, 1983.*

6 *(2) The amendments made by subsection (c) shall apply*
 7 *to remuneration paid after December 31, 1984.*

8 **TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED**
 9 **EMPLOYEE PENSIONS**

10 *SEC. 152. (a) Subparagraph (D) of section 3121(a)(5)*
 11 *of the Internal Revenue Code of 1954 (defining wages) is*
 12 *amended by striking out "section 219" and inserting in lieu*
 13 *thereof "section 219(b)(2)".*

14 *(b) Subsection (e) of section 209 of the Social Security*
 15 *Act, as amended by this Act, is amended by striking out the*
 16 *semicolon at the end thereof and inserting in lieu thereof the*
 17 *following: ", or (6) under a simplified employee pension (as*
 18 *defined in section 408(k) of the Internal Revenue Code of*
 19 *1954) if, at the time of the payment, it is reasonable to be-*
 20 *lieve that the employee will be entitled to a deduction under*
 21 *section 219(b)(2) of such Code for such payment;"*

22 *(c) Subparagraph (D) of section 3306(b)(5) of the In-*
 23 *ternal Revenue Code of 1954 is amended by striking out*
 24 *"section 219" and inserting in lieu thereof "section*
 25 *219(b)(2)".*

1 (d)(1) *Except as provided in paragraph (2), the amend-*
 2 *ments made by this section shall apply to remuneration paid*
 3 *after December 31, 1983.*

4 (2) *The amendments made by subsection (c) shall apply*
 5 *to remuneration paid after December 31, 1984.*

6 *TITLE II—SUPPLEMENTAL SECURITY*

7 *INCOME*

8 *INCREASE IN BENEFIT STANDARD*

9 *SEC. 201. (a) Section 1617 of the Social Security Act*
 10 *is amended by adding at the end thereof the following new*
 11 *subsection:*

12 “(c) *Effective July 1, 1983—*

13 “(1) *each of the dollar amounts in effect under*
 14 *subsections (a)(1)(A) and (b)(1) of section 1611, as*
 15 *previously increased under this section, shall be in-*
 16 *creased by \$240 (and the dollar amount in effect under*
 17 *subsection (a)(1)(A) of Public Law 93-66, as previous-*
 18 *ly so increased, shall be increased by \$120); and*

19 “(2) *each of the dollar amounts in effect under*
 20 *subsections (a)(2)(A) and (b)(2) of section 1611, as*
 21 *previously increased under this section, shall be in-*
 22 *creased by \$360.”.*

23 (b) *Section 1617(b) of such Act is amended by striking*
 24 *out “this section” and inserting in lieu thereof “subsection*
 25 *(a) of this section”.*

1 *deemed instead to be equal to the amount of the cost-of-living*
 2 *adjustment which would have occurred in July 1983 (with-*
 3 *out regard to the 3-percent limitation contained in section*
 4 *215(i)(1)(B)) if section 111 of the Social Security Act*
 5 *Amendments of 1983 had not been enacted.”.*

6 *NOTIFICATION REGARDING SSI*

7 *SEC. 203. Prior to July 1, 1984, the Secretary of*
 8 *Health and Human Services shall notify all elderly recipi-*
 9 *ents of benefits under title II of the Social Security Act, who*
 10 *may be eligible for supplemental security income benefits*
 11 *under title XVI of such Act, of the availability of the supple-*
 12 *mental security income program, and shall encourage such*
 13 *recipients to contact the Social Security district office. Such*
 14 *notification shall also be made to all recipients prior to at-*
 15 *tainment of age 65, with the notification made with respect to*
 16 *eligibility for supplemental medical insurance.*

17 *TITLE III—MEDICARE*

18 *MEDICARE PAYMENTS FOR INPATIENT HOSPITAL*

19 *SERVICES ON THE BASIS OF PROSPECTIVE RATES*

20 *SEC. 301. (a)(1) Section 1886(a)(4) of the Social Se-*
 21 *curity Act is amended by adding at the end the following new*
 22 *sentence: “Such term does not include costs of approved edu-*
 23 *cational activities, or, with respect to costs incurred in cost*
 24 *reporting periods beginning prior to October 1, 1986, capital-*
 25 *related costs, as defined by the Secretary.”.*

1 (2) *Subsection (a)(1) of section 1886 of such Act is*
2 *amended by adding at the end thereof the following new sub-*
3 *paragraph:*

4 “(D) *Subparagraph (A) shall not apply to cost reporting*
5 *periods beginning on or after October 1, 1985.*”.

6 (3) *It is the intent of Congress that, in considering the*
7 *implementation of a system for including capital-related costs*
8 *under a prospectively determined payment rate for inpatient*
9 *hospital services, costs related to capital projects initiated on*
10 *or after the effective date of the implementation of such a*
11 *system, may or may not be distinguished and treated differ-*
12 *ently from costs of projects initiated before such date.*

13 (b) *Section 1886(b) of such Act is amended—*

14 (1) *by striking out “Notwithstanding sections*
15 *1814(b), but subject to the provisions of sections” in*
16 *paragraph (1) and inserting in lieu thereof “Notwith-*
17 *standing section 1814(b) but subject to the provisions*
18 *of section”;*

19 (2) *by inserting “(other than a subsection (d) hos-*
20 *pital, as defined in subsection (d)(1)(B))” in the*
21 *matter before subparagraph (A) of paragraph (1) after*
22 *“of a hospital”;*

23 (3) *by inserting, in the matter in paragraph (1)*
24 *following subparagraph (B), “(other than on the basis*

1 of a DRG prospective payment rate determined under
2 subsection (d))” after “payable under this title”;

3 (4) by repealing paragraph (2);

4 (5) by inserting “and subsection (d) and except as
5 provided in subsection (e)” in paragraph (3)(B) after
6 “subparagraph (A)”;

7 (6) by inserting “or fiscal year” after “cost re-
8 porting period” each place it appears in paragraph
9 (3)(B);

10 (7) by inserting “before the beginning of the
11 period or year” in paragraph (3)(B) after “estimated
12 by the Secretary”;

13 (8) by striking out “exceeds” in paragraph (3)(B)
14 and inserting in lieu thereof “will exceed”; and

15 (9) by amending paragraph (6), effective with re-
16 spect to cost reporting periods beginning on or after
17 October 1, 1982, to read as follows:

18 “(6) In the case of any hospital which becomes subject
19 to the taxes under section 3111 of the Internal Revenue Code
20 for 1954 for part or all of a cost reporting period, and was
21 not subject to such taxes for the 12-month cost-reporting
22 period referred to in subsection (b)(3)(A)(i), the Secretary
23 shall provide for an adjustment by increasing the base year
24 amount referred to in subsection (b)(3)(A)(i) for such hospi-
25 tal applicable to such cost reporting period by the amount of

1 *such taxes paid or accrued by such hospital for such cost*
2 *reporting period.”.*

3 *(c)(1) Subsection (c)(1) of such section is amended—*

4 *(A) by striking out “and” at the end of subpara-*
5 *graph (B),*

6 *(B) by striking out the period at the end of sub-*
7 *paragraph (C) and inserting in lieu thereof “; and”,*
8 *and*

9 *(C) by adding at the end the following:*

10 *“(D) the Secretary determines that the system*
11 *will not preclude an eligible organization (as defined in*
12 *section 1876(b)) from negotiating directly with hospi-*
13 *tals with respect to the organization’s rate of payment*
14 *for inpatient hospital services.*

15 *The Secretary cannot deny the application of a State under*
16 *this subsection on the ground that the State’s hospital reim-*
17 *bursement control system is based on a payment methodology*
18 *other than on the basis of a diagnosis-related group or on the*
19 *ground that the amount of payments made under this title*
20 *under such system must be less than the amount of payments*
21 *which would otherwise have been made under this title not*
22 *using such system. If the Secretary determines that the con-*
23 *ditions described in subparagraph (C) are based on main-*
24 *taining payment amounts at no more than a specified per-*
25 *centage increase above the payment amounts in a base period,*

1 *the State has the option of applying such test (for inpatient*
 2 *hospital services under part A) on an aggregate payment*
 3 *basis or on the basis of the amount of payment per inpatient*
 4 *discharge or admission. If the Secretary determines that the*
 5 *conditions described in subparagraph (C) are based on main-*
 6 *taining aggregate payment amounts below a national average*
 7 *percentage increase in total payments under part A for inpa-*
 8 *tient hospital services, the Secretary cannot deny the applica-*
 9 *tion of a State under this subsection on the ground that the*
 10 *State's rate of increase in such payments for such services*
 11 *must be less than such national average rate of increase.”;*

12 (2) *Subsection (c)(3) of such section is amended—*

13 (A) *by striking out “requirement of paragraph*
 14 *(1)(A)” and inserting in lieu thereof “requirements of*
 15 *subparagraphs (A) and (D) of paragraph (1) and, if*
 16 *applicable, the requirements of paragraph (5),”, and*

17 (B) *by inserting “(or, if applicable, in paragraph*
 18 *(5))” in subparagraph (B) after “paragraph (1)”.*

19 (3) *Subsection (c) of such section is further amended by*
 20 *adding at the end the following new paragraphs:*

21 “(4) *The Secretary shall approve the request of a State*
 22 *under paragraph (1) with respect to a hospital reimbursement*
 23 *control system if—*

1 “(A) the requirements of subparagraphs (A), (B),
2 (C), and (D) of paragraph (1) have been met with re-
3 spect to the system, and

4 “(B) with respect to that system a waiver of cer-
5 tain requirements of title XVIII of the Social Security
6 Act has been approved on or before (and which is in
7 effect as of) the date of the enactment of the Social Se-
8 curity Act Amendments of 1983, pursuant to section
9 402(a) of the Social Security Amendments of 1967 or
10 section 222(a) of the Social Security Amendments of
11 1972.

12 With respect to a State system described in this paragraph,
13 the Secretary shall judge the effectiveness of such system on
14 the basis of its rate of increase or inflation in inpatient hospi-
15 tal payments for individuals under this title, as compared to
16 the national rate of increase or inflation for such payments,
17 with the State retaining the option to have the test applied on
18 the basis of the aggregate payment or payments per inpatient
19 admission or discharge during the three cost reporting periods
20 beginning on or after October 1, 1983, after which such test
21 shall no longer apply, and such hospitals shall be treated in
22 the same manner as under other waivers.

23 “(5) The Secretary shall approve the request of a State
24 under paragraph (1) with respect to a hospital reimbursement
25 control system if—

1 “(A) the requirements of subparagraphs (A), (B),
2 (C), and (D) of paragraph (1) have been met with re-
3 spect to the system;

4 “(B) the Secretary determines that the system—

5 “(i) is operated directly by the State or by
6 an entity designated pursuant to State law,

7 “(ii) provides for payment of hospitals cov-
8 ered under the system under a methodology
9 (which sets forth exceptions and adjustments, as
10 well as any method for changes in the methodolo-
11 gy) by which rates or amounts to be paid for hos-
12 pital services during a specified period are estab-
13 lished under the system prior to the defined rate
14 period, and

15 “(iii) hospitals covered under the system will
16 make such reports (in lieu of cost and other re-
17 ports, identified by the Secretary, otherwise re-
18 quired under this title) as the Secretary may re-
19 quire in order to properly monitor assurances pro-
20 vided under this subsection;

21 “(C) the State has provided the Secretary with
22 satisfactory assurances that operation of the system
23 will not result in any change in hospital admission
24 practices which result in—

1 “(i) a significant reduction in the proportion
2 of patients (receiving hospital services covered
3 under the system) who have no third-party cover-
4 age and who are unable to pay for hospital serv-
5 ices,

6 “(ii) a significant reduction in the proportion
7 of individuals admitted to hospitals for inpatient
8 hospital services for which payment is (or is
9 likely to be) less than the anticipated charges for
10 or costs of such services,

11 “(iii) the refusal to admit patients who
12 would be expected to require unusually costly or
13 prolonged treatment for reasons other than those
14 related to the appropriateness of the care available
15 at the hospital, or

16 “(iv) the refusal to provide emergency serv-
17 ices to any person who is in need of emergency
18 services if the hospital provides such services;

19 “(D) any change by the State in the system
20 which has the effect of materially reducing payments to
21 hospitals can only take effect upon 60 days notice to
22 the Secretary and to the hospitals the payment to
23 which is likely to be materially affected by the change;
24 and

1 “(E) the State has provided the Secretary with
2 satisfactory assurances that in the development of the
3 system the State has consulted with local governmental
4 officials concerning the impact of the system on public
5 hospitals.

6 The Secretary shall respond to requests of States under this
7 paragraph within 60 days of the date the request is submitted
8 to the Secretary.

9 “(6) If the Secretary determines that the assurances de-
10 scribed in paragraph (1)(C) have not been met with respect to
11 any 36-month period, the Secretary may reduce payments
12 under this title to hospitals under the system in an amount
13 equal to the amount by which the payments under this title
14 under such system for such period exceeded the amount of
15 payments which would otherwise have been made under this
16 title not using such system.”

17 (d) Subsection (d) of such section, as added by section
18 110 of the Tax Equity and Fiscal Responsibility Act of
19 1982, is amended—

20 (1) by striking out “section 1814(b)” in para-
21 graph (2)(A) and inserting in lieu thereof “subsection
22 (b)”, and

23 (2) by redesignating the subsection as subsection
24 (j) and transferring and inserting such subsection at

1 *the end of section 1814 of the Social Security Act*
2 *under the following heading:*

3 *“Elimination of Lesser-of-Cost-or-Charges Provision”.*

4 *(e) Such section 1886 is further amended by adding at*
5 *the end the following new subsections:*

6 *“(d)(1)(A) Notwithstanding section 1814(b) but subject*
7 *to the provisions of section 1813, the amount of the payment*
8 *with respect to the operating costs of inpatient hospital serv-*
9 *ices (as defined in subsection (a)(4)) of a subsection (d) hos-*
10 *pital (as defined in subparagraph (B)) for inpatient hospital*
11 *discharges in a cost reporting period or in a fiscal year—*

12 *“(i) beginning on or after October 1, 1983, and*
13 *before October 1, 1986, is equal to the sum of—*

14 *“(I) the target percentage (as defined in sub-*
15 *paragraph (C)) of the hospital’s target amount for*
16 *the cost reporting period (as defined in subsection*
17 *(b)(3)(A)) for the period, and*

18 *“(II) the DRG percentage (as defined in*
19 *subparagraph (C)) of the applicable combined ad-*
20 *justed DRG prospective payment rate determined*
21 *under subparagraph (D) for such discharges; or*

22 *“(ii) beginning on or after October 1, 1986, is*
23 *equal to the national adjusted DRG prospective pay-*
24 *ment rate determined under paragraph (3) for such*
25 *discharges.*

1 “(B) As used in this section, the term ‘subsection (d)
2 hospital’ means a hospital located in one of the fifty States or
3 the District of Columbia other than—

4 “(i) a psychiatric hospital (as defined in section
5 1861(f)),

6 “(ii) a rehabilitation hospital (as defined by the
7 Secretary),

8 “(iii) a hospital whose inpatients are predomi-
9 nantly individuals under 18 years of age, or

10 “(iv) a hospital which has an average inpatient
11 length of stay (as determined by the Secretary) of
12 greater than 25 days;

13 and, in accordance with regulations of the Secretary, does not
14 include a psychiatric or rehabilitation unit of the hospital
15 which is a distinct part of the hospital (as defined by the
16 Secretary). The exclusion of any category of hospitals or
17 units under this subparagraph shall become inapplicable at
18 such time as the Secretary determines that adequate data of
19 clinical and statistical significance is available such that the
20 Secretary may include such category in the payment system
21 established under this subsection.

22 “(C) For purposes of this subsection, for cost reporting
23 periods beginning, or discharges occurring—

1 “(i) on or after October 1, 1983, and before Octo-
2 ber 1, 1984, the ‘target percentage’ is 75 percent and
3 the ‘DRG percentage’ is 25 percent;

4 “(ii) on or after October 1, 1984, and before Oc-
5 tober 1, 1985, the ‘target percentage’ is 50 percent and
6 the ‘DRG percentage’ is 50 percent; and

7 “(iii) on or after October 1, 1985, and before Oc-
8 tober 1, 1986, the ‘target percentage’ is 25 percent and
9 the ‘DRG percentage’ is 75 percent.

10 “(D) For purposes of subparagraph (A)(i)(II), the ‘ap-
11 plicable combined adjusted DRG prospective payment rate’
12 for cost reporting periods beginning, or discharges occur-
13 ring—

14 “(i) on or after October 1, 1983, and before Octo-
15 ber 1, 1984, is a combined rate consisting of 25 per-
16 cent of the national DRG prospective payment rate,
17 and 75 percent of the regional DRG prospective pay-
18 ment rate, determined under paragraph (2) for such
19 discharges;

20 “(ii) on or after October 1, 1984, and before Oc-
21 tober 1, 1985, is a combined rate consisting of 50 per-
22 cent of the national DRG prospective payment rate,
23 and 50 percent of the regional DRG prospective pay-
24 ment rate, determined under paragraph (3) for such
25 discharges;

1 “(iii) on or after October 1, 1985, and before Oc-
2 tober 1, 1986, is a combined rate consisting of 75 per-
3 cent of the national DRG prospective payment rate,
4 and 25 percent of the regional DRG prospective pay-
5 ment rate, determined under paragraph (3); and

6 “(iv) on or after October 1, 1986, is a rate equal
7 to the national DRG prospective payment rate deter-
8 mined under paragraph (3).

9 “(2) The Secretary shall determine a national adjusted
10 DRG prospective payment rate, for each inpatient hospital
11 discharge in fiscal year 1984 involving inpatient hospital
12 services of a subsection (d) hospital in the United States, and
13 shall determine a regional adjusted DRG prospective pay-
14 ment rate for such discharges in each such region, for which
15 payment may be made under part A of this title. Each such
16 rate shall also be determined for hospitals located in urban or
17 rural areas within the United States and within each such
18 region. Such determinations shall be made as follows:

19 “(A) DETERMINING ALLOWABLE INDIVIDUAL
20 HOSPITAL COSTS FOR BASE PERIOD.—The Secretary
21 shall determine the allowable operating costs per dis-
22 charge of inpatient hospital services for the hospital for
23 the most recent cost reporting period for which data are
24 available.

1 “(B) *UPDATING FOR FISCAL YEAR 1984.*—The
2 Secretary shall update each amount determined under
3 subparagraph (A) for fiscal year 1984 by—

4 “(i) updating for fiscal year 1983 by the es-
5 timated average rate of change of hospital costs
6 industry-wide between the cost reporting period
7 used under such subparagraph and fiscal year
8 1983, and

9 “(ii) projecting for fiscal year 1984 by the
10 applicable percentage increase (as defined in sub-
11 section (b)(3)(B)) for fiscal year 1984.

12 “(C) *STANDARDIZING AMOUNTS.*—The Secre-
13 tary shall standardize the amount updated under sub-
14 paragraph (B) for each hospital by—

15 “(i) excluding an estimate of indirect medi-
16 cal education costs,

17 “(ii) adjusting for variations among hospi-
18 tals by area and region in the average hospital
19 wage level, and

20 “(iii) adjusting for variations in case mix
21 among hospitals.

22 “(D) *COMPUTING URBAN AND RURAL AVER-*
23 *AGES.*—The Secretary shall compute an average of the
24 standardized amounts determined under subparagraph
25 (C) for the United States and for each region—

1 “(i) for all subsection (d) hospitals located in
2 an urban area, and

3 “(ii) for all subsection (d) hospitals located
4 in a rural area.

5 For purposes of this subsection, the term ‘region’
6 means one of the four census regions established by the
7 Bureau of the Census, established by the Secretary;
8 the term ‘urban area’ means an area within a Stand-
9 ard Metropolitan Statistical Area (as defined by the
10 Office of Management and Budget) or within such
11 similar area as the Secretary has recognized under
12 subsection (a) by regulation; and the term ‘rural area’
13 means any area outside such an area or similar area.

14 “(E) REDUCING FOR VALUE OF OUTLIER PAY-
15 MENTS.—The Secretary shall reduce each of the aver-
16 age standardized amounts determined under subpara-
17 graph (D) by a proportion equal to the proportion (esti-
18 mated by the Secretary) of the amount of payments
19 under this subsection based on DRG prospective pay-
20 ment rates which are additional payments described in
21 paragraph (5)(A) (relating to outlier payments).

22 “(F) MAINTAINING BUDGET NEUTRALITY.—The
23 Secretary shall adjust each of such average standard-
24 ized amounts as may be required under subsection
25 (e)(1)(B) for that fiscal year.

1 “(G) COMPUTING DRG-SPECIFIC RATES FOR
2 URBAN AND RURAL HOSPITALS IN THE UNITED
3 STATES AND IN EACH REGION.—For each discharge
4 classified within a diagnosis-related group, the Secre-
5 tary shall establish a DRG prospective payment rate
6 which is equal—

7 “(i) for hospitals located in an urban area in
8 the United States, and for hospitals located in an
9 urban area in each region, to the product of—

10 “(I) the average standardized amount
11 (computed under subparagraph (D), reduced
12 under subparagraph (E), and adjusted under
13 subparagraph (F)) for hospitals located in an
14 urban area in the United States or in that
15 region, and

16 “(II) the weighting factor (determined
17 under paragraph (4)(B)) for that diagnosis-
18 related group; and

19 “(ii) for hospitals located in a rural area in
20 the United States, and for hospitals located in a
21 rural area in each region, to the product of—

22 “(I) the average standardized amount
23 (computed under subparagraph (D), reduced
24 under subparagraph (E), and adjusted under
25 subparagraph (F)) for hospitals located in a

1 *rural area in the United States or in that*
2 *region, and*

3 *“(II) the weighting factor (determined*
4 *under paragraph (4)(B)) for that diagnosis-*
5 *related group.*

6 *“(H) ADJUSTING FOR DIFFERENT AREA WAGE*
7 *LEVELS.—The Secretary shall adjust the proportion*
8 *(as estimated by the Secretary from time to time) of*
9 *hospitals’ costs which are attributable to wages and*
10 *wage-related costs, of the DRG prospective payment*
11 *rates computed under subparagraph (G) for area dif-*
12 *ferences in hospital wage levels by a factor (established*
13 *by the Secretary) reflecting the relative hospital wage*
14 *level in the geographic area of the hospital compared to*
15 *the national or regional average hospital wage level as*
16 *appropriate.*

17 *“(3) The Secretary shall determine an adjusted DRG*
18 *prospective payment rate, for each inpatient hospital dis-*
19 *charge in a fiscal year after fiscal year 1984 involving inpa-*
20 *tient hospital services of a subsection (d) hospital for which*
21 *payment may be made under part A of this title, as follows:*

22 *“(A) UPDATING PREVIOUS STANDARDIZED*
23 *AMOUNTS.—The Secretary shall compute an average*
24 *standardized amount for hospitals located in an urban*
25 *area within the United States and, for fiscal year*

1 1985, for hospitals located in an urban area within
2 each region, and for hospitals located in a rural area
3 within the United States, and for fiscal year 1985, for
4 hospitals located in a rural area within each region,
5 and equal to the respective average standardized
6 amount computed for the previous fiscal year under
7 paragraph (2)(D) or under this subparagraph, in-
8 creased by the applicable percentage increase under
9 subsection (b)(3)(B) for that particular fiscal year.

10 “(B) *REDUCING FOR VALUE OF OUTLIER PAY-*
11 *MENTS.—The Secretary shall reduce each of the aver-*
12 *age standardized amounts determined under subpara-*
13 *graph (A) by a proportion equal to the proportion (esti-*
14 *mated by the Secretary) of the amount of payments*
15 *under this subsection based on DRG prospective pay-*
16 *ment amounts which are additional payments described*
17 *in paragraph (5)(A) (relating to outlier payments).*

18 “(C) *MAINTAINING BUDGET NEUTRALITY.—The*
19 *Secretary shall adjust each of such average standard-*
20 *ized amounts as may be required under subsection*
21 *(e)(1)(B) for that fiscal year.*

22 “(D) *COMPUTING DRG-SPECIFIC RATES FOR*
23 *URBAN AND RURAL HOSPITALS.—For each discharge*
24 *classified within a diagnosis-related group, the Secre-*

1 *tary shall establish a DRG prospective payment rate*
2 *for the fiscal year which is equal—*

3 *“(i) for hospitals located in an urban area in*
4 *the United States and (if applicable) for hospitals*
5 *located in an urban area in each region, to the*
6 *product of—*

7 *“(I) the average standardized amount*
8 *(computed under subparagraph (A), reduced*
9 *under subparagraph (B), and adjusted under*
10 *subparagraph (C)) for the fiscal year for hos-*
11 *pitals located in an urban area in the United*
12 *States or in that region, and*

13 *“(II) the weighting factor (determined*
14 *under paragraph (4)(B)) for that diagnosis-*
15 *related group; and*

16 *“(ii) for hospitals located in a rural area in*
17 *the United States and (if applicable) for hospitals*
18 *located in a rural area in each region (and, if ap-*
19 *plicable, in a census division), to the product of—*

20 *“(I) the average standardized amount*
21 *(computed under subparagraph (A), reduced*
22 *under subparagraph (B), and adjusted under*
23 *subparagraph (C)) for the fiscal year for hos-*
24 *pitals located in a rural area in the United*
25 *States or in that region, and*

1 “(II) the weighting factor (determined
2 under paragraph (4)(B)) for that diagnosis-
3 related group.

4 “(E) ADJUSTING FOR DIFFERENT AREA WAGE
5 LEVELS.—The Secretary shall adjust the proportion,
6 (as estimated by the Secretary from time to time) of
7 hospitals’ costs which are attributable to wages and
8 wage-related costs, of the DRG prospective payment
9 rates computed under subparagraph (D) for area differ-
10 ences in hospital wage levels by a factor (established by
11 the Secretary) reflecting the relative hospital wage level
12 in the geographic area of the hospital compared to the
13 national or regional average hospital wage level as ap-
14 propriate.

15 “(4)(A) The Secretary shall establish a classification of
16 inpatient hospital discharges by diagnosis-related groups and
17 a methodology for classifying specific hospital discharges
18 within these groups.

19 “(B) For each such diagnosis-related group the Secre-
20 tary shall assign an appropriate weighting factor which re-
21 flects the relative hospital resources used with respect to dis-
22 charges classified within that group compared to discharges
23 classified within other groups.

24 “(C) The Secretary shall adjust the classifications and
25 weighting factors established under subparagraphs (A) and

1 (B), at least every five years, to reflect changes in treatment
2 patterns, technology, and other factors which may change the
3 relative use of hospital resources.

4 “(D) The Commission (established under subsection
5 (e)(2)) shall consult with and make recommendations to the
6 Secretary with respect to adjustments to be made under sub-
7 paragraph (C), based upon its evaluation of scientific evi-
8 dence with respect to new practices, including the use of new
9 technologies and treatment modalities. The Commission shall
10 report to the Congress with respect to its evaluation of any
11 adjustments made by the Secretary under subparagraph (C).

12 “(5)(A)(i) The Secretary shall provide for an additional
13 payment for a subsection (d) hospital for any discharge in a
14 diagnosis-related group, the length of stay of which exceeds
15 the mean length of stay for discharges within that group by a
16 fixed number of days, or exceeds such mean length of stay by
17 some fixed number of standard deviations, whichever is the
18 lesser.

19 “(ii) For cases which are not included in clause (i), a
20 hospital may request additional payments in any case where
21 changes, adjusted to cost, exceed a fixed multiple of the DRG
22 rate, or exceed such other fixed dollar amount, whichever is
23 greater.

24 “(iii) The amount of such additional payment under
25 clauses (i) and (ii) shall be determined by the Secretary and

1 *shall approximate the marginal cost of care beyond the cutoff*
2 *point applicable under clause (i) or (ii).*

3 “(iv) *The total amount of the additional payments made*
4 *under this subparagraph for discharges in a fiscal year may*
5 *not be less than 5 percent nor more than 6 percent of the total*
6 *payments made based on DRG prospective payment rates for*
7 *discharges in that year, and the DRG rates shall be reduced*
8 *to compensate for any payments under this subparagraph in*
9 *excess of such 6 percent.*

10 “(B) *The Secretary shall provide for an additional pay-*
11 *ment amount for subsection (d) hospitals with indirect costs*
12 *of medical education, in an amount computed in the same*
13 *manner as the adjustment for such costs under regulations*
14 *(in effect as of January 1, 1983) under subsection (a)(2),*
15 *except that in the computation under this subparagraph the*
16 *Secretary shall use an educational adjustment factor equal to*
17 *twice the factor provided under such regulations.*

18 “(C)(i) *The Secretary shall provide for such exceptions*
19 *and adjustments to the payment amounts established under*
20 *this subsection as the Secretary deems appropriate to take*
21 *into account the special needs of public or other hospitals that*
22 *serve a significantly disproportionate number of patients who*
23 *have low income or are entitled to benefits under part A of*
24 *this title.*

1 “(ii) With respect to a hospital which is a ‘sole commu-
2 nity hospital’, payment under paragraph (1)(A)(i) for any
3 cost reporting period or fiscal year beginning on or after Oc-
4 tober 1, 1983, shall be determined using the target percentage
5 and DRG percentage applicable for the fiscal year beginning
6 on October 1, 1983, and in no case shall total payments to
7 such a hospital under this title for any cost reporting period
8 beginning on or after October 1, 1983, and before October 1,
9 1986, be less than such payments to such hospital for the
10 preceding cost reporting period. For purposes of this subpara-
11 graph, the term ‘sole community hospital’ means a hospital
12 that, by reason of factors such as isolated location, weather
13 conditions, travel conditions, or absence of other hospitals (as
14 determined by the Secretary), is the sole source of inpatient
15 hospital services reasonably available to individuals in a geo-
16 graphical area who are entitled to benefits under part A.

17 “(iii) The Secretary may provide for such adjustments
18 to the payment amounts as the Secretary deems appropriate
19 to take into account the unique circumstances of hospitals
20 located in Alaska and Hawaii.

21 “(D)(i) The Secretary shall estimate the amount of re-
22 imbursement made for services described in section
23 1862(a)(14) with respect to which payment was made under
24 part B in the base reporting periods referred to in paragraph

1 (2)(A) and with respect to which payment is no longer being
2 made.

3 “(i) The Secretary shall provide for an adjustment to
4 the payment for subsection (d) hospitals in each fiscal year so
5 as appropriately to reflect the net amount described in clause
6 (i).

7 “(E) This paragraph shall apply only to subsection (d)
8 hospitals that receive payments in amounts computed under
9 this subsection.

10 “(6) The Secretary shall provide for publication in the
11 Federal Register, on or before the September 1 before each
12 fiscal year (beginning with fiscal year 1984), of a description
13 of the methodology and data used in computing the adjusted
14 DRG prospective payment rates under this subsection, in-
15 cluding any adjustments required under subsection (e)(1)(B).

16 “(7) There shall be no administrative or judicial review
17 under section 1878 or otherwise of—

18 “(A) the determination of the requirement, or the
19 proportional amount, of any adjustment effected pursu-
20 ant to subsection (e)(1), and

21 “(B) the establishment of diagnosis-related
22 groups, of the methodology for the classification of dis-
23 charges within such groups, and of the appropriate
24 weighting factors thereof under paragraph (4).

1 “(e)(1)(A) For cost reporting periods of hospitals begin-
2 ning in fiscal year 1984 or fiscal year 1985, the Secretary
3 shall provide for such proportional adjustment in the applica-
4 ble percentage increase (otherwise applicable to the periods
5 under subsection (b)(3)(B)) as may be necessary to assure
6 that—

7 “(i) the aggregate payment amounts otherwise
8 provided under subsection (d)(1)(A)(i)(I) and (d)(5) for
9 that fiscal year for operating costs of inpatient hospital
10 services of hospitals,
11 are not greater or less than—

12 “(ii) the target percentage (as defined in subsec-
13 tion (d)(1)(C)) of the payment amounts which would
14 have been payable for such services for those same hos-
15 pitals for that fiscal year under this section under the
16 law as in effect before the date of the enactment of the
17 Social Security Act Amendments of 1983;
18 except that the adjustment made under this subparagraph
19 shall apply only to subsection (d) hospitals and shall not
20 apply for purposes of making computations under subsection
21 (d)(2)(B)(ii) or subsection (d)(3)(A).

22 “(B) For discharges occurring in fiscal year 1984 or
23 fiscal year 1985, the Secretary shall provide under subsec-
24 tions (d)(2)(F) and (d)(3)(C) for such equal proportional ad-
25 justment in each of the average standardized amounts other-

1 *wise computed for that fiscal year as may be necessary to*
2 *assure that—*

3 “(i) *the aggregate payment amounts otherwise*
4 *provided under subsection (d)(1)(A)(i)(II) and (d)(5)*
5 *for that fiscal year for operating costs of inpatient hos-*
6 *pital services of hospitals,*

7 *are not greater or less than—*

8 “(ii) *the DRG percentage (as defined in subsec-*
9 *tion (d)(1)(C)) of the payment amounts which would*
10 *have been payable for such services for those same hos-*
11 *pitals for that fiscal year under this section under the*
12 *law as in effect before the date of the enactment of the*
13 *Social Security Act Amendments of 1983.*

14 “(2) *The Secretary shall provide for appointment of a*
15 *Commission of independent experts, selected by the Office of*
16 *Technology Assessment (hereinafter in this subsection re-*
17 *ferred to as the ‘Commission’) to review the applicable per-*
18 *centage increase factor described in subsection (b)(3)(B) and*
19 *make recommendations to the Secretary on the appropriate*
20 *percentage increase which should be effected for hospital in-*
21 *patient discharges under subsections (b) and (d) for fiscal*
22 *years beginning with fiscal year 1985. In making its recom-*
23 *mendations, the Commission shall take into account changes*
24 *in the hospital market-basket described in subsection*
25 *(b)(3)(B), hospital productivity, technological and scientific*

1 *advances, the quality of health care provided in hospitals (in-*
2 *cluding the quality and skill level of professional nursing*
3 *required to maintain quality care), and long-term cost-effec-*
4 *tiveness in the provision of inpatient hospital services.*

5 “(3) *The Commission, not later than the April 1 before*
6 *the beginning of each fiscal year (beginning with fiscal year*
7 *1985), shall report its recommendations to the Secretary on*
8 *an appropriate increase factor which should be used (instead*
9 *of the applicable percentage increase described in subsection*
10 *(b)(3)(B)) for inpatient hospital services for discharges in*
11 *that fiscal year.*

12 “(4) *Taking into consideration the recommendations of*
13 *the Commission, the Secretary shall determine for each fiscal*
14 *year (beginning with fiscal year 1986) the percentage in-*
15 *crease which will apply for purposes of this section as the*
16 *applicable percentage increase (otherwise described in subsec-*
17 *tion (b)(3)(B)) for discharges in that fiscal year, and which*
18 *will assure adequate compensation for the efficient and effec-*
19 *tive delivery of medically appropriate and necessary care of*
20 *high quality.*

21 “(5) *The Secretary shall cause to have published in the*
22 *Federal Register, not later than—*

23 “(A) *the June 1 before each fiscal year (beginning*
24 *with fiscal year 1985), the Secretary’s proposed deter-*
25 *mination under paragraph (4) for that fiscal year, and*

1 “(B) the September 1 before such fiscal year, the
2 Secretary’s final determination under such paragraph
3 for that year.

4 The Secretary shall include in the publication referred to in
5 subparagraph (A) for a fiscal year the report of the Commis-
6 sion’s recommendations submitted under paragraph (3) for
7 that fiscal year.

8 “(6)(A) The Commission shall consist of fifteen individ-
9 uals selected and appointed by the Director of the Congres-
10 sional Office of Technology Assessment (hereafter in this
11 part referred to as the ‘Director’ and the ‘Office’, respective-
12 ly). Such appointments shall be without regard to the provi-
13 sions of title 5, United States Code, governing appointments
14 in the competitive service. Members of the Commission shall
15 be appointed no later than April 1, 1984, for a term of three
16 years, except that the Director may provide initially for such
17 shorter terms as will insure that (on a continuing basis) the
18 terms of no more than seven members shall expire in any one
19 year. Members of the Commission shall be eligible for reap-
20 pointment for no more than two consecutive terms.

21 “(B) The membership of the Commission shall provide
22 expertise and experience in the provision and financing of
23 health care, including but not limited to physicians and reg-
24 istered professional nurses, employers, third party payors,
25 and individuals skilled in the conduct and interpretation of

1 *biomedical, health services, and health economics research.*
2 *The Director shall seek nominations from a wide range of*
3 *groups, including but not limited to—*

4 “(i) *national organizations representing physi-*
5 *cians, including medical specialty organizations and*
6 *registered professional nurses and other skilled health*
7 *professionals;*

8 “(ii) *national organizations representing hospitals,*
9 *including teaching hospitals; and*

10 “(iii) *national organizations representing the*
11 *business community, health benefit programs, labor,*
12 *and the elderly.*

13 “(C) *The Commission may employ such personnel (not*
14 *to exceed 50) as may be necessary to carry out its duties.*
15 *Subject to approval by the Director, the Commission shall*
16 *appoint one of the members of its staff as Executive Director.*
17 *The Commission is authorized to seek such assistance and*
18 *support as may be required in the performance of its duties*
19 *from appropriate Federal departments and agencies. Such*
20 *assistance may include the provision of detailees, office space,*
21 *and related services, with or without reimbursement, as*
22 *agreed upon by the Commission and the head of the appropri-*
23 *ate department or agency.*

24 “(D) *While serving on the business of the Commission*
25 *(including traveltime), a member of the Commission shall be*

1 *entitled to compensation at the per diem equivalent of the rate*
2 *provided for level IV of the Executive Schedule under section*
3 *5315 of title 5, United States Code; and while so serving*
4 *away from home and his regular place of business, a member*
5 *may be allowed travel expenses, including per diem in lieu of*
6 *subsistence, as authorized by the Chairman of the Commis-*
7 *sion.*

8 “(E) *The Executive Director shall be compensated at*
9 *the rate provided for level IV of the Executive Schedule*
10 *under section 5315 of title 5, United States Code.*

11 “(F) *The Executive Director shall, in accordance with*
12 *such policies as the Commission may prescribe, appoint and*
13 *fix the rates of compensation of such personnel as may be*
14 *necessary to carry out the provisions of this part. Such rates*
15 *of compensation may not exceed the level specified in subpar-*
16 *agraph (E).*

17 “(G) *The Commission shall have the authority to—*

18 “(i) *enter into contracts or make other arrange-*
19 *ments, as may be necessary for the conduct of the work*
20 *of the Commission, with any competent personnel or*
21 *organization, with or without reimbursement, without*
22 *performance or other bonds, and without regard to sec-*
23 *tion 3709 of the Revised Statutes (41 U.S.C. 5);*

24 “(ii) *make advance, progress, and other payments*
25 *which relate to the work of the Commission without*

1 *regard to the provisions of section 3324 of title 31,*
2 *United States Code;*

3 “(iii) *accept services of voluntary and uncompen-*
4 *sated personnel that are necessary for the conduct of*
5 *the work of the Commission and provide transportation*
6 *and subsistence as authorized by section 5703 of title*
7 *5, United States Code, for persons serving without*
8 *compensation;*

9 “(iv) *acquire by purchase, lease, loan, or gift, and*
10 *hold and dispose of by sale, lease, or loan, real and*
11 *personal property of all kinds that is necessary for, or*
12 *results from, the exercise of authority granted by this*
13 *part (without regard to the first section of the Act of*
14 *March 3, 1877 (19 Stat. 370, chapter 106; 40 U.S.C.*
15 *34)); and*

16 “(v) *prescribe such rules and regulations as it*
17 *deems necessary with respect to the internal organiza-*
18 *tion and operation of the Commission.*

19 “(H) *In order to identify medically appropriate patterns*
20 *of health resources use in accordance with paragraph (2)(A),*
21 *the Commission shall collect and assess information on medi-*
22 *cal and surgical procedures and services, including informa-*
23 *tion on regional variations of medical practice and lengths of*
24 *hospitalization and on other patient-care data, giving special*
25 *attention to treatment patterns for conditions which appear to*

1 *involve excessively costly or inappropriate services not*
2 *adding to the quality of care provided. In order to assess the*
3 *safety, efficiency, and cost-effectiveness of new and existing*
4 *medical and surgical procedures, the Commission shall, in*
5 *coordination to the extent possible with the Secretary, collect*
6 *and assess factual information, giving special attention to the*
7 *needs of updating existing DRG's, establishing new DRG's,*
8 *and making recommendations on relative DRG weights to*
9 *reflect appropriate differences in resource consumption in de-*
10 *livering safe, efficacious, and cost-effective care. In collecting*
11 *and assessing information, the Commission shall—*

12 “(i) *utilize existing information, both published*
13 *and unpublished, where possible, collected and assessed*
14 *either by its own staff or under other arrangements*
15 *made in accordance with this part; and*

16 “(ii) *carry out, or award grants or contracts for,*
17 *original research where existing information is inad-*
18 *equat for the development of useful and valid guide-*
19 *lines by the Commission.*

20 “(I) *The Commission shall have access to such relevant*
21 *information and data as may be available from appropriate*
22 *Federal agencies. The Commission shall maintain the confi-*
23 *dentiality of all confidential information it receives.*

1 “(J) There shall be established a Federal Liaison Com-
2 mittee to the Commission (hereafter in this part referred to as
3 the ‘Committee’). The Committee shall—

4 “(1) arrange for the acquisition of information in
5 accordance with subparagraph (I) and assure that its
6 activities, especially the conduct of original research
7 and medical studies, are coordinated with the activities
8 of Federal agencies; and

9 “(2) advise the Commission with respect to the
10 activities of Federal agencies that relate to the duties of
11 the Commission or to particular medical procedures
12 and services under study, or being considered for
13 study, by the Commission.

14 The Federal Liaison Committee shall consist of delegates of
15 those Federal agencies which can, in the judgment of the
16 Commission, play a significant role in assisting the Commis-
17 sion. The Administrator of the Health Care Financing Ad-
18 ministration shall serve as the Chairman of the Committee.
19 Members of the Committee shall serve without additional
20 compensation. The Committee shall meet at the call of the
21 Chairman of the Committee, or at the call of the Chairman
22 of the Commission, but not less than six times a year.

23 “(K)(i) The Office shall report to the Congress, from
24 time to time, on the functioning and progress of the Commis-
25 sion and on the status of the assessment of medical proce-

1 *dures and services by the Commission. Such reports shall be*
2 *annual for the first three years of the Commission's operation*
3 *and biannual thereafter, and shall be delivered to the Con-*
4 *gress by March 15 of each reporting year.*

5 “(ii) *The Office shall have unrestricted access to all de-*
6 *liberations, records, and data of the Commission, immediate-*
7 *ly upon its request.*”

8 “(iii) *In order to carry out its duties under this part, the*
9 *Office is authorized to expend reasonable and necessary*
10 *funds as mutually agreed upon by the Office and the Com-*
11 *mission. The Office shall be reimbursed for such funds by the*
12 *Commission from the appropriations made with respect to the*
13 *Commission. The Office shall carry out such duties subject*
14 *to approval of the Technology Assessment Board, as pre-*
15 *scribed by sections 3(d) (2) and (3) of the Technology Assess-*
16 *ment Act of 1972 (2 U.S.C. 472(d) (2) and (3)).*”

17 “(L)(i) *There are authorized to be appropriated such*
18 *sums as may be necessary to carry out the provisions of this*
19 *paragraph.*”

20 “(ii) *Eighty-five percent of such appropriation shall be*
21 *payable from the Federal Hospital Insurance Trust Fund,*
22 *and 15 percent of such appropriation shall be payable from*
23 *the Federal Supplementary Medical Insurance Trust*
24 *Fund.*”

1 *in lieu thereof "the amount that would be payable for such*
2 *services under subsection (b) and section 1886".*

3 (c)(1) *The matter in section 1861(v)(1)(G)(i) of such*
4 *Act following subclause (III) is amended by striking out "on*
5 *the basis of the reasonable cost of" and inserting in lieu*
6 *thereof "the amount otherwise payable under part A with re-*
7 *spect to".*

8 (2) *Section 1861(v)(2)(A) of such Act is amended by*
9 *striking out "an amount equal to the reasonable cost of" and*
10 *inserting in lieu thereof "the amount that would be taken into*
11 *account with respect to".*

12 (3) *Section 1861(v)(2)(B) of such Act is amended by*
13 *striking out "the equivalent of the reasonable cost of".*

14 (4) *Section 1861(v)(3) of such Act is amended by strik-*
15 *ing out "the reasonable cost of such bed and board furnished*
16 *in semiprivate accommodations (determined pursuant to*
17 *paragraph (1))" and inserting in lieu thereof "the amount*
18 *otherwise payable under this title for such bed and board fur-*
19 *nished in semiprivate accommodations".*

20 (d) *Section 1862(a) of such Act is amended—*

21 (1) *by striking out "or" at the end of paragraph*

22 (12),

23 (2) *by striking out the period at the end of para-*

24 *graph (13) and inserting in lieu thereof "; or", and*

1 (3) *by adding at the end the following new para-*
2 *graph:*

3 “(14) *which are other than physicians’ services*
4 *(as defined in regulations) and which are furnished to*
5 *an individual who is an inpatient of a hospital by an*
6 *entity other than the hospital, unless the services are*
7 *furnished under arrangements (as defined in section*
8 *1861(w)(1)) with the entity made by the hospital.”.*

9 *(e)(1) Section 1866(a)(1) of such Act is amended—*

10 (A) *by striking out “and” at the end of subpara-*
11 *graph (D),*

12 (B) *by striking out the period at the end of sub-*
13 *paragraph (E), and*

14 (C) *by adding at the end the following new sub-*
15 *paragraphs:*

16 “(F) *in the case of hospitals which provide inpa-*
17 *tient hospital services for which payment may be made*
18 *under subsection (c) or (d) of section 1886, to main-*
19 *tain an agreement with a utilization and quality con-*
20 *trol peer review organization (if there is such an orga-*
21 *nization which has a contract with the Secretary under*
22 *part B of title XI for the area in which the hospital is*
23 *located) under which the organization will perform*
24 *functions under that part with respect to the review of*
25 *the accuracy of diagnostic information on such hospi-*

1 *tal's bills, the completeness and adequacy of care pro-*
2 *vided, the appropriateness of admissions, and the ap-*
3 *propriateness of care provided for which additional*
4 *payments are sought under section 1886(d)(5), with re-*
5 *spect to inpatient hospital services for which payment*
6 *may be made under part A of this title (and for pur-*
7 *poses of payment under this title, the cost of such*
8 *agreement to the hospital shall be considered a cost in-*
9 *curring by such hospital in providing inpatient services*
10 *under part A, but shall be paid directly by the Secre-*
11 *tary to such organization on behalf of such hospital in*
12 *accordance with a budget approved by the Secretary),*

13 *“(G) in the case of hospitals which provide inpa-*
14 *tient hospital services for which payment may be made*
15 *under subsection (b) or (d) of section 1886, not to*
16 *charge any individual or any other person for inpatient*
17 *hospital services for which such individual would be*
18 *entitled to have payment made under part A but for a*
19 *denial or reduction of payments under section 1886(f),*
20 *and*

21 *“(H) in the case of hospitals which provide inpa-*
22 *tient hospital services for which payment may be made*
23 *under section 1886(d), to have all items and services*
24 *(other than physicians' services as defined in regula-*
25 *tions) (i) that are furnished to an individual who is an*

1 inpatient of the hospital, and (ii) for which the individ-
2 ual is entitled to have payment made under this title,
3 furnished by the hospital or otherwise under arrange-
4 ments (as defined in section 1861(w)(1)) made by the
5 hospital.”.

6 (2) The matter in section 1866(a)(2)(B)(ii) of such Act
7 preceding subclause (I) is amended by inserting “and except
8 with respect to inpatient hospital costs with respect to which
9 amounts are payable under section 1886(d)” after “(except
10 with respect to emergency services)”.

11 (f) Section 1876(g) of such Act is amended by adding at
12 the end the following:

13 “(4) A risk-sharing contract under this subsection may,
14 at the option of an eligible organization, provide that the Sec-
15 retary—

16 “(A) will reimburse hospitals for payment
17 amounts determined in accordance with section 1886,
18 as applicable, of inpatient hospital services furnished to
19 individuals enrolled with such organization pursuant to
20 subsection (d), and

21 “(B) will deduct the amount of such reimburse-
22 ment for payment which would otherwise be made to
23 such organization.”.

24 (g)(1) Section 1878(a) of such Act is amended—

1 (A) by inserting “and (except as provided in sub-
2 section (g)(2)) any hospital which receives payments in
3 amounts computed under section 1886(d) and which
4 has submitted such reports within such time as the
5 Secretary may require in order to make payment
6 under such section may obtain a hearing with respect
7 to such payment by the Board” after “subsection (h)”
8 in the matter before paragraph (1),

9 (B) by inserting “(i)” after “(A)” in paragraph
10 (1)(A),

11 (C) by inserting “or” at the end of paragraph
12 (1)(A) and by adding after such paragraph the follow-
13 ing new clause:

14 “(ii) is dissatisfied with a final determina-
15 tion of the Secretary as to the amount of the pay-
16 ment under section 1886(d),”, and

17 (D) by striking out “(1)(A)” in paragraph (3)
18 and inserting in lieu thereof “(1)(A)(i), or with respect
19 to appeals under paragraph (1)(A)(ii), 180 days after
20 notice of the Secretary’s final determination,”.

21 (2)(A) The last sentence of section 1878(f)(1) of the
22 Social Security Act is amended by inserting “(or, in an
23 action brought jointly by several providers, the judicial dis-
24 trict in which the greatest number of such providers are locat-

1 *ed) after “the judicial district in which the provider is locat-*
2 *ed”.*

3 *(B) Section 1878(f)(1) of such Act is further amended*
4 *by adding at the end thereof the following new sentence:*
5 *“Any appeal to the Board or action for judicial review by*
6 *providers which are under common ownership or control must*
7 *be brought by such providers as a group with respect to any*
8 *matter involving an issue common to such providers.”.*

9 *(3) Section 1878(g) of such Act is amended by inserting*
10 *“(1)” after “(g)” and by adding at the end the following new*
11 *paragraph:*

12 *“(2) The determinations and other decisions described*
13 *in section 1886(d)(7) shall not be reviewed by the Board or*
14 *by any court pursuant to an action brought under subsection*
15 *(f) or otherwise.”.*

16 *(4) The third sentence of section 1878(h) of such Act is*
17 *amended striking out “cost reimbursement” and inserting in*
18 *lieu thereof “payment of providers of services”.*

19 *(h) The first sentence of section 1881(b)(2)(A) of such*
20 *Act is amended by inserting “or section 1886 (if applicable)”*
21 *after “section 1861(v)”.*

22 *(i) Section 1887(a)(1)(B) of such Act is amended by*
23 *inserting “or on the bases described in section 1886” after*
24 *“on a reasonable cost basis”.*

1 (j) *The Secretary may, for any cost reporting period*
2 *beginning prior to October 1, 1986, waive the requirements*
3 *of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Se-*
4 *curity Act in the case of a hospital which has followed a*
5 *practice of allowing direct billing under part B of title*
6 *XVIII of such Act for services (other than physician serv-*
7 *ices) so extensively, that immediate compliance with those*
8 *requirements would threaten the stability of patient care. Any*
9 *such waiver shall provide that such billing may continue to*
10 *be made under part B but that the payments to such hospital*
11 *under part A of such title shall be reduced by the amount of*
12 *the billings for such services under part B. If such a waiver*
13 *is granted, at the end of the waiver period the Secretary may*
14 *provide for such methods of payments under part A as is*
15 *appropriate, given the organizational structure of the institu-*
16 *tion.*

17 *REPORTS, EXPERIMENTS, AND DEMONSTRATION*

18 *PROJECTS*

19 *SEC. 303. (a)(1) The Secretary of Health and Human*
20 *Services (hereinafter in this title referred to as the "Secre-*
21 *tary") shall study and report to the Congress within 18*
22 *months after the date of the enactment of this Act on the*
23 *method by which capital-related costs, such as return on net*
24 *equity, associated with inpatient hospital services can be in-*

1 *cluded within the prospective payment amounts computed*
2 *under section 1886(d) of the Social Security Act.*

3 *(2)(A) The Secretary shall study and report annually to*
4 *the Congress at the end of each year (beginning with 1984*
5 *and ending with 1987) on the impact, of the payment meth-*
6 *odology under section 1886(d) of the Social Security Act*
7 *during the previous year, classes of hospitals, beneficiaries,*
8 *and other payors for inpatient hospital services, and other*
9 *providers.*

10 *(B) During fiscal year 1984, the Secretary shall begin*
11 *the collection of data necessary to compute the amount of phy-*
12 *sician charges attributable, by diagnosis-related groups, to*
13 *physicians' services furnished to inpatients of hospitals whose*
14 *discharges are classified within those groups. The Secretary*
15 *shall include, in a report to Congress in 1985, legislative*
16 *recommendations on the advisability and feasibility of pro-*
17 *viding for determining the amount of the payments for physi-*
18 *cians' services furnished to hospital inpatients based on the*
19 *DRG classification of the discharges of those inpatients.*

20 *(C) In the annual report to Congress under subpara-*
21 *graph (A) for 1985, the Secretary shall include the results of*
22 *studies on—*

23 *(i) the feasibility and impact of eliminating or*
24 *phasing out separate urban and rural DRG prospec-*

1 *tive payment rates under paragraph (3) of section*
2 *1886(d) of the Social Security Act;*

3 *(i) whether and the method under which hospi-*
4 *tals, not paid based on amounts determined under such*
5 *section, can be paid for inpatient hospital services on a*
6 *prospective basis as under such section;*

7 *(ii) the application of severity of illness, intensity*
8 *of care, or other modifications to the diagnosis-related*
9 *groups, and the advisability and feasibility of provid-*
10 *ing for such modifications; and*

11 *(iv) the feasibility and desirability of applying the*
12 *payment methodology under such section to payment*
13 *by all payors for inpatient hospital services.*

14 *(3) Prior to April 1, 1985, the Secretary shall complete*
15 *a study and make legislative recommendations to the Con-*
16 *gress with respect to an equitable method of reimbursing sole*
17 *community hospitals which takes into account their unique*
18 *vulnerability to substantial variations in occupancy. In addi-*
19 *tion, the Secretary shall examine ways to coordinate an in-*
20 *formation transfer between parts A and B, particularly with*
21 *respect to those cases where a denial of coverage is made*
22 *under part A, and no adjustment is made in the reimburse-*
23 *ment to the admitting physician, or physicians. The Secre-*
24 *tary also reports on the appropriate treatment of uncompen-*
25 *sated care costs, and adjustments that might be appropriate*

1 *for large teaching hospitals located in rural areas. The Secre-*
2 *tary shall also on the advisability of having hospitals make*
3 *available information on the cost of care to patients financed*
4 *by both public programs and private payors.*

5 (4) *The Secretary shall complete a study and make rec-*
6 *ommendations to the Congress, before April 1, 1984, with*
7 *respect to whether hospitals located outside of the fifty States*
8 *and the District of Columbia should be included under a*
9 *prospective payment system.*

10 (b)(1) *Except as provided in paragraph (2), the amend-*
11 *ments made by this title shall not affect the authority of the*
12 *Secretary to develop, carry out, or continue experiments and*
13 *demonstration projects.*

14 (2) *The Secretary shall provide that, upon the request of*
15 *a State which has a demonstration project, for payment of*
16 *hospitals under title XVIII of the Social Security Act ap-*
17 *proved under section 402(a) of the Social Security Amend-*
18 *ments of 1967 or section 222(a) of the Social Security*
19 *Amendments of 1972, which (A) is in effect as of March 1,*
20 *1983, and (B) was entered into after August 1982, the terms*
21 *of the demonstration agreement shall be modified so that the*
22 *percentage by which such demonstration project is required to*
23 *maintain the rate of increase in medicare hospital costs in*
24 *that State below the national rate of increase in medicare*
25 *hospital costs shall be decreased by one-half of one percentage*

1 *point per contract year, beginning with the contract year be-*
2 *ginning in 1983.*

3 *(c) The Secretary shall approve, with appropriate terms*
4 *and conditions as defined by the Secretary, within 30 days*
5 *after the date of enactment of this Act—*

6 *(1) the risk-sharing application of On Lok Senior*
7 *Health Services (according to terms and conditions as*
8 *specified by the Secretary), dated July 2, 1982, for*
9 *waivers, pursuant to section 222 of the Social Security*
10 *Amendments of 1972 and section 402(a) of the Social*
11 *Security Amendments of 1967, of certain requirements*
12 *of title XVIII of the Social Security Act over a period*
13 *of 36 months in order to carry out a long-term care*
14 *demonstration project, and*

15 *(2) the application of the Department of Health*
16 *Services, State of California, dated November 1, 1982,*
17 *pursuant to section 1115 of the Social Security Act,*
18 *for the waiver of certain requirements of title XIX of*
19 *such Act over a period of 36 months in order to carry*
20 *out a demonstration project for capitated reimburse-*
21 *ment for comprehensive long-term care services involv-*
22 *ing On Lok Senior Health Services.*

23 *(d) The Secretary shall continue demonstrations with*
24 *hospitals in areas with critical shortages of skilled nursing*

1 *facilities to study the feasibility of providing alternative sys-*
2 *tems of care or methods of payment.*

3 *EFFECTIVE DATES*

4 *SEC. 304. (a)(1) Except as provided in paragraph (2),*
5 *the amendments made by the preceding provisions of this title*
6 *apply to items and services furnished by or under arrange-*
7 *ments with a hospital beginning with its first cost reporting*
8 *period that begins on or after October 1, 1983. A change in a*
9 *hospital's cost reporting period that has been made after No-*
10 *vember 1982 shall be recognized for purposes of this section*
11 *only if the Secretary finds good cause for that change.*

12 *(2) Section 1866(a)(1)(F) of the Social Security Act*
13 *(as added by section 302(f)(1)(C) of this title), section*
14 *1862(a)(14) (as added by section 302(e)(3) of this title) and*
15 *sections 1886(a)(1) (G) and (H) of such Act (as added by*
16 *section 302(f)(1)(C) of this title) take effect on October 1,*
17 *1983.*

18 *(b) The Secretary shall make an appropriate reduction*
19 *in the payment amount under section 1886(d) of the Social*
20 *Security Act (as amended by this title) for any discharge, if*
21 *the admission has occurred before a hospital's first cost re-*
22 *porting period that begins after September 1983, to take into*
23 *account amounts payable under title XVIII of that Act (as*
24 *in effect before the date of the enactment of this Act) for items*
25 *and services furnished before that period.*

1 "October 1, 1982" and inserting in lieu thereof "October 1,
2 1983".

3 (b) *The Secretary of Health and Human Services shall,*
4 *prior to December 31, 1983, complete a study and report to*
5 *the Congress, with respect to the effect which the implementa-*
6 *tion of section 102 of the Tax Equity and Fiscal Responsi-*
7 *bility Act of 1982 would have on hospital-based skilled nurs-*
8 *ing facilities, given the differences (if any) in the patient*
9 *populations served by such facilities and by community-*
10 *based skilled nursing facilities.*

11 *SHIFT IN PART B PREMIUM TO COINCIDE WITH COST-OF-*
12 *LIVING INCREASE*

13 *SEC. 306. (a) Section 1839 of the Social Security Act*
14 *is amended by striking out subsections (a), (b), and (c) and*
15 *inserting in lieu thereof the following:*

16 *"(a)(1) The Secretary shall, during October of 1983 and*
17 *of each year thereafter, determine the monthly actuarial rate*
18 *for enrollees who have attained retirement age (as defined in*
19 *section 216(a)) which shall be applicable for the succeeding*
20 *calendar year. Such actuarial rate shall be the amount the*
21 *Secretary estimates to be necessary so that the aggregate*
22 *amount for such calendar year with respect to those enrollees*
23 *who have attained retirement age will equal one-half of the*
24 *total of the benefits and administrative costs which he esti-*
25 *mates will be payable from the Federal Supplementary*

1 *Medical Insurance Trust Fund for services performed and*
2 *related administrative costs incurred in such calendar year*
3 *with respect to such enrollees. In calculating the monthly ac-*
4 *tuarial rate, the Secretary shall include an appropriate*
5 *amount for a contingency margin.*

6 “(2) *The monthly premium of each individual enrolled*
7 *under this part for each month after December 1983 shall,*
8 *except as provided in subsections (b) and (e), be the amount*
9 *determined under paragraph (3).*

10 “(3) *The Secretary shall, during October of 1983 and*
11 *of each year thereafter, determine and promulgate the month-*
12 *ly premium applicable for individuals enrolled under this*
13 *part for the succeeding calendar year. The monthly premium*
14 *shall (except as otherwise provided in subsection (e)) be equal*
15 *to the smaller of—*

16 “(A) *the monthly actuarial rate for enrollees who*
17 *have attained retirement age, determined according to*
18 *paragraph (1) of this subsection, for that calendar*
19 *year, or*

20 “(B) *the monthly premium rate most recently pro-*
21 *mulgated by the Secretary under this paragraph, in-*
22 *creased by a percentage determined as follows: The Sec-*
23 *retary shall ascertain the primary insurance amount*
24 *computed under section 215(a)(1), based upon average*
25 *indexed monthly earnings of \$900, that applied to in-*

1 *dividuals who became eligible for and entitled to old-*
2 *age insurance benefits for December of the year preced-*
3 *ing the promulgation. He shall increase the monthly*
4 *premium rate by the same percentage by which that*
5 *primary insurance amount is increased when, by*
6 *reason of the law in effect at the time the promulgation*
7 *is made, it is so computed to apply to those individuals*
8 *for the following December.*

9 *Whenever the Secretary promulgates the dollar amount*
10 *which shall be applicable as the monthly premium for any*
11 *period, he shall, at the time such promulgation is announced,*
12 *issue a public statement setting forth the actuarial assump-*
13 *tions and bases employed by him in arriving at the amount of*
14 *an adequate actuarial rate for enrollees who have attained*
15 *retirement age as provided in paragraph (1) and the deriva-*
16 *tion of the dollar amounts specified in this paragraph.*

17 *“(4) The Secretary shall also, during October of 1983*
18 *and of each year thereafter, determine the monthly actuarial*
19 *rate for disabled enrollees who have not attained retirement*
20 *age which shall be applicable for the succeeding calendar*
21 *year. Such actuarial rate shall be the amount the Secretary*
22 *estimates to be necessary so that the aggregate amount for*
23 *such calendar year with respect to disabled enrollees who*
24 *have not attained retirement age will equal one-half of the*
25 *total of the benefits and administrative costs which he esti-*

1 *mates will be payable from the Federal Supplementary*
2 *Medical Insurance Trust Fund for services performed and*
3 *related administrative costs incurred in such calendar year*
4 *with respect to such enrollees. In calculating the monthly ac-*
5 *tuarial rate under this paragraph, the Secretary shall include*
6 *an appropriate amount for a contingency margin.”.*

7 (2) *Subsections (d), (e), (f), and (g) of section 1839 of*
8 *such Act are redesignated as subsections (b), (c), (d), and (e),*
9 *respectively.*

10 (3) (A) *Section 1839(b) of such Act (as so redesignated)*
11 *is amended by striking out “subsection (b), (c), or (g)” and*
12 *inserting in lieu thereof “subsection (a) or (e)”.*

13 (B) *Section 1839(d) of such Act (as so redesignated) is*
14 *amended by striking out “purposes of subsection (c)” and*
15 *inserting in lieu thereof “purposes of subsection (b)”.*

16 (C) *Section 1839(e) of such Act (as so redesignated) is*
17 *amended by striking out “subsection (c)” and “subsection*
18 *(c)(1)” and by inserting in lieu thereof “subsection (a)” and*
19 *“subsection (a)(1)”, respectively.*

20 (D) *Section 1818(c) of such Act is amended by striking*
21 *out “subsection (c) of section 1839” and inserting in lieu*
22 *thereof “subsection (a) of section 1839”.*

23 (E) *Section 1843(d)(1) of such Act is amended by*
24 *striking out “without any increase under subsection (c) there-*

1 of” and inserting in lieu thereof “without any increase under
2 subsection (b) thereof”.

3 (F) Section 1844(a)(1)(A)(i) of such Act is amended—

4 (i) by striking out “1839(c)(1)” and inserting in
5 lieu thereof “1839(a)(1)”; and

6 (ii) by striking out “1839(c)(3) or 1839(g)” and
7 inserting in lieu thereof “1839(a)(3) or 1839(e)”.

8 (G) Section 1844(a)(1)(B)(i) of such Act is amended—

9 (i) by striking out “1839(c)(4)” and inserting in
10 lieu thereof “1839(a)(4)”; and

11 (ii) by striking out “1839(c)(3) or 1839(g)” and
12 inserting in lieu thereof “1839(a)(3) or 1839(e)”.

13 (H) Section 1876(a)(5) of such Act is amended—

14 (i) in subparagraph (A)(ii), by striking out
15 “1839(c)(1)” and inserting in lieu thereof
16 “1839(a)(1)”; and

17 (ii) in subparagraph (B)(ii), by striking out
18 “1839(c)(4)” and inserting in lieu thereof
19 “1839(a)(4)”.

20 (4) The amendments made by this subsection shall
21 apply with respect to premiums payable for January 1984
22 and each month thereafter.

23 (5) The monthly premium amount under section 1839
24 of the Social Security Act for the months of July through
25 December of 1983 shall be equal to the monthly premium

1 amount as determined under such section (as in effect prior
2 to the amendments made by this section) for June 1983.

3 *SHIFT IN VOLUNTARY PART A PREMIUM TO COINCIDE*
4 *WITH COST-OF-LIVING INCREASES*

5 *SEC. 307. (a) Section 1818(d)(2) of the Social Secu-*
6 *rity Act is amended—*

7 *(1) by striking out “during the last calendar*
8 *quarter of each year, beginning in 1973,” in the first*
9 *sentence and inserting in lieu thereof “during the next*
10 *to last calendar quarter of each year”;*

11 *(2) by striking out “the 12-month period com-*
12 *mencing July 1 of the next year” in the first sentence*
13 *and inserting in lieu thereof “the following calendar*
14 *year”;* and

15 *(3) by striking out “for such next year” in the*
16 *second sentence and inserting in lieu thereof “for that*
17 *following calendar year”.*

18 *(b) The amendments made by this section shall apply to*
19 *premiums for months beginning with January 1984, and for*
20 *months after June 1983 and before January 1984, the*
21 *monthly premium under part A of title XVIII of the Social*
22 *Security Act for individuals enrolled under each respective*
23 *part shall be the monthly premium under that part for the*
24 *month of June 1983.*

1 *TITLE IV—UNEMPLOYMENT COMPENSATION*
2 *PROVISIONS*

3 *PART A—FEDERAL SUPPLEMENTAL COMPENSATION*
4 *EXTENSION OF PROGRAM*

5 *SEC. 401. (a) Paragraph (2) of section 602(f) of the*
6 *Federal Supplemental Compensation Act of 1982 is amend-*
7 *ed by striking out “March 31, 1983” and inserting in lieu*
8 *thereof “September 30, 1983”.*

9 *(b) Section 605(2) of such Act is amended by striking*
10 *out “April 1, 1983” and inserting in lieu thereof “October 1,*
11 *1983”.*

12 *NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE*

13 *SEC. 402. (a) Subsection (e) of section 602 of the Fed-*
14 *eral Supplemental Compensation Act of 1982 is amended by*
15 *redesignating paragraph (3) as paragraph (4) and by strik-*
16 *ing out paragraph (2) and inserting in lieu thereof the follow-*
17 *ing new paragraphs:*

18 *“(2)(A) In the case of any account from which Federal*
19 *supplemental compensation was first payable to an individu-*
20 *al for a week beginning after March 31, 1983, the amount*
21 *established in such account shall be equal to the lesser of—*

22 *“(i) 65 per centum of the total amount of regular*
23 *compensation (including dependents’ allowances) pay-*
24 *able to the individual with respect to the benefit year*
25 *(as determined under the State law) on the basis of*

1 *which he most recently received regular compensation,*
 2 *or*

3 *“(ii) the applicable limit determined under the fol-*
 4 *lowing table times his average weekly benefit amount*
 5 *for his benefit year,*

***“In the case of
 weeks during a:***

| | <i>The applicable limit is:</i> |
|------------------------------|---|
| 6-percent period..... | 14 |
| 5-percent period..... | 12 |
| 4-percent period..... | 10 |
| Low-unemployment period..... | 8 |

6 *“(B) Notwithstanding the provisions of clause (ii) of*
 7 *subparagraph (A), the applicable limit under such clause*
 8 *shall not be lower than 4 less than the number of weeks appli-*
 9 *cable to such State under this paragraph as in effect for the*
 10 *week beginning March 27, 1983, to the amendments made by*
 11 *the Social Security Amendments of 1983.*

12 *“(C) In the case of any account from which Federal*
 13 *supplemental compensation was payable to an individual for*
 14 *a week beginning before April 1, 1983, the amount estab-*
 15 *lished in such account shall be equal to the lesser of the sub-*
 16 *paragraph (A) entitlement or the sum of—*

17 *“(i) the subparagraph (A) entitlement reduced*
 18 *(but not below zero) by the aggregate amount of Feder-*
 19 *al supplemental compensation paid to such individual*
 20 *for weeks beginning before April 1, 1983, plus*

21 *“(ii) such individual’s additional entitlement.*

1 “(D) For purposes of subparagraph (C) and this sub-
 2 paragraph—

3 “(i) The term ‘subparagraph (A) entitlement’
 4 means the amount which would have been established
 5 in the account if subparagraph (A) had applied to such
 6 account.

7 “(ii) The term ‘additional entitlement’ means the
 8 applicable limit determined under the following table
 9 times the individual’s average weekly benefit amount
 10 for his benefit year.

| “In the case of weeks during a: | The applicable limit is: |
|--|-------------------------------------|
| 6-percent period..... | 8 |
| 5-percent period..... | 6 |
| 4-percent period..... | 4 |
| Low-employment period | 4 |

11 “(D) Except as provided in subparagraph (C)(i), for
 12 purposes of determining the amount of Federal supplemental
 13 compensation payable for weeks beginning after March 31,
 14 1983, from an account described in subparagraph (C), no
 15 reduction in such account shall be made by reason of any
 16 Federal supplemental compensation paid to the individual for
 17 weeks beginning before April 1, 1983.

18 “(3)(A) For purposes of this subsection, the terms ‘6-
 19 percent period’, ‘5-percent period’, ‘4-percent period’, and
 20 ‘low-unemployment period’ mean, with respect to any State,
 21 the period which—

1 “(i) begins with the 3d week after the 1st week in
 2 which the rate of insured unemployment in the State
 3 for the period consisting of such week and the immedi-
 4 ately preceding 12 weeks falls in the applicable range,
 5 and

6 “(ii) ends with the 3d week after the 1st week in
 7 which the rate of insured unemployment for the period
 8 consisting of such week and the immediately preceding
 9 12 weeks does not fall within the applicable range.

10 “(B) For purposes of subparagraph (A), the applicable
 11 range is as follows:

| <i>In the case of a:</i> | <i>The applicable range is:</i> |
|---------------------------------|--|
| 6-percent period..... | A rate equal to or exceeding 6 percent. |
| 5-percent period..... | A rate equal to or exceeding 5 percent but less than 6 percent. |
| 4-percent period..... | A rate equal to or exceeding 4 percent but less than 5 percent. |
| Low-employment period..... | A rate less than 4 percent. |

12 “(C) No 6-percent period, 5-percent period, or 4-percent
 13 period, as the case may be, shall last for a period of less than
 14 4 weeks unless the State enters a period with a higher per-
 15 centage designation.

16 “(D) For purposes of this subsection—

17 “(i) The rate of insured unemployment for any
 18 period shall be determined in the same manner as de-
 19 termined for purposes of section 203 of the Federal-
 20 State Extended Unemployment Compensation Act of
 21 1970.

1 “(ii) The amount of an individual’s average
2 weekly benefit amount shall be determined in the same
3 manner as determined for purposes of section
4 202(b)(1)(C) of such Act.”.

5 (b)(1) Section 602(f)(2) of such Act is amended by in-
6 serting before the period at the end thereof the following: “;
7 except that in the case of any individual who received such
8 compensation for the week preceding the last week beginning
9 after such date, such compensation shall be payable to such
10 individual for weeks beginning after such date, but the total
11 amount of such compensation payable for such weeks shall be
12 limited to 50 percent of the total amount which would other-
13 wise be payable for such weeks”.

14 (2) Section 605(2) of such Act is amended by inserting
15 before the semicolon the following: “(except as otherwise pro-
16 vided in section 602(f)(2))”.

17 (c)(1) Section 602(b)(1) of such Act is amended by
18 striking out “and” at the end of subparagraph (B), adding
19 “and” at the end of subparagraph (C), and inserting after
20 subparagraph (C) the following:

21 “(D) had at least 26 weeks of full-time insured
22 employment, during his base period or the equivalent
23 in insured wages during his base period (as determined
24 using a methodology equivalent to that used under sec-

1 *not be limited or terminated by reason of any event, or fail-*
2 *ure to meet any requirement of law relating to eligibility for*
3 *unemployment compensation, occurring after the date of such*
4 *exhaustion of rights and before April 1, 1983 (and the period*
5 *after such exhaustion and before April 1, 1983, shall not be*
6 *counted for purposes of determining the expiration of the two*
7 *years following the end of his benefit year for purposes of*
8 *section 602(b) of the Federal Supplemental Compensation*
9 *Act of 1982).*

10 (c) *The Secretary of Labor shall, at the earliest practi-*
11 *cable date after the date of the enactment of this Act, propose*
12 *to each State with which he has in effect an agreement under*
13 *section 602 of the Federal Supplemental Compensation Act*
14 *of 1982 a modification of such agreement designed to provide*
15 *for the payment of Federal supplemental compensation under*
16 *such Act in accordance with the amendments made by this*
17 *part. Notwithstanding any other provision of law, if any*
18 *State fails or refuses, within the 3-week period beginning on*
19 *the date the Secretary of Labor proposed such a modification*
20 *to such State, to enter into such a modification of such agree-*
21 *ment, the Secretary of Labor shall terminate such agreement*
22 *effective with the end of the last week which ends on or before*
23 *such 3-week period.*

1 *PART B—PROVISIONS RELATING TO INTEREST AND*
2 *CREDIT REDUCTIONS*
3 *DEFERRAL OF INTEREST*

4 *SEC. 411. (a) Section 1202(b) of the Social Security*
5 *Act is amended by adding at the end thereof the following*
6 *new paragraph:*

7 *“(8)(A) With respect to interest due under this section*
8 *for any year after December 31, 1982, and before January 1,*
9 *1986, a State may pay 80 percent of such interest in four*
10 *annual installments of at least 20 percent beginning with the*
11 *year after the year in which it is otherwise due, if such State*
12 *meets the criteria of subparagraph (B). Interest shall accrue*
13 *on such deferred interest in the same manner as under para-*
14 *graph (3)(C).*

15 *“(B) To meet the criteria of this subparagraph a State*
16 *must—*

17 *“(i) have taken no action since October 1, 1982,*
18 *which would reduce its net unemployment tax effort or*
19 *the net solvency of its unemployment system (as deter-*
20 *mined for purposes of section 3302(f) of the Internal*
21 *Revenue Code of 1954); and*

22 *“(ii) have taken an action (as certified by the*
23 *Secretary of Labor) after October 1, 1982, which will*
24 *increase revenues and decrease benefits under the*
25 *State’s unemployment compensation system (herein-*

1 *after referred to as a 'solvency effort') by a combined*
2 *total of the applicable percentage (as compared to such*
3 *revenues and benefits as they would have been in effect*
4 *without such State action).*

5 *In the case of the first year for which there is a deferral (over*
6 *a 4-year period) of the interest otherwise payable for such*
7 *year, the applicable percentage shall be 30 percent. In the*
8 *case of the second such year, the applicable percentage shall*
9 *be 40 percent. In the case of the third such year, the applica-*
10 *ble percentage shall be 50 percent.*

11 *“(C)(i) The base year is the first year for which deferral*
12 *under this provision is granted. The Secretary of Labor shall*
13 *estimate the unemployment rate for the base year. To deter-*
14 *mine whether a State meets the requirements of subpara-*
15 *graph (B)(ii), the Secretary of Labor shall determine the per-*
16 *centage by which the benefits and taxes in the base year with*
17 *the application of the action referred to in subparagraph*
18 *(B)(ii) are lower or greater, as the case may be, than such*
19 *benefits and taxes would have been without the application of*
20 *such action. In making this determination, the Secretary*
21 *shall deem the application of the action referred to in subpar-*
22 *agraph (B)(ii) to have been effective for the base year to the*
23 *same extent as such action is effective for the year following*
24 *the base year. Once a deferral is approved a State must con-*
25 *tinue to maintain its solvency effort. Failure to do so shall*

1 result in the State being required to make immediate pay-
2 ment of all deferred interest.

3 “(ii) Increases in the taxable wage base from \$6,000 to
4 \$7,000 or increases after 1984 in the maximum tax rate to
5 5.4 percent shall not be counted for purposes of meeting the
6 requirement of subparagraph (B).

7 “(D) In the case of a State which produces a solvency
8 effort of 50 percent, 80 percent, and 90 percent rather than
9 the 30 percent, 40 percent, 50 percent required under subpar-
10 agraph (B), the deferred interest shall be computed at an in-
11 terest rate which is 1 percentage point less than the otherwise
12 applicable interest rate.”.

13 (b) Section 1202(b)(7) of such Act is amended by strik-
14 ing out “, and before January 1, 1988”.

15 CAP ON CREDIT REDUCTION

16 SEC. 412. (a)(1) Section 3302(f) of the Internal Reve-
17 nue Code of 1954 is amended by adding at the end thereof
18 the following new paragraph:

19 “(8) PARTIAL LIMITATION.—

20 “(A) In the case of a State which would
21 meet the requirements of this subsection for a tax-
22 able year prior to 1987 but for its failure to meet
23 one of the requirements contained in subpara-
24 graph (C) or (D) of paragraph (2), the reduction
25 under subsection (c)(2) in credits otherwise appli-

1 *cable to taxpayers in such State for such taxable*
 2 *year and each subsequent year (in a period of*
 3 *consecutive years for each of which a credit reduc-*
 4 *tion is in effect for taxpayers in such State) shall*
 5 *be reduced by 0.1 percentage point.*

6 “(B) *In the case of a State described in sub-*
 7 *paragraph (A) which also meets the requirements*
 8 *of section 1202(b)(8)(B) with respect to such tax-*
 9 *able year, the reduction under subsection (c)(2) in*
 10 *credits otherwise applicable to taxpayers in such*
 11 *State for such taxable year and each subsequent*
 12 *year (in a period of consecutive years for each of*
 13 *which a credit reduction is in effect for taxpayers*
 14 *in such State) shall be further reduced by an ad-*
 15 *ditional 0.1 percentage point.”*

16 (2) *The amendment made by paragraph (1) shall apply*
 17 *with respect to taxable year 1983 and taxable years thereaf-*
 18 *ter.*

19 (b) *Section 3302(f)(1) of such Code is amended by*
 20 *striking out “beginning before January 1, 1988,”.*

21 **AVERAGE EMPLOYER CONTRIBUTION RATE**

22 **SEC. 413.** (a) *Section 3302(d)(4)(B) of the Internal*
 23 *Revenue Code of 1954 is amended by striking out “the total*
 24 *of the remuneration subject to contributions under the State*
 25 *unemployment compensation law” and inserting in lieu*

1 thereof "the total of the wages attributable to such State sub-
2 ject to taxation under this chapter".

3 (b) Sections 3302(c)(2)(B)(i) and 3302(c)(4) of such
4 Code are each amended by striking out "2.7" and inserting
5 in lieu thereof "2.7 multiplied by the ratio of the wage base
6 under this chapter divided by the estimated average annual
7 wage in covered employment for the calendar year in which
8 the determination is to be made".

9 (c) The amendments made by this section shall be effec-
10 tive for taxable year 1984 and taxable years thereafter.

11 **DATE FOR PAYMENT OF INTEREST**

12 **SEC. 414.** Section 1202(b)(3)(A) of the Social Security
13 Act is amended by striking out "not later than" and insert-
14 ing in lieu thereof "prior to".

15 **RECOUPMENT OF INTEREST**

16 **SEC. 415.** Section 3302 of the Internal Revenue Code
17 of 1954 is amended by adding at the end thereof the following
18 new subsection:

19 "(h) **RECOUPMENT OF OVERDUE INTEREST.**—

20 "(1) In addition to any other reduction required
21 under this section, if any accrued interest under sec-
22 tion 1202(b) of the Social Security Act has not been
23 paid by a State within one year after the date such
24 payment is otherwise required to be paid, then the total
25 credits (after applying any other provisions of this sec-

1 *tion) otherwise allowable under this section for the fol-*
2 *lowing taxable year, in the case of a taxpayer subject*
3 *to the unemployment compensation law of such State,*
4 *shall be reduced by an amount equal to 0.1 percent of*
5 *the amount of the wages paid by such taxpayer during*
6 *such taxable year which are attributable to such State.*

7 *“(2) Any increase in the amount of tax paid by*
8 *reason of paragraph (1) shall be first applied as a pay-*
9 *ment of such overdue interest, and any remainder shall*
10 *be applied as a repayment of principal under section*
11 *1202(b) of the Social Security Act.”.*

12 *PART C—MISCELLANEOUS PROVISIONS*

13 *TREATMENT OF EMPLOYEES PROVIDING SERVICES TO*
14 *EDUCATIONAL INSTITUTIONS*

15 *SEC. 421. (a)(1) Section 3306(a)(6)(A) of the Internal*
16 *Revenue Code of 1954 is amended by adding at the end*
17 *thereof the following new clause:*

18 *“(v) with respect to services to which section*
19 *3309(a)(1) applies, if such services are provided to or*
20 *on behalf of an educational institution, compensation*
21 *shall be denied in the same manner as if such services*
22 *were performed directly for an educational institution,*
23 *and”.*

1 (2) *Clauses (ii)(I), (iii), and (iv) of such section are*
 2 *each amended by striking out "may be denied" and inserting*
 3 *in lieu thereof "shall be denied".*

4 **(b)(1)** *Except as provided in paragraph (2), the amend-*
 5 *ments made by this section shall apply in the case of compen-*
 6 *sation paid for weeks beginning on or after April 1, 1984.*

7 **(2)** *In the case of a State with respect to which the*
 8 *Secretary of Labor has determined that State legislation is*
 9 *required in order to comply with the amendment made by this*
 10 *section, the amendment made by this section shall apply in*
 11 *the case of compensation paid for weeks which begin on or*
 12 *after April 1, 1984, and after the end of the first session of*
 13 *the State legislature which begins after the date of the enact-*
 14 *ment of this Act, or which began prior to the date of the*
 15 *enactment of this Act and remained in session for at least*
 16 *twenty-five calendar days after such date of enactment. For*
 17 *purposes of the preceding sentence, the term "session" means*
 18 *a regular, special, budget, or other session of a State legisla-*
 19 *ture.*

20 **EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE**

21 **HOSPITALIZED OR ON JURY DUTY**

22 **SEC. 422.** *(a) Clause (ii) of paragraph (3)(A) of section*
 23 *202(a) of the Federal-State Extended Unemployment Com-*
 24 *pensation Act of 1970 is amended to read as follows:*

1 “(ii) during which he fails to actively engage in
2 seeking work, unless such individual is not actively en-
3 gaged in seeking work because such individual is, as
4 determined in accordance with State law—

5 “(I) before any court of the United States or
6 any State pursuant to a lawfully issued summons
7 to appear for jury duty (as such term may be de-
8 fined by the Secretary of Labor), or

9 “(II) hospitalized for treatment of an emer-
10 gency or a life-threatening condition (as such term
11 may be defined by such Secretary),

12 if such exemptions in clauses (I) and (II) apply to recipients
13 of regular benefits, and the State chooses to apply such ex-
14 emptions for recipients of extended benefits; or”.

15 (b) The amendment made by this section shall become
16 effective on the date of the enactment of this Act.

Amend the title so as to read: "An Act to implement the consensus recommendations of the National Commission on Social Security Reform, and for other purposes."

Calendar No. 41

98TH CONGRESS
1ST SESSION

S. 1

[Report No. 98-23]

A BILL

To implement the consensus recommendations of the
National Commission on Social Security Reform.

MARCH 11 (legislative day, MARCH 7), 1983

Reported with an amendment to the text and an amendment
to the title

AMENDMENT NO. 516

Calendar No. 42

**Purpose: To substitute the language of S. 1 as amended by the
Committee on Finance.**

IN THE SENATE OF THE UNITED STATES—98th Cong., 1st Sess.

H. R. 1900

To assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

March 16 (legislative day, March 14), 1983

Ordered to be printed

Proposed by Mr. DOLE

Viz: Strike out all after the enacting clause and insert in lieu thereof the following:

1

SHORT TITLE

2

SECTION 1. This Act, with the following table of con-

3

tents, may be cited as the "Social Security Amendments of

4

*1983".**TABLE OF CONTENTS**Sec. 1. Short title.**TITLE I—SOCIAL SECURITY**Part A—Changes in Coverage**Sec. 101. Coverage of newly hired Federal employees.**Sec. 102. Coverage of employees of nonprofit organizations.**Sec. 103. Duration of agreement for coverage of State and local employees.**Sec. 104. Exclusion of services performed by members of certain religious sects.**PART B—CHANGES IN BENEFITS**Sec. 111. Shift of cost-of-living adjustments to calendar year basis.**Sec. 112. Elimination of windfall benefits for persons with pensions from noncovered employment.**Sec. 113. Benefits for divorced or disabled widow or widower who remarries.**Sec. 114. Change in indexing for deferred survivor benefits.**Sec. 115. Benefits for divorced spouse regardless of whether former spouse has retired.**Sec. 116. Increase in benefit amount for disabled widows and widowers.**Sec. 117. Adjustment to cost-of-living increase when trust fund ratio falls below 20 percent.**Sec. 118. Increase in old-age insurance benefit amounts on account of delayed retirement.**Sec. 119. Increase in retirement age.**Sec. 120. Adjustments to OASDI benefit formula.**Sec. 121. Phaseout of earnings limitation for beneficiaries who have attained retirement age.**Sec. 122. Increase in dropout years for time spent in child care.**Sec. 123. Limitation on payments to prisoners.**Sec. 124. Limitations on payments to nonresident aliens.**Sec. 125. Reduction of cost-of-living increase if trust funds ratio is below 20 percent and declining.**PART C—REVENUE PROVISIONS**Sec. 131. Taxation of Social Security and tier 1 railroad retirement benefits.**Sec. 132. Acceleration of increases in FICA taxes; 1984 employee tax credit.**Sec. 133. Taxes on self-employment income; credit against such taxes.*

PART D—MISCELLANEOUS FINANCING PROVISIONS

- Sec. 141. Allocation to Disability Insurance Trust Fund.*
- Sec. 142. Interfund borrowing extension.*
- Sec. 143. Crediting amounts of unnegotiated checks to trust funds.*
- Sec. 144. Transfer to trust funds for costs of benefits attributable to military service before 1957.*
- Sec. 145. Payment to trust funds of amounts equivalent to taxes on service in the uniformed services performed after 1956.*
- Sec. 146. Trust fund investment procedure.*
- Sec. 147. Addition of public members to trust fund board of trustees.*
- Sec. 148. Payment schedule by State and local governments.*
- Sec. 149. Normalized crediting of social security taxes to trust funds.*
- Sec. 150. Amounts received under certain deferred compensation and salary reduction arrangements treated as wages for FICA taxes.*
- Sec. 151. Codification of Rowan decision with respect to meals and lodging.*
- Sec. 152. Treatment of contributions under simplified employee pensions.*

TITLE II—SUPPLEMENTAL SECURITY INCOME

- Sec. 201. Increase in benefit standard.*
- Sec. 202. Adjustments in Federal SSI pass-through provisions.*
- Sec. 203. Notification with respect to SSI program.*

TITLE III—MEDICARE

- Sec. 301. Medicare payments for inpatient hospital services on the basis of prospective rates.*
- Sec. 302. Conforming amendments.*
- Sec. 303. Reports, experiments, and demonstration projects.*
- Sec. 304. Effective dates.*
- Sec. 305. Delay in provision relating to hospital-based skilled nursing facilities.*
- Sec. 306. Shift in part B premium to coincide with cost-of-living increase.*
- Sec. 307. Shift in voluntary part A premium to coincide with cost-of-living increase.*

TITLE IV—UNEMPLOYMENT COMPENSATION

PART A—FEDERAL SUPPLEMENTAL COMPENSATION

- Sec. 401. Extension of program.*
- Sec. 402. Number of weeks for which compensation payable.*
- Sec. 403. Effective date.*

PART B—PROVISIONS RELATING TO INTEREST AND CREDIT REDUCTIONS

- Sec. 411. Deferral of interest.*
- Sec. 412. Cap on credit reduction.*
- Sec. 413. Average employer contribution rate.*
- Sec. 414. Date for payment of interest.*
- Sec. 415. Recoupment of interest.*

PART C—MISCELLANEOUS PROVISIONS

- Sec. 421. Treatment of employees providing services to educational institutions.*
- Sec. 422. Extended benefits for individuals who are hospitalized or on jury duty.*

1 *TITLE I—SOCIAL SECURITY*2 *PART A—CHANGES IN COVERAGE*3 *COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES*

4 *SEC. 101. (a)(1) Section 210(a) of the Social Security*
5 *Act is amended by striking out paragraphs (5) and (6) and*
6 *inserting in lieu thereof the following:*

7 *“(5) Service performed in the employ of the*
8 *United States or any instrumentality of the United*
9 *States, if such service—*

10 *“(A) would not be included in the term ‘em-*
11 *ployment’ for purposes of this subsection by*
12 *reason of the provisions of paragraph (5) or (6) of*
13 *this subsection as in effect on January 1, 1983,*
14 *and*

15 *“(B) is performed by an individual who has*
16 *been continuously in the employ of the United*
17 *States or an instrumentality thereof (including,*
18 *solely for purposes of this paragraph, the receipt*
19 *of benefits under the Civil Service Retirement*
20 *and Disability Fund, or any other benefits (based*
21 *upon service as an employee) under another re-*
22 *irement system established by a law of the*
23 *United States for employees of the Federal Gov-*
24 *ernment or members of the Uniformed Services as*
25 *being ‘in the employ’ of the United States) since*

1 *December 31, 1983 (and for this purpose an indi-*
2 *vidual who returns to the performance of such*
3 *service after a separation from such service shall*
4 *nevertheless be considered upon such return as*
5 *having been continuously in the employ of the*
6 *United States or an instrumentality thereof, re-*
7 *gardless of whether the period of such separation*
8 *began before, on, or after December 31, 1983, if*
9 *the period of such separation does not exceed 365*
10 *days);*

11 *except that this paragraph shall not apply with respect*
12 *to—*

13 *“(i) service performed as the President or*
14 *Vice President of the United States,*

15 *“(ii) service performed as a Member, Dele-*
16 *gate, or Resident Commissioner of or to the Con-*
17 *gress,*

18 *“(iii) service performed as the Commissioner*
19 *of Social Security, or*

20 *“(iv) any other service in the legislative*
21 *branch of the Federal Government if such service*
22 *is performed by an individual who, on December*
23 *31, 1983, is not subject to subchapter III of chap-*
24 *ter 83 of title 5, United States Code.*

1 “(6) Service performed in the employ of the
2 United States or any instrumentality of the United
3 States if such service is performed—

4 “(A) in a penal institution of the United
5 States by an inmate thereof;

6 “(B) by any individual as an employee in-
7 cluded under section 5351(2) of title 5, United
8 States Code (relating to certain interns, student
9 nurses, and other student employees of hospitals of
10 the Federal Government), other than as a medical
11 or dental intern or a medical or dental resident in
12 training; or

13 “(C) by any individual as an employee serv-
14 ing on a temporary basis in case of fire, storm,
15 earthquake, flood, or other similar emergency;”.

16 (2) Section 210(p) of such Act is amended by striking
17 out “provisions of—” and all that follows and inserting in
18 lieu thereof “provisions of subsection (a)(5).”.

19 (b)(1) Section 3121(b) of the Internal Revenue Code of
20 1954 is amended by striking out paragraphs (5) and (6) and
21 inserting in lieu thereof the following:

22 “(5) service performed in the employ of the
23 United States or any instrumentality of the United
24 States, if such service—

1 “(A) would not be included in the term ‘em-
2 ployment’ for purposes of this subsection by
3 reason of the provisions of paragraph (5) or (6) of
4 this subsection as in effect on January 1, 1983,
5 and

6 “(B) is performed by an individual who has
7 been continuously in the employ of the United
8 States or an instrumentality thereof (including,
9 solely for purposes of this paragraph, the receipt
10 of benefits under the Civil Service Retirement
11 and Disability Fund, or any other benefits (based
12 upon service as an employee) under another re-
13 tirement system established by a law of the
14 United States for employees of the Federal Gov-
15 ernment or members of the Uniformed Services as
16 being ‘in the employ’ of the United States) since
17 December 31, 1983 (and for this purpose an indi-
18 vidual who returns to the performance of such
19 service after a separation from such service shall
20 nevertheless be considered upon such return as
21 having been continuously in the employ of the
22 United States or an instrumentality thereof, re-
23 gardless of whether the period of such separation
24 began before, on, or after December 31, 1983, if

1 *the period of such separation does not exceed 365*
2 *days);*

3 *except that this paragraph shall not apply with respect*
4 *to—*

5 “(i) *service performed as the President or*
6 *Vice President of the United States,*

7 “(ii) *service performed as a Member, Dele-*
8 *gate, or Resident Commissioner of or to the Con-*
9 *gress,*

10 “(iii) *service performed as the Commissioner*
11 *of Social Security, or*

12 “(iv) *any other service in the legislative*
13 *branch of the Federal Government if such service*
14 *is performed by an individual who, on December*
15 *31, 1983, is not subject to subchapter III of chap-*
16 *ter 83 of title 5, United States Code;*

17 “(6) *service performed in the employ of the*
18 *United States or any instrumentality of the United*
19 *States if such service is performed—*

20 “(A) *in a penal institution of the United*
21 *States by an inmate thereof;*

22 “(B) *by any individual as an employee in-*
23 *cluded under section 5351(2) of title 5, United*
24 *States Code (relating to certain interns, student*
25 *nurses, and other student employees of hospitals of*

1 *the Federal Government), other than as a medical*
2 *or dental intern or a medical or dental resident in*
3 *training; or*

4 *“(C) by any individual as an employee serv-*
5 *ing on a temporary basis in case of fire, storm,*
6 *earthquake, flood, or other similar emergency;”.*

7 (2) *Section 3121(u)(1) of such Code is amended to read*
8 *as follows:*

9 “(1) *IN GENERAL.—For purposes of the taxes*
10 *imposed by sections 3101(b) and 3111(b), subsection*
11 *(b) shall be applied without regard to paragraph (5)*
12 *thereof.”.*

13 (c) *The amendments made by this section shall be effec-*
14 *tive with respect to remuneration paid after December 31,*
15 *1983.*

16 (d) *Nothing in this Act shall reduce the accrued entitle-*
17 *ments to future benefits under the Federal Retirement*
18 *System of current and retired Federal employees and their*
19 *families.*

20 *COVERAGE OF EMPLOYEES OF NONPROFIT*

21 *ORGANIZATIONS*

22 *SEC. 102. (a) Section 210(a)(8) of the Social Security*
23 *Act is amended by striking out subparagraph (B) thereof and*
24 *by striking out “(A)” after “(8)”.*

1 **(b)(1)** *Section 3121(b)(8) of the Internal Revenue Code*
2 *of 1954 is amended by striking out subparagraph (B) thereof*
3 *and by striking out “(A)” after “(8)”.*

4 **(2)** *Subsection (k) of section 3121 of such Code is re-*
5 *pealed.*

6 **(c)** *The amendments made by this section shall be effec-*
7 *tive with respect to remuneration paid after December 31,*
8 *1983.*

9 **(d)** *Notwithstanding any provision of section 3121(k) of*
10 *the Internal Revenue Code of 1954 (or any other provision of*
11 *law) the period for which a certificate is in effect under such*
12 *section may not be terminated on or after the date of the*
13 *enactment of this Act.*

14 **DURATION OF AGREEMENT FOR COVERAGE OF STATE AND**

15 **LOCAL EMPLOYEES**

16 **SEC. 103.** *(a) Subsection (g) of section 218 of the*
17 *Social Security Act is amended to read as follows:*

18 *“Duration of Agreement*

19 *“(g) No agreement under this section may be terminat-*
20 *ed, in its entirety or with respect to any coverage group, on or*
21 *after the date of the enactment of the Social Security Amend-*
22 *ments of 1983.”.*

23 **(b)** *The amendment made by subsection (a) shall apply*
24 *to any agreement in effect under section 218 of the Social*
25 *Security Act on the date of the enactment of this Act, without*

1 *regard to whether a notice of termination was in effect on*
2 *such date, and to any agreement or modification thereof*
3 *which may become effective under such section 218 after that*
4 *date.*

5 *EXCLUSION OF SERVICES PERFORMED BY MEMBERS OF*
6 *CERTAIN RELIGIOUS SECTS*

7 *SEC. 104. (a) Section 3121 of the Internal Revenue*
8 *Code of 1954 is amended by adding at the end thereof the*
9 *following new subsection:*

10 *“(v) MEMBERS OF CERTAIN RELIGIOUS FAITHS.—*

11 *“(1) EXEMPTION.—Any individual may file an*
12 *application (in such form and manner, and with such*
13 *official, as may be prescribed by regulations under this*
14 *chapter) for an exemption from the tax imposed by this*
15 *chapter with respect to wages paid to such individual*
16 *by an employer who is exempt from the tax imposed*
17 *under section 1401 by reason of an exemption granted*
18 *under section 1402(g), if such individual is a member*
19 *of a recognized religious sect or division thereof and is*
20 *an adherent of established tenets or teachings of such*
21 *sect or division by reason of which he is conscientious-*
22 *ly opposed to acceptance of the benefits of any private*
23 *or public insurance which makes payments in the*
24 *event of death, disability, old-age, or retirement or*
25 *makes payments toward the cost of, or provides services*

1 for, medical care (including the benefits of any insur-
2 ance system established by the Social Security Act).
3 Such exemption may be granted only if the application
4 contains or is accompanied by—

5 “(A) such evidence of such individual’s
6 membership in, and adherence to the tenets or
7 teachings of the sect or division thereof as the
8 Secretary may require for purposes of determin-
9 ing such individual’s compliance with the preced-
10 ing sentence, and

11 “(B) his waiver of all benefits and other
12 payments under titles II and XVIII of the Social
13 Security Act on the basis of his wages and self-
14 employment income as well as all such benefits
15 and other payments to him on the basis of the
16 wages and self-employment income of any other
17 person,

18 and only if the Secretary of Health and Human Serv-
19 ices finds that—

20 “(i) such sect or division thereof has the es-
21 tablished tenets or teachings referred to in the pre-
22 ceding sentence,

23 “(ii) it is the practice, and has been for a
24 period of time which he deems to be substantial,
25 for members of such sect or division thereof to

1 *make provision for their dependent members*
2 *which in his judgment is reasonable in view of*
3 *their general level of living, and*

4 “(iii) *such sect or division thereof has been*
5 *in existence at all times since December 31,*
6 *1950.*

7 *An exemption may not be granted to any individual if*
8 *any benefit or other payment referred to in subpara-*
9 *graph (B) became payable (or, but for section 203 or*
10 *222(b) of the Social Security Act, would have become*
11 *payable) at or before the time of the filing of such*
12 *waiver.*

13 “(2) *PERIOD FOR WHICH EXEMPTION EFFEC-*
14 *TIVE.—An exemption granted to any individual pur-*
15 *suant to this subsection shall apply with respect to all*
16 *taxable years beginning after December 31, 1983,*
17 *except that such exemption shall not apply for any cal-*
18 *endar year—*

19 “(A) *beginning (i) before the calendar year*
20 *in which such individual first met the require-*
21 *ments of the first sentence of paragraph (1), or*
22 *(ii) before the time as of which the Secretary of*
23 *Health and Human Services finds that the sect or*
24 *division thereof of which such individual is a*

1 member met the requirements of clauses (i) and
2 (ii) of paragraph (1), or

3 “(B) ending (i) after the time such individu-
4 al ceases to meet the requirements of the first sen-
5 tence of paragraph (1), or (ii) after the time as of
6 which the Secretary of Health and Human Serv-
7 ices finds that the sect or division thereof of which
8 he is a member ceases to meet the requirements of
9 clauses (i) and (ii) of paragraph (1).”

10 (b) Section 210(a) of the Social Security Act is amend-
11 ed—

12 (1) by striking out “or” at the end of paragraph
13 (19);

14 (2) by striking out the period at the end of para-
15 graph (20) and inserting in lieu thereof “; or”; and

16 (3) by adding at the end thereof the following new
17 paragraph:

18 “(21) Service performed, in the employ of an em-
19 ployer who is exempt from the tax imposed under sec-
20 tion 1401 of the Internal Revenue Code of 1954 by
21 reason of an exemption granted under section 1402(g)
22 of such Code, by an individual with respect to whom
23 an exemption has been granted (and is applicable)
24 under section 3121(v) of such Code.”

1 (c) Section 3121(b) of the Internal Revenue Code of
2 1954 is amended—

3 (1) by striking out “or” at the end of paragraph
4 (19);

5 (2) by striking out the period at the end of para-
6 graph (20) and inserting in lieu thereof “; or”; and

7 (3) by adding at the end thereof the following new
8 paragraph:

9 “(21) service performed, in the employ of an em-
10 ployer who is exempt from the tax imposed under sec-
11 tion 1401 by reason of an exemption granted under
12 section 1402(g), by an individual with respect to whom
13 an exemption has been granted (and is applicable)
14 under subsection (v) of this section.”.

15 (d) Section 202(v) of the Social Security Act is amend-
16 ed by inserting “or 3121(v)” after “1402(g)” each place it
17 appears.

18 (e) The amendments made by this section shall apply
19 with respect to remuneration paid after December 31, 1983.

20 **PART B—CHANGES IN BENEFITS**

21 **SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR**

22 **YEAR BASIS**

23 **SEC. 111.** (a)(1) Section 215(i)(2)(A)(ii) of the Social
24 Security Act is amended by striking out “June” and insert-
25 ing in lieu thereof “December”.

1 (2) Section 215(i)(2)(A)(iii) of such Act is amended by
2 striking out "May" and inserting in lieu thereof "Novem-
3 ber".

4 (3) Section 215(i)(2)(B) of such Act is amended by
5 striking out "May" each place it appears and inserting in
6 lieu thereof in each instance "November".

7 (4) Section 203(f)(8)(A) of such Act is amended by
8 striking out "June" and inserting in lieu thereof "Decem-
9 ber".

10 (5) Section 230(a) of such Act is amended by striking
11 out "June" and inserting in lieu thereof "December".

12 (6) Section 215(i)(2) of such Act as in effect in Decem-
13 ber 1978, and as applied in certain cases under the provi-
14 sions of such Act as in effect after December 1978, is amend-
15 ed by striking out "June" in subparagraph (A)(ii) and in-
16 serting in lieu thereof "December", and by striking out
17 "May" each place it appears in subparagraph (B) and in-
18 serting in lieu thereof in each instance "November".

19 (7) Section 202(m) of such Act (as it applies in certain
20 cases by reason of section 2 of Public Law 97-123) is
21 amended by striking out "May" and inserting in lieu thereof
22 "November".

23 (8) The amendments made by this subsection shall
24 apply with respect to cost-of-living increases determined

1 *under section 215(i) of the Social Security Act for years*
2 *after 1982.*

3 (b)(1) *Section 215(i)(1)(A) of the Social Security Act*
4 *is amended by striking out "March 31" and inserting in lieu*
5 *thereof "September 30", and by striking out "1974" and*
6 *inserting in lieu thereof "1982".*

7 (2) *Section 215(i)(1)(A) of such Act as in effect in De-*
8 *cember 1978, and as applied in certain cases under the provi-*
9 *sions of such Act as in effect after December 1978, is amend-*
10 *ed by striking out "March 31" and inserting in lieu thereof*
11 *"September 30".*

12 (3) *The amendments made by this subsection shall*
13 *apply with respect to cost-of-living increases determined*
14 *under section 215(i) of the Social Security Act for years*
15 *after 1983.*

16 (c) *Section 215(i)(4) of such Act is amended by insert-*
17 *ing ", and as amended by section 201 (a)(6) and (b)(2) of the*
18 *Social Security Amendments of 1983," after "as in effect in*
19 *December 1978".*

20 (d) *Notwithstanding any provision to the contrary in*
21 *section 215(i) of the Social Security Act, the "base quarter"*
22 *(as defined in paragraph (1)(A)(i) of such section) in the*
23 *calendar year 1983 shall be a "cost-of-living computation*
24 *quarter" within the meaning of paragraph (1)(B) of such sec-*
25 *tion (and shall be deemed to have been determined by the*

1 *Secretary of Health and Human Services to be a "cost-of-*
2 *living computation quarter" under paragraph (2)(A) of such*
3 *section) for all of the purposes of such Act as amended by this*
4 *section and by other provisions of this Act, without regard to*
5 *the extent by which the Consumer Price Index has increased*
6 *since the last prior cost-of-living computation quarter which*
7 *was established under such paragraph (1)(B).*

8 *ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS*

9 *RECEIVING PENSIONS FROM NONCOVERED EMPLOY-*
10 *MENT*

11 *SEC. 112. (a) Section 215(a) of the Social Security*
12 *Act is amended by adding at the end thereof the following*
13 *new paragraph:*

14 *"(7)(A) In the case of an individual who was not eligi-*
15 *ble for an old-age or disability insurance benefit for Decem-*
16 *ber 1983 and whose primary insurance amount would be*
17 *computed under paragraph (1) of this subsection, and who*
18 *first becomes eligible after 1983 to a monthly periodic pay-*
19 *ment (or a payment determined under subparagraph (D))*
20 *based (in whole or in part) upon his earnings for service*
21 *which did not constitute 'employment' as defined in section*
22 *210 for purposes of this title (hereafter in this paragraph and*
23 *in subsection (d)(5) referred to as 'noncovered service') of at*
24 *least one year's duration, the primary insurance amount of*
25 *that individual during his entitlement to old-age or disability*

1 insurance benefits shall be computed or recomputed under
2 subparagraph (B) with respect to the initial month in which
3 the individual becomes eligible for such benefits, and shall be
4 periodically recomputed thereafter at such times as the Secre-
5 tary determines there has been a significant change in the
6 amount of such periodic payment.

7 “(B)(ii) If paragraph (1) of this subsection would apply
8 to that individual (except for subparagraph (A) of this para-
9 graph), there shall first be computed an amount equal to the
10 individual’s primary insurance amount under this subsection
11 (other than this paragraph), except that for purposes of such
12 computation the percentage of the individual’s average in-
13 dexed monthly earnings established by subparagraph (A)(i)
14 of paragraph (1) shall be the percent specified in clause (ii).
15 There shall then be computed (without regard to this para-
16 graph) a second amount, which shall be equal to the individ-
17 ual’s primary insurance amount under this subsection (other
18 than this paragraph), except that such second amount shall
19 be reduced by an amount equal to the applicable fraction (as
20 determined under subparagraph (E)) of the portion of the
21 monthly periodic payment attributable to noncovered service
22 to which the individual is entitled (or deemed to be entitled)
23 for the month for which such old-age or disability insurance
24 benefits are payable. For purposes of the preceding sentence,
25 the portion of the monthly periodic payment attributable to

1 *noncovered service shall be that portion of such payment*
2 *which bears the same ratio to the amount of such payment as*
3 *the number of months of service in noncovered service to*
4 *which such benefit is attributable (but only counting any*
5 *such months occurring after 1956) bears to the total number*
6 *of months of service to which such benefit is attributable. The*
7 *individual's primary insurance amount shall be the larger of*
8 *the two amounts computed under this subparagraph (before*
9 *the application of subsection (i)) and shall be deemed to be*
10 *computed under paragraph (1) of this subsection for the pur-*
11 *pose of applying other provisions of this title.*

12 “(i) *For purposes of clause (i), the percent specified in*
13 *this clause is—*

14 “(I) *78.4 percent, with respect to individuals who*
15 *initially become eligible for old age or disability insur-*
16 *ance benefits, or who die (before becoming eligible for*
17 *such benefits) in 1984;*

18 “(II) *66.8 percent with respect to individuals who*
19 *so become eligible or die in 1985;*

20 “(III) *55.2 percent with respect to individuals*
21 *who so become eligible or die in 1986;*

22 “(IV) *43.6 percent with respect to individuals*
23 *who so become eligible or die in 1987; and*

24 “(V) *32.0 percent with respect to individuals who*
25 *so become eligible or die in 1988 or thereafter.*

1 “(C) No primary insurance amount may be reduced by
2 reason of this paragraph below the amount of the primary
3 insurance amount as determined under paragraph (1)(C)(i).

4 “(D)(i) Any periodic payment that otherwise meets the
5 requirements of subparagraph (A), but which is paid on other
6 than a monthly basis, shall be allocated on a basis equivalent
7 to a monthly payment (as determined by the Secretary), and
8 such equivalent monthly payment shall constitute a monthly
9 periodic payment for purposes of this paragraph.

10 “(ii) In the case of an individual who has elected to
11 receive a periodic payment that has been reduced so as to
12 provide a survivors benefit to any other individual, the pay-
13 ment is deemed to be increased (for the purpose of any com-
14 putation under this paragraph) by such reduction.

15 “(iii) If an individual to whom subparagraph (A) ap-
16 plies is eligible for a periodic payment beginning with a
17 month that is subsequent to the month in which he becomes
18 eligible for old-age or disability insurance benefits, the
19 amount of that payment for purposes of subparagraph (B)
20 shall be deemed to be the amount to which he is, or is deemed,
21 to become entitled (subject to clauses (i), (ii), and (iv) of this
22 subparagraph) in such subsequent month.

23 “(iv) For purposes of this subparagraph, the term ‘peri-
24 odic payment’ includes a payment payable in a lump sum if
25 it is a commutation of, or a substitute for, periodic payments.

1 “(E) For purposes of subparagraph (B), the applicable
2 fraction is—

3 “(i) in the case of an individual who first becomes
4 eligible during 1984 to a monthly periodic payment de-
5 scribed in subparagraph (A), one-fifteenth,

6 “(ii) in the case of an individual who first be-
7 comes eligible during 1985 to a monthly periodic pay-
8 ment described in subparagraph (A), two-fifteenths,

9 “(iii) in the case of an individual who first be-
10 comes eligible during 1986 to a monthly periodic pay-
11 ment described in subparagraph (A), one-fifth,

12 “(iv) in the case of an individual who first be-
13 comes eligible during 1987 to a monthly periodic pay-
14 ment described in subparagraph (A), four-fifteenths,
15 and

16 “(v) in the case of an individual who first be-
17 comes eligible during 1988 or thereafter to a monthly
18 periodic payment described in subparagraph (A), one-
19 third.

20 “(F) This paragraph shall not apply in the case of an
21 individual who has more than 30 years of coverage (as de-
22 fined in paragraph (1)(C)(ii). In the case of an individual
23 who has more than 24 years of coverage (as so defined), the
24 figure ‘32 percent’ in subparagraph (B) shall, if larger, be
25 deemed to be—

1 “(i) 90 percent, in the case of an individual who
2 has 30 or more of such years of coverage;

3 “(ii) 80 percent, in the case of an individual who
4 has 29 of such years;

5 “(iii) 70 percent, in the case of an individual who
6 has 28 of such years;

7 “(iv) 60 percent, in the case of an individual who
8 has 27 of such years;

9 “(v) 50 percent, in the case of an individual who
10 has 26 of such years; and

11 “(vi) 40 percent, in the case of an individual who
12 has 25 of such years.”.

13 (b) Section 215(d) of such Act is amended by adding at
14 the end thereof the following new paragraph:

15 “(5)(A) In the case of an individual who was not eligi-
16 ble for an old-age or disability insurance benefit for Decem-
17 ber 1983 and whose primary insurance amount is not com-
18 puted under paragraph (1) of subsection (a) by reason of
19 paragraph (4)(B)(ii) of that subsection, and who first be-
20 comes eligible after 1983 to a monthly periodic payment (or a
21 payment determined under subsection (a)(7)(D)) based (in
22 whole or in part) upon his earnings in noncovered service of
23 at least one year’s duration, his primary insurance amount
24 for purposes of his entitlement to old-age or disability insur-
25 ance benefits shall be the primary insurance amount comput-

1 *ed or recomputed under this subsection (without regard to*
2 *this paragraph and before the application of subsection (i))*
3 *reduced by an amount equal to the smaller of—*

4 “(i) *one-half of the primary insurance amount*
5 *(computed without regard to this paragraph and before*
6 *the application of subsection (i)), or*

7 “(ii) *the applicable fraction (as determined under*
8 *subparagraph (B)) of the portion of the monthly peri-*
9 *odic payment (or payment determined under subsection*
10 *(a)(7)(D)) attributable to noncovered service to which*
11 *that individual is entitled (or deemed to be entitled) for*
12 *the initial month of his eligibility for old-age or dis-*
13 *ability insurance benefits.*

14 *For purposes of the preceding sentence, the portion of the*
15 *monthly periodic payment attributable to noncovered service*
16 *shall be that portion of such payment which bears the same*
17 *ratio to the amount of such payment as the number of months*
18 *of service in noncovered service to which such benefit is at-*
19 *tributable bears to the total number of months of service to*
20 *which such benefit is attributable. The amount of such peri-*
21 *odic payment for purposes of clause (ii) shall be periodically*
22 *recomputed at such times as the Secretary determines there*
23 *has been a significant change in the amount of such periodic*
24 *payment.*

1 “(B) For purposes of subparagraph (A), the applicable
2 fraction is—

3 “(i) in the case of an individual who first becomes
4 eligible during 1984 to a monthly periodic payment de-
5 scribed in subparagraph (A), one-fifteenth,

6 “(ii) in the case of an individual who first be-
7 comes eligible during 1985 to a monthly periodic pay-
8 ment described in subparagraph (A), two-fifteenths,

9 “(iii) in the case of an individual who first be-
10 comes eligible during 1986 to a monthly periodic pay-
11 ment described in subparagraph (A), one-fifth,

12 “(iv) in the case of an individual who first be-
13 comes eligible during 1987 to a monthly periodic pay-
14 ment described in subparagraph (A), four-fifteenths,
15 and

16 “(v) in the case of an individual who first be-
17 comes eligible during 1988 or thereafter to a monthly
18 periodic payment described in subparagraph (A), one-
19 third.”.

20 “(C) No primary insurance amount may be reduced by
21 reason of this paragraph below the amount of the primary
22 insurance amount as determined under subsection
23 (a)(1)(C)(i).”.

24 (c) Section 215(f) of such Act is amended by adding at
25 the end the following new paragraph:

1 “(9)(A) *In the case of an individual who first becomes*
2 *eligible for a periodic payment determined under subsection*
3 *(a)(7)(A) or (a)(7)(D) in a month subsequent to the first*
4 *month in which he becomes eligible for an old-age or disabil-*
5 *ity insurance benefit, and whose primary insurance amount*
6 *has been computed without regard to either such subsection or*
7 *subsection (d)(5), such individual’s primary insurance*
8 *amount shall be recomputed, in accordance with either such*
9 *subsection or subsection (d)(5), as may be applicable, effec-*
10 *tive with the first month of his concurrent eligibility for*
11 *either such benefit and such periodic payment.*

12 “(B) *If an individual’s primary insurance amount has*
13 *been computed under subsection (a)(7) or (d)(5), and it be-*
14 *comes necessary to recompute that primary insurance*
15 *amount under this subsection—*

16 “(i) *so as to increase the monthly benefit amount*
17 *payable with respect to such primary insurance*
18 *amount (other than in the case of the individual’s*
19 *death), such increase shall be determined as though*
20 *such primary insurance amount had initially been*
21 *computed without regard to subsection (a)(7) or (d)(5),*
22 *or*

23 “(ii) *by reason of the individual’s death, such pri-*
24 *mary insurance amount shall be recomputed without*

1 regard to (and as though it had never been computed
2 with regard to) subsection (a)(7) or (d)(5).

3 “(C) In the case of any individual whose primary in-
4 surance amount is subject to the requirements of subsection
5 (a)(7) or (d)(5), the amount of such primary insurance
6 amount shall be recomputed as may be required under such
7 subsections by reason of a significant change in the amount
8 of the relevant periodic payment.”.

9 (d) Sections 202(e)(2)(B)(i) and 202(f)(3)(B)(i) of such
10 Act are each amended by striking out “section 215(f)(5) or
11 (6)” and inserting in lieu thereof “section 215(f)(5),
12 215(f)(6), or 215(f)(9)(B)”.

13 **BENEFITS FOR SURVIVING DIVORCED SPOUSES AND**
14 **DISABLED WIDOWS AND WIDOWERS WHO REMARRY**

15 **SEC. 113.** (a)(1) Section 202(e)(3) of the Social Secu-
16 rity Act is repealed.

17 (2) Section 202(e)(4) of such Act is amended to read as
18 follows:

19 “(4) For purposes of paragraph (1), if—

20 “(A) a widow or a surviving divorced wife mar-
21 ries after attaining age 60, or

22 “(B) a disabled widow or disabled surviving di-
23 vorced wife described in paragraph (1)(B)(ii) marries
24 after attaining age 50,

25 such marriage shall be deemed not to have occurred.”.

1 **(b)(1)** *Section 202(f)(4) of such Act is repealed.*

2 **(2)** *Section 202(f)(5) of such Act is amended to read as*
3 *follows:*

4 “(5) *For purposes of paragraph (1), if—*

5 “(A) *a widower marries after attaining age 60, or*

6 “(B) *a disabled widower described in paragraph*

7 **(1)(B)(ii)** *marries after attaining age 50,*

8 *such marriage shall be deemed not to have occurred.”.*

9 **(c)(1)** *The amendments made by subsection (a) shall be*
10 *effective with respect to monthly benefits payable under title*
11 *II of the Social Security Act for months after December*
12 *1983.*

13 **(2)** *In the case of an individual who was not entitled to*
14 *a monthly benefit under title II of such Act for December*
15 *1983, no benefit shall be paid under such title by reason of*
16 *such amendments unless proper application for such benefit*
17 *is made.*

18 **DETERMINATION OF PRIMARY INSURANCE AMOUNT FOR**

19 **DEFERRED SURVIVOR BENEFITS**

20 **SEC. 114.** *(a) Section 215(a) of the Social Security*
21 *Act is amended by adding at the end thereof the following*
22 *new paragraph:*

23 “(8)(A) *If a person is entitled to benefits under subsec-*
24 *tion (e) or (f) of section 202 on the basis of the wages and*
25 *self-employment income of a deceased individual whose pri-*

1 *mary insurance amount would otherwise be determined*
2 *under paragraph (1), the primary insurance amount of such*
3 *deceased individual shall be determined, for purposes of de-*
4 *termining the amount of the benefit under such subsection, as*
5 *if such deceased individual died in the year in which the*
6 *person entitled to benefits under such subsection first became*
7 *eligible for such benefits or, if earlier, the year in which such*
8 *deceased individual would have attained age 62 if he had not*
9 *died (except that the actual year of death of such deceased*
10 *individual shall be used for purposes of section*
11 *215(b)(2)(B)(ii)(II)).*

12 *“(B) Notwithstanding subparagraph (A), if a person—*

13 *“(i) is entitled to benefits under subsection (e) or*
14 *(f) of section 202 on the basis of the wages and self-*
15 *employment income of a deceased individual, and*

16 *“(i) was entitled to benefits under this title on*
17 *the basis of the wages and self-employment income of*
18 *such deceased individual in the month before the month*
19 *in which such person became eligible for the benefits*
20 *described in clause (i),*

21 *the primary insurance amount of such deceased individual*
22 *shall be the primary insurance amount determined under the*
23 *rules which would apply (but for subparagraph (A)) or the*
24 *primary insurance amount determined under subparagraph*
25 *(A), whichever is larger.”.*

1 (b) *The amendments made by subsection (a) shall apply*
2 *to the benefits of individuals who become eligible for benefits*
3 *under section 202 (e) and (f) of the Social Security Act after*
4 *December 1984.*

5 *BENEFITS FOR DIVORCED SPOUSE REGARDLESS OF*
6 *WHETHER FORMER SPOUSE HAS RETIRED*

7 *SEC. 115. (a) Section 202(b) of the Social Security*
8 *Act is amended by adding at the end thereof the following*
9 *new paragraph:*

10 “(5) *For purposes of determining the entitlement of a*
11 *divorced wife to a benefit under this subsection and the*
12 *amount of such benefit, in the case of a wife who has been*
13 *divorced from her former husband for a period of not less*
14 *than 24 months—*

15 “(A) *such former husband shall be deemed to be*
16 *entitled to an old-age insurance benefit if he would be*
17 *entitled to such a benefit if he applied therefor; and*

18 “(B) *the amount of such benefit for such divorced*
19 *wife shall be determined without regard to reductions*
20 *which are or would be made under section 203 on ac-*
21 *count of work performed by such former husband.”.*

22 (b)(1) *The amendment made by subsection (a) shall be*
23 *effective with respect to monthly benefits payable under title*
24 *II of the Social Security Act for months after December*
25 *1984.*

1 *first day of the month in which such individual attains*
2 *age 60, whichever is later,*
3 *and ending with the last day of the month before the month in*
4 *which such individual attains retirement age.”.*

5 (3) Section 202(q)(7) of such Act is amended by strik-
6 ing out the matter preceding subparagraph (A) and inserting
7 in lieu thereof the following:

8 “(7) For purposes of this subsection, the ‘adjusted re-
9 duction period’ for an old-age, wife’s, husband’s, widow’s, or
10 widower’s insurance benefit is the reduction period prescribed
11 in paragraph (6) for such benefit, excluding—”.

12 (4) Paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii) of
13 section 202(q) of such Act are each amended by striking out
14 “(6)(A)” and inserting in lieu thereof in each instance “(6)”.

15 (5) Section 202(q)(3)(G) of such Act is amended by
16 striking out “paragraph (6)(A) (or, if such paragraph does
17 not apply, the period specified in paragraph (6)(B))” and
18 inserting in lieu thereof “paragraph (6)”.

19 (6) Section 202(q)(10) of such Act is amended—

20 (A) by striking out “or an additional adjusted re-
21 duction period”;

22 (B) in subparagraphs (B)(i), (C)(i), and (C)(ii),
23 by striking out “, plus the number of months in the
24 adjusted additional reduction period multiplied by $\frac{43}{240}$
25 of 1 percent”; and

1 (C) in subparagraph (B)(i), by striking out “,
2 plus the number of months in the additional reduction
3 period multiplied by $\frac{43}{240}$ of 1 percent”.

4 (b)(1) The amendments made by this section shall be
5 effective with respect to monthly benefits under title II of the
6 Social Security Act for months after December 1983.

7 (2) In the case of an individual who was not entitled to
8 a monthly benefit under title II of such Act for December
9 1983, no benefit shall be paid under such title by reason of
10 such amendments unless proper application for such benefit
11 is made.

12 ADJUSTMENT TO COST-OF-LIVING INCREASE WHEN TRUST
13 FUND RATIO FALLS BELOW 20 PERCENT

14 SEC. 117. (a) Section 215(i)(2)(A)(ii) of the Social Se-
15 curity Act is amended, in the matter following clause (III),
16 by striking out “The increase shall be derived” and inserting
17 in lieu thereof “Except as otherwise provided in paragraph
18 (5), the increase shall be derived”.

19 (b) Section 215(i) of such Act is amended by adding at
20 the end thereof the following new paragraph:

21 “(5)(A) The amount of the increase under paragraph
22 (2) to become effective for monthly benefits payable for De-
23 cember 1988 or any December thereafter shall, if the Secre-
24 tary makes a finding under this paragraph that the combined
25 trust funds ratio (as defined in subparagraph (D)) as of the

1 *start of business on January 1 of the calendar year in which*
2 *such December falls is less than 20.0 percent, be determined*
3 *under paragraph (2) by substituting—*

4 “(i) *the percentage (rounded to the nearest one-*
5 *tenth of 1 percent) by which the average of the total*
6 *wages for the preceding calendar year (as determined*
7 *for purposes of subsection (b)(3)(A)(ii)) exceeds such*
8 *average for the second preceding calendar year (and if*
9 *no increase in such wages took place, the percentage*
10 *shall be deemed to be zero), for*

11 “(ii) *the percentage otherwise applicable under*
12 *paragraph (2),*

13 *but only if the percentage determined under clause (i) is less*
14 *than the percentage determined under clause (ii).*

15 “(B) *In any case in which a cost-of-living adjustment*
16 *would not be made under this subsection on account of the*
17 *relevant increase in the Consumer Price Index being less*
18 *than 3 percent, no such cost-of-living increase shall be made*
19 *by reason of this paragraph. For purposes of any subsequent*
20 *determination of a cost-of-living increase based upon a period*
21 *of more than 12 months, the percentage of the cost-of-living*
22 *increase (if any) to be applied under paragraph (2) shall be*
23 *the sum of the percentage increases for each relevant 12-*
24 *month period in such longer period which would have been*
25 *effective under this subsection (including this paragraph) but*

1 *for the provision of paragraph (1) which limits such increases*
2 *only to cases in which the relevant increase in the Consumer*
3 *Price Index is equal to or greater than 3 percent.*

4 “(C) *The Secretary shall make the finding with respect*
5 *to the combined trust funds ratio (as of the start of business*
6 *on January 1 of each calendar year) on October 1 of each*
7 *calendar year, based upon the most recent data available as*
8 *of that time.*

9 “(D) *For purposes of this paragraph, the term ‘com-*
10 *bined trust funds ratio’ means the ratio of—*

11 “(i) *the combined balance in the Federal Old-Age*
12 *and Survivors Insurance Trust Fund and the Federal*
13 *Disability Insurance Trust Fund, reduced by the*
14 *amount of any outstanding loan (including interest*
15 *thereon) from the Federal Hospital Insurance Trust*
16 *Fund, as of the start of business on January 1 of any*
17 *calendar year, to*

18 “(ii) *the amount estimated by the Secretary to be*
19 *the total amount to be paid from the Federal Old-Age*
20 *and Survivors Insurance Trust Fund and the Federal*
21 *Disability Insurance Trust Fund during such calendar*
22 *year for all purposes authorized by section 201, but ex-*
23 *cluding any transfer payments between such trust*
24 *funds and reducing the amount of any transfer to the*
25 *Railroad Retirement Account by the amount of any*

1 *transfers into either such trust fund from the Railroad*
2 *Retirement Account.*

3 *“(E) If any increase under paragraph (2) has been de-*
4 *termined on the basis of the substitute formula in subpara-*
5 *graph (A)(i) of this paragraph, and, for any succeeding cal-*
6 *endar year, the Secretary determines that the combined trust*
7 *funds ratio is greater than 32.0 percent, the Secretary shall*
8 *pay additional benefits with respect to the 12-month period*
9 *beginning with the following December in amounts not to*
10 *exceed—*

11 *“(i) in the aggregate, a total amount which, ac-*
12 *cording to actuarial estimate, equals the amount by*
13 *which the balance in such trust funds on the date of*
14 *such determination exceeds the amount necessary to*
15 *effect a combined trust funds ratio of 32.0 percent for*
16 *the following year; and*

17 *“(ii) with respect to any individual, for benefits*
18 *for each month in such 12-month period, an amount*
19 *equal to one-twelfth of the total amount by which all*
20 *benefits paid to him during all previous years were less*
21 *than the amounts which would have been paid to him*
22 *but for the provisions of this paragraph.*

23 *Such additional benefits shall be paid as a percentage in-*
24 *crease in the monthly benefits otherwise payable for months*
25 *during such 12-month period. If there are not sufficient*

1 funds available to pay additional benefits in the full amount
2 to all individuals (taking into account the limitation in
3 clause (i)), amounts paid under this subparagraph shall be
4 paid on a pro rata basis to all individuals who are entitled to
5 any such amount and are entitled to a benefit under this title
6 for the months in which such additional amounts are being
7 paid.

8 “(F) In any case in which additional payments are
9 made by reason of the provisions of subparagraph (E), for
10 purposes of determining benefit amounts for months after the
11 12-month period for which such additional benefits were
12 made, the percentage increase under this subsection applica-
13 ble to benefits payable for such 12-month period shall be
14 deemed to be the actual percentage achieved by reason of such
15 additional payments (as measured with respect to payments
16 which are not subject to reduction under any other provision
17 of this Act).”

18 (c) Only with respect to the determination made for
19 January 1, 1988, the combined trust fund ratio for such year
20 (for purposes of determining the increase under section
21 215(i) of the Social Security Act for benefits payable for
22 December of such year) shall be determined by using the ac-
23 tuarial estimate of the Secretary of Health and Human serv-
24 ices of the ratio of—

1 (1) *the combined balance which will be available*
2 *in the Federal Old-Age and Survivors Insurance*
3 *Trust Fund and the Federal Disability Insurance*
4 *Trust Fund, reduced by the amount of any outstanding*
5 *loan (including interest thereon) from the Federal Hos-*
6 *pital Insurance Trust Fund, at the close of business on*
7 *December 31 of such calendar year, to*

8 (2) *the amount estimated by the Secretary to be*
9 *the total amount to be paid from the Federal Old-Age*
10 *and Survivors Insurance Trust Fund and the Federal*
11 *Disability Insurance Trust Fund for calendar year*
12 *1988 for all purposes authorized by section 201 of such*
13 *Act, but excluding any transfer payments between such*
14 *trust funds, and reducing the amount of any transfer*
15 *to the Railroad Retirement Account by the amount of*
16 *any transfers into either such trust fund from the Rail-*
17 *road Retirement Account.*

18 (d) *Section 1617(a)(2) of the Social Security Act is*
19 *amended by inserting “, or, if greater, the percentage by*
20 *which benefit amounts under title II would be increased for*
21 *such month but for the provisions of section 215(i)(5),” after*
22 *“are increased for such month”.*

1 INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON
2 ACCOUNT OF DELAYED RETIREMENT

3 SEC. 118. (a) Section 202(w)(1)(A) of the Social Secu-
4 rity Act is amended to read as follows:

5 “(A) the applicable percentage (as determined
6 under paragraph (6)) of such amount, multiplied by”.

7 (b) Section 202(w) of such Act is amended by adding at
8 the end thereof the following new paragraph:

9 “(6) For purposes of paragraph (1)(A), the applicable
10 percentage is—

11 “(A) $\frac{1}{12}$ of 1 percent in the case of an individual
12 who first becomes eligible for an old-age insurance
13 benefit before 1979; and

14 “(B) $\frac{1}{4}$ of 1 percent in the case of an individual
15 who first becomes so eligible after 1978, and before
16 1990;

17 “(C) in the case of an individual who first be-
18 comes so eligible after 1989 and before 2009, a per-
19 centage equal to the percentage in effect under this sub-
20 paragraph for individuals who first became eligible in
21 the preceding calendar year (as increased pursuant to
22 this clause), plus $\frac{1}{48}$ of 1 percent, and

23 “(D) in the case of an individual who first be-
24 comes so eligible after 2008, $\frac{2}{3}$ of 1 percent.”.

1 (c)(1) Paragraphs (2)(A) and (3) of section 202(w) of
2 such Act are each amended by striking out “age 72” and
3 inserting in lieu thereof “age 70”.

4 (2) The amendments made by paragraph (1) shall apply
5 with respect to increment months in calendar years after
6 1983.

7 INCREASE IN RETIREMENT AGE

8 SEC. 119. (a) Section 216 of the Social Security Act is
9 amended by inserting before subsection (b) the following new
10 subsection:

11 “Retirement Age

12 “(a) (1) The term ‘retirement age’ means—

13 “(A) with respect to an individual who attains the
14 early retirement age (as defined in paragraph (2))
15 before January 1, 2000, 65 years of age;

16 “(B) with respect to an individual who attains
17 early retirement age after December 31, 1999, and
18 before January 1, 2012, 65 years of age plus the
19 number of months in the age increase factor (as deter-
20 mined under paragraph (3)) for the year in which such
21 individual attains early retirement age; and

22 “(C) with respect to an individual who attains
23 early retirement age after December 31, 2014, 66
24 years of age.

1 “(2) The term ‘early retirement age’ means age 62 in
2 the case of an old-age, wife’s, or husband’s benefit, and age
3 60 in the case of a widow’s or widower’s benefit.

4 “(3) The age increase factor for individuals who attain
5 early retirement age in the period described in subparagraph
6 (B) shall be equal to one-twelfth of the number of months in
7 the period beginning with January 2000 and ending with
8 December of the year in which the individual attains early
9 retirement age.

10 (b)(1) Section 202(q)(9) of such Act is amended to read
11 as follows:

12 “(9) The amount of the reduction for early retirement
13 specified in paragraph (1) shall be periodically revised by the
14 Secretary such that—

15 “(A) for old-age insurance benefits, wife’s insur-
16 ance benefits, and husband’s insurance benefits, the re-
17 duction applicable to an individual entitled to such a
18 benefit at an age not more than 3 years lower than the
19 retirement age applicable to such individual, shall be
20 the same as under such paragraph (1), and such reduc-
21 tion shall be increased by five-twelfths of 1 percent for
22 each month below that age which is 3 years lower than
23 the applicable retirement age; and

24 “(B) for widow’s insurance benefits and widow-
25 er’s insurance benefits, the reduction for those entitled

1 to such benefits at the earliest possible early retirement
 2 age shall be the same as specified in paragraph (1),
 3 and those for later ages shall be established by linear
 4 interpolation between the applicable reduction for such
 5 earliest possible early retirement age and a factor of
 6 unity at the applicable retirement age.”.

7 (2) Section 202(q)(1) of such Act is amended by strik-
 8 ing out “If” and inserting in lieu thereof “Subject to para-
 9 graph (9), if”.

10 (c) *The Social Security Act is amended—*

11 (1) *by striking out “age 65” or “age of 65”, as*
 12 *the case may be, each place it appears in the following*
 13 *sections and inserting in lieu thereof in each instance*
 14 *“retirement age (as defined in section 216(a))”:*

15 (A) *subsections (a), (b), (c), (d), (e), (f), (q),*
 16 *(r), and (w) of section 202,*

17 (B) *subsections (c) and (f) of section 203,*

18 (C) *section 211(b)(3),*

19 (D) *subsection (f) of section 215,*

20 (E) *subsections (h) and (i) of section 216,*

21 (F) *section 223(a),*

22 (G) *subsections (a), (b), (c), and (e) of sec-*
 23 *tion 226,*

24 (H) *section 1811,*

25 (I) *section 1818(a)(1),*

1 (J) section 1836(2),
2 (K) section 1837,
3 (L) subsections (c) and (f) of section 1839,
4 (M) section 1838,
5 (N) section 1844(a), and
6 (O) section 1876(a)(5);

7 (2) by striking out "age sixty-five" in section
8 203(c) and inserting in lieu thereof "retirement age (as
9 defined in section 216(a))"; and

10 (3) by striking out "age of sixty-five" in section
11 223(a) and inserting in lieu thereof "retirement age
12 (as defined in section 216(a))".

13 **ADJUSTMENTS IN OASDI BENEFIT FORMULA**

14 **SEC. 120.** (a) Section 215(a)(1)(A) of the Social Secu-
15 rity Act is amended by striking out "90 percent" in clause
16 (i), "32 percent" in clause (ii), and "15 percent" in clause
17 (iii) and inserting in lieu thereof in each instance "the appli-
18 cable percentage (determined under paragraph (8))".

19 (b) The first sentence of section 215(a)(7)(B) of such
20 Act (as added by section 113(a) of this Act) is amended by
21 striking out "61 percent" and inserting in lieu thereof "the
22 applicable percentage as determined under paragraph (8)".

23 (c) Section 215(a) of such Act is further amended by
24 adding at the end thereof (after the new paragraph added by
25 section 113 of this Act) the following new paragraph:

1 “(8) The ‘applicable percentages’ for purposes of clauses
2 (i), (ii), and (iii) of paragraph (1)(A), and the ‘applicable
3 percentage’ for purposes of the first sentence of paragraph
4 (7)(B), shall be determined as follows:

| “For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits) in— | The ‘applicable percentage’— | | |
|--|--|--|--|
| | for purposes of clause (i) of paragraph (1)(A) is— | for purposes of clause (ii) of paragraph (1)(A) and the first sentence of paragraph (7)(B) is— | for purposes of clause (iii) of paragraph (1)(A) is— |
| any year from 1979 | | | |
| through 1999 | 90.0 | 32.0 | 15.0 |
| 2000..... | 89.4 | 31.8 | 14.9 |
| 2001..... | 88.8 | 31.6 | 14.8 |
| 2002..... | 88.2 | 31.4 | 14.7 |
| 2003..... | 87.6 | 31.1 | 14.6 |
| 2004..... | 87.0 | 30.9 | 14.5 |
| 2005..... | 86.4 | 30.7 | 14.4 |
| 2006..... | 85.8 | 30.5 | 14.3 |
| 2007 or thereafter | 85.2 | 30.3 | 14.2 |

5 **PHASEOUT OF EARNINGS LIMITATION FOR BENEFICI-**
6 **ARIES WHO HAVE ATTAINED RETIREMENT AGE**

7 **SEC. 121. (a) Section 203(f)(8)(D) of the Social Secu-**
8 **rity Act is amended by inserting “(i)” after “(D)” and**
9 **adding at the end thereof the following new clause:**

10 “(i) Notwithstanding any other provision of this sub-
11 section, the exempt amount applicable to any individual who
12 has attained retirement age, as otherwise determined under
13 this subsection, shall be increased by—

14 “(I) \$250 for each month in any taxable year
15 ending after 1989 and before 1991;

16 “(II) \$500 for each month in any taxable year
17 ending after 1990 and before 1992;

1 “(III) \$750 for each month in any taxable year
2 ending after 1991 and before 1993;

3 “(IV) \$1,000 for each month in any taxable year
4 ending after 1992 and before 1994; and

5 “(V) \$1,250 for each month in any taxable year
6 ending after 1993 and before 1995.”.

7 (b) Section 203(c)(1) of the Social Security Act is
8 amended by striking out “the age of seventy” and inserting
9 in lieu thereof “retirement age”.

10 (c) The last sentence of section 203(c) of such Act is
11 amended by striking out “nor shall any deduction” and all
12 that follows and inserting in lieu thereof “nor shall any de-
13 duction be made under this subsection from any widow’s or
14 widower’s insurance benefits if the widow, surviving divorced
15 wife, widower, or surviving divorced husband involved
16 became entitled to such benefit prior to attaining age 60.”.

17 (d) Section 203(d)(1) of such Act is amended by strik-
18 ing out “the age of seventy” and inserting in lieu thereof
19 “retirement age”.

20 (e) Section 203(f)(1) of such Act is amended—

21 (1) in clause (B), by striking out “the age of sev-
22 enty” and inserting in lieu thereof “retirement age”;

23 (2) by amending clause (D) to read as follows:

24 “(D) for which such individual is entitled to widow’s

1 *or widower's insurance benefits if such individual*
2 *became so entitled prior to attaining age 60,"*; and

3 (3) *by striking out "the applicable exempt*
4 *amount" each place it appears and inserting in lieu*
5 *thereof in each instance "the exempt amount".*

6 (f) *Section 203(f)(3) of such Act is amended—*

7 (1) *by striking out "applicable exempt amount"*
8 *and inserting in lieu thereof "exempt amount";* and

9 (2) *by striking out "age 70" and inserting in lieu*
10 *thereof "retirement age".*

11 (g) *Section 203(f)(4)(B) of such Act is amended by*
12 *striking out "applicable exempt amount" and inserting in*
13 *lieu thereof "exempt amount".*

14 (h) *Section 203(f)(8)(A) of such Act is amended by*
15 *striking out "exempt amounts (separately stated for individ-*
16 *uals described in subparagraph (D) and for other individ-*
17 *uals) which are to be applicable" and inserting in lieu thereof*
18 *"exempt amount which is to be applicable".*

19 (i) *Section 203(f)(8)(B) of such Act is amended—*

20 (1) *by striking out "Except as otherwise provided*
21 *in subparagraph (D), the exempt amount which is ap-*
22 *plicable to individuals described in such subparagraph*
23 *and the exempt amount which is applicable to other in-*
24 *dividuals, for each month of a particular taxable year,*
25 *shall each be" and inserting in lieu thereof "The*

1 *exempt amount for each month of a particular taxable*
2 *year shall be”;*

3 *(2) in clause (i), by striking out “corresponding”;*
4 *and*

5 *(3) in the matter following clause (ii), by striking*
6 *out “an exempt amount” and inserting in lieu thereof*
7 *“the exempt amount”.*

8 *(j) Section 203(f)(8) of such Act is amended by striking*
9 *out subparagraph (D) thereof.*

10 *(k) Section 203(h)(1)(A) of such Act is amended—*

11 *(1) by striking out “applicable exempt amount”*
12 *and inserting in lieu thereof “exempt amount”; and*

13 *(2) by striking out “age 70” each place it appears*
14 *and inserting in lieu thereof in each instance “retire-*
15 *ment age”.*

16 *(l) Section 203(j) of such Act is amended—*

17 *(1) by striking out “Age Seventy” in the heading*
18 *thereof and inserting in lieu thereof “Retirement Age”;*
19 *and*

20 *(2) by striking out “seventy years of age” and in-*
21 *serting in lieu thereof “retirement age”.*

22 *(m) Section 202(w)(2) of such Act (as amended by sec-*
23 *tion 118 of this Act) is further amended by inserting “for*
24 *months prior to 1984” before “and prior”.*

1 *which such individual is confined in a jail, prison, or other*
2 *penal institution or correctional facility, pursuant to his con-*
3 *viction of an offense which constituted a felony under appli-*
4 *cable law.*

5 “(2) *Benefits which would be payable to any individual*
6 *(other than a confined individual to whom benefits are not*
7 *payable by reason of paragraph (1)) under this title on the*
8 *basis of the wages and self-employment income of such a con-*
9 *fin ed individual but for the provisions of paragraph (1), shall*
10 *be payable as though such confined individual were receiving*
11 *such benefits.*

12 “(3) *Notwithstanding the provisions of section 552a of*
13 *title 5, United States Code, or any other provision of Federal*
14 *or State law, any agency of the United States Government*
15 *or of any State (or political subdivision thereof) shall make*
16 *available to the Secretary, upon written request, the name*
17 *and social security account number of any individual who is*
18 *confined in a jail, prison, or other penal institution or correc-*
19 *tional facility under the jurisdiction of such agency, pursu-*
20 *ant to his conviction of an offense which constituted a felony*
21 *under applicable law, which the Secretary may require to*
22 *carry out the provisions of this subsection.”.*

23 **(b)** *Section 223 of such Act is amended by striking out*
24 *subsection (f).*

1 (c) *The amendments made by subsections (a) and (b)*
2 *shall apply with respect to monthly benefits payable for*
3 *months beginning on or after the date of the enactment of this*
4 *Act.*

5 LIMITATIONS ON PAYMENTS TO NONRESIDENT ALIENS

6 SEC. 124. (a) *Section 202(t)(1) of the Social Security*
7 *Act is amended to read as follows:*

8 “(1)(A) *Notwithstanding any other provision of this*
9 *title (but subject to subparagraphs (B) through (D) of this*
10 *paragraph), no monthly benefit shall be paid under this sec-*
11 *tion or section 223 for any month to any individual who is*
12 *not a citizen or national of the United States if such individ-*
13 *ual is outside the United States.*

14 “(B) *For purposes of this paragraph, an individual*
15 *shall be considered to be outside the United States in any*
16 *month only if such month occurs—*

17 “(i) *after the sixth consecutive calendar month*
18 *during all of which (as determined by the Secretary on*
19 *the basis of information furnished to him by the Attor-*
20 *ney General or information which otherwise comes to*
21 *his attention) such individual is outside the United*
22 *States, and*

23 “(ii) *prior to the first month thereafter during all*
24 *of which such individual has been in the United*
25 *States;*

1 *but in applying the preceding provisions of this subparagraph*
2 *an individual who has been outside the United States for any*
3 *period of 30 consecutive days shall be treated as remaining*
4 *outside the United States until he has been in the United*
5 *States for a period of 30 consecutive days.*

6 “(C)(i) *An individual who is otherwise prevented by*
7 *subparagraph (A) from receiving benefits under this title*
8 *shall nevertheless be paid such benefits, as though such sub-*
9 *paragraph were inapplicable, until the total amount of such*
10 *benefits (excluding amounts withheld from such benefits*
11 *under section 1441 of the Internal Revenue Code of 1954)*
12 *equals the total amount of the taxes payable under sections*
13 *3101 and 1401 of the Internal Revenue Code of 1954 (or the*
14 *corresponding provisions of prior law) with respect to the*
15 *wages and self-employment income on which such benefits*
16 *are based (as determined by the Secretary on the basis of*
17 *such wages and self-employment income) plus interest (as de-*
18 *termined under clause (iii)).*

19 “(ii) *In determining the total amount of benefits pay-*
20 *able to an individual under clause (i) with respect to the*
21 *wages and self-employment income of any individual, the*
22 *Secretary shall take into account all benefits paid before such*
23 *determination is made on the basis of such wages and self-*
24 *employment income (wherever paid).*

1 “(iii) For purposes of this subparagraph, interest on
2 taxes payable under sections 3101 and 1401 of the Internal
3 Revenue Code of 1954 (or corresponding provisions of prior
4 law) shall be compounded annually from July 1 of the year
5 in which such taxes were payable only until the last day of
6 the year preceding the year in which the individual on the
7 basis of whose wages and self-employment income benefits
8 are to be paid attains age 62, becomes disabled, or dies,
9 whichever occurs first, at a rate of 3.0 percent for the period
10 after 1936 and before 1951, and, for each year after 1950, at
11 a rate equal to the average of the twelve monthly interest rates
12 determined under section 201 for such year.

13 “(D) For purposes of this paragraph, the term ‘United
14 States’ (when used in either a geographical or political sense)
15 means the States, the District of Columbia, the Common-
16 wealth of Puerto Rico, the Virgin Islands, Guam, American
17 Samoa, the Trust Territory of the Pacific Islands, and any
18 other territory or possession of the United States.”.

19 (b) Section 202(t)(2) of such Act is repealed.

20 (c) Section 202(t)(3) of such Act is amended to read as
21 follows:

22 “(3) Paragraph (1) shall not apply—

23 “(A) in any case where its application would be
24 contrary to any treaty obligation of the United States

1 *in effect on the date of the enactment of the Social Se-*
2 *curity Amendments of 1983, or*

3 *“(B) to individuals who are citizens or residents*
4 *of a country with which the United States has con-*
5 *cluded an international social security agreement pur-*
6 *suant to section 233, unless otherwise provided by such*
7 *agreement.”.*

8 *(d) Section 202(t)(4) of such Act is amended—*

9 *(1) by striking out subparagraphs (A) and (B);*

10 *(2) by redesignating subparagraphs (C), (D), and*
11 *(E) as subparagraphs (A), (B), and (C); and*

12 *(3) by striking out the semicolon at the end of*
13 *subparagraph (C) (as so redesignated) and all that fol-*
14 *lows and inserting in lieu thereof a period.*

15 *(e) The heading of section 202(t) of such Act is amended*
16 *by adding at the end thereof the following: “; Prohibition*
17 *Against Payment of Benefits to Aliens Not Permanent Resi-*
18 *dents”.*

19 *(f)(1) The amendments made by the preceding subsec-*
20 *tions shall apply with respect to any individual who initially*
21 *becomes eligible for benefits under section 202 or 223 of the*
22 *Social Security Act after December 31, 1984.*

23 *(2) Section 202(t) of the Social Security Act (as in*
24 *effect on the day before the date of enactment of this Act)*
25 *shall apply with respect to individuals who are eligible for*

1 *benefits under section 202 or 223 of such Act before January*
2 *1, 1985.*

3 *REDUCTION OF COST-OF-LIVING INCREASE IF TRUST*
4 *FUNDS RATIO IS BELOW 20 PERCENT AND DECLINING*

5 *SEC. 125. (a) Section 215(i) of the Social Security Act*
6 *is amended by adding at the end thereof the following new*
7 *paragraph:*

8 *“(5)(A) On or before July 1 of each calendar year after*
9 *1983, the Secretary shall determine whether the estimated*
10 *OASDI trust fund ratio for the second calendar year follow-*
11 *ing such calendar year will be—*

12 *“(i) less than 20.0 percent; and*

13 *“(ii) less than the estimated OASDI trust fund*
14 *ratio for the first calendar year following the year in*
15 *which such determination is made.*

16 *“(B) If the Secretary finds that the OASDI trust fund*
17 *ratio for the second calendar year following such calendar*
18 *year will be less than each of the ratios described in clauses*
19 *(i) and (ii) of subparagraph (A), the Secretary shall—*

20 *“(i) notify the Congress on or before July 1 of*
21 *such calendar year that, absent a change of circum-*
22 *stances, it will be necessary to reduce the amount of*
23 *the percentage cost-of-living increase otherwise payable*
24 *under this subsection with respect to benefits for*
25 *months after November of such calendar year; and*

1 “(ii) absent a change of circumstances before such
2 cost-of-living increase is determined that will allow the
3 full amount of benefits otherwise payable to be paid in
4 a timely fashion, reduce the amount of such percentage
5 increase (but not below zero) in accordance with sub-
6 paragraph (C) to the extent necessary to ensure that
7 the OASDI trust fund ratio for the second calendar
8 year following the calendar year in which the determi-
9 nation is made will not fall below the lower of—

10 “(I) 20.0 percent, or

11 “(II) the OASDI trust fund ratio for the
12 calendar year following the calendar year in
13 which the determination is made.

14 “(C) In reducing a cost-of-living percentage increase
15 under subparagraph (B), the Secretary shall first apply such
16 reduction to the percentage increase otherwise payable with
17 respect to monthly benefits payable under this section that are
18 based on a primary insurance amount of \$250 or more for
19 the month preceding such cost-of-living increase; the percent-
20 age increase applied to the primary insurance amount used to
21 determine all other monthly benefits shall not be such as to
22 increase such primary insurance amounts above \$250. If
23 further reduction in outgo is required, a reduction in the per-
24 centage increase applicable with respect to monthly benefits

1 *based on a primary insurance amount of less than \$250 for*
2 *such preceding month shall be made.*

3 “(D) *For purposes of this paragraph, the term ‘OASDI*
4 *trust fund ratio’ shall mean, with respect to any calendar*
5 *year, the ratio of—*

6 “(i) *the amount estimated by the Secretary to be*
7 *equal to the combined balance in the Federal Old-Age*
8 *and Survivors Insurance Trust Fund and the Federal*
9 *Disability Insurance Trust Fund as of the start of*
10 *business on January 1 of such calendar year, taking*
11 *into account any cost-of-living increase that otherwise*
12 *would be made with respect to benefits paid during*
13 *such year, and any actions possible to be taken under*
14 *sections 201(l) and 1817(j) (relating to interfund bor-*
15 *rowing) and 201 (a) and (m) (relating to normalized*
16 *crediting of social security taxes), to*

17 “(ii) *the amount estimated by the Secretary to be*
18 *the total amount to be paid from such Trust Funds*
19 *during such calendar year (other than payments of in-*
20 *terest on, and repayments of loans from), such Trust*
21 *Funds, and reducing the amount of any transfer to the*
22 *Railroad Retirement Account by the amount of any*
23 *transfer to such account from any such Trust Fund.*

24 “(E) *With respect to any calendar year beginning*
25 *before January 1988 for which a determination is required to*

1 *be made under subparagraph (A), the estimated OASDI*
 2 *trust fund ratio for the second calendar year following such*
 3 *calendar year shall be treated as exceeding the estimated*
 4 *OASDI trust fund ratio for the first calendar year following*
 5 *such calendar year if ratio of the estimated combined bal-*
 6 *ances in the Federal Old-Age and Survivors Insurance*
 7 *Trust Fund, the Federal Disability Insurance Trust Fund,*
 8 *and the Federal Hospital Insurance Trust Fund for such*
 9 *second following calendar year to the amounts estimated to be*
 10 *paid from all such Trust Funds during such second following*
 11 *calendar year exceeds the ratio of the estimated balances in*
 12 *all such Trust Funds to estimated payments from all such*
 13 *Trust Funds for such first following calendar year.”.*

14 **PART C—REVENUE PROVISIONS**

15 **SEC. 131. TAXATION OF SOCIAL SECURITY AND TIER 1 RAIL-**
 16 **ROAD RETIREMENT BENEFITS.**

17 (a) **GENERAL RULE.**—Part II of subchapter B of
 18 chapter 1 of the Internal Revenue Code of 1954 (relating to
 19 amounts specifically included in gross income) is amended
 20 by redesignating section 86 as section 87 and by inserting
 21 after section 85 the following new section:

1 **“SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIRE-**
 2 **MENT BENEFITS.**

3 **“(a) IN GENERAL.—***Gross income for the taxable year*
 4 *of any taxpayer described in subsection (b) includes social*
 5 *security benefits in an amount equal to the lesser of—*

6 **“(1) one-half of the social security benefits re-**
 7 **ceived during the taxable year, or**

8 **“(2) one-half of the excess described in subsection**
 9 **(b).**

10 **“(b) TAXPAYERS TO WHOM SUBSECTION (a) AP-**
 11 **PLIES.—**

12 **“(1) IN GENERAL.—***A taxpayer is described in*
 13 *this subsection if—*

14 **“(A) the sum of—**

15 **“(i) the adjusted gross income of the**
 16 **taxpayer for the taxable year, plus**

17 **“(ii) one-half of the social security**
 18 **benefits received during the taxable year, ex-**
 19 **ceeds**

20 **“(B) the base amount.**

21 **“(2) ADJUSTED GROSS INCOME.—***For purposes*
 22 *of this subsection, the adjusted gross income of the tax-*
 23 *payer for the taxable year shall be—*

24 **“(A) determined without regard to this sec-**
 25 **tion and sections 221, 911, and 931, and**

1 “(B) increased by the amount of interest of
2 the taxpayer which is exempt from tax for the
3 taxable year.

4 “(c) *BASE AMOUNT.*—For purposes of this section, the
5 term ‘base amount’ means—

6 “(1) except as otherwise provided in this subsec-
7 tion, \$25,000,

8 “(2) \$32,000, in the case of a joint return, and

9 “(3) zero, in the case of a taxpayer who—

10 “(A) is married at the close of the taxable
11 year (within the meaning of section 143) but does
12 not file a joint return for such year, and

13 “(B) does not live apart from his spouse at
14 all times during the taxable year.

15 “(d) *SOCIAL SECURITY BENEFIT.*—

16 “(1) *IN GENERAL.*—For purposes of this section,
17 the term ‘social security benefit’ means any amount re-
18 ceived by the taxpayer by reason of entitlement to—

19 “(A) a monthly benefit under title II of the
20 Social Security Act (determined without regard to
21 section 203(i) of the Social Security Act), or

22 “(B) a tier 1 railroad retirement benefit.

23 “(2) *ADJUSTMENT FOR REPAYMENTS DURING*
24 *YEAR.*—

1 “(A) *IN GENERAL.*—For purposes of this
2 section, the amount of social security benefits re-
3 ceived during any taxable year shall be reduced
4 by any repayment made by the taxpayer during
5 the taxable year of a social security benefit previ-
6 ously received by the taxpayer (whether or not
7 such benefit was received during the taxable
8 year).

9 “(B) *DENIAL OF DEDUCTION.*—If (but for
10 this subparagraph) any portion of the repayments
11 referred to in subparagraph (A) would have been
12 allowable as a deduction for the taxable year
13 under section 165, such portion shall be allowable
14 as a deduction only to the extent it exceeds the
15 social security benefits received by the taxpayer
16 during the taxable year (and not repaid during
17 such taxable year).

18 “(3) *TIER 1 RAILROAD RETIREMENT BENE-*
19 *FIT.*—For purposes of paragraph (1), the term ‘tier 1
20 railroad retirement benefit’ means a monthly benefit
21 under section 3(a), 4(a), or 4(f) of the Railroad Retirement
22 Act of 1974.

23 “(e) *LIMITATION ON AMOUNT INCLUDED WHERE*
24 *TAXPAYER RECEIVES LUMP-SUM PAYMENT.*—

25 “(1) *LIMITATION.*—If—

1 “(A) any portion of a lump-sum payment of
2 social security benefits received during the taxable
3 year is attributable to prior taxable years, and

4 “(B) the taxpayer makes an election under
5 this subsection for the taxable year,

6 then the amount included in gross income under this section
7 for the taxable year by reason of the receipt of such portion
8 shall not exceed the sum of the increases in gross income
9 under this chapter for prior taxable years which would result
10 solely from taking into account such portion in the taxable
11 years to which it is attributable.

12 “(2) SPECIAL RULES.—

13 “(A) YEAR TO WHICH BENEFIT ATTRIBUT-
14 ABLE.—For purposes of this subsection, a social
15 security benefit is attributable to a taxable year if
16 the generally applicable payment date for such
17 benefit occurred during such taxable year.

18 “(B) ELECTION.—An election under this
19 subsection shall be made at such time and in such
20 manner as the Secretary shall by regulations pre-
21 scribe. Such election, once made, may be revoked
22 only with the consent of the Secretary.

23 “(f) TREATMENT AS PENSION OR ANNUITY FOR CER-
24 TAIN PURPOSES.—For purposes of—

25 “(1) section 43(c)(2) (defining earned income),

1 “(2) the name and address of such individual.

2 “(b) STATEMENTS TO BE FURNISHED TO INDIVID-
3 UALS WITH RESPECT TO WHOM INFORMATION IS FUR-
4 NISHED.—Every person making a return under subsection
5 (a) shall furnish to each individual whose name is set forth
6 in such return a written statement showing—

7 “(1) the name of the agency making the pay-
8 ments, and

9 “(2) the aggregate amount of payments, of repay-
10 ments, and of reductions, with respect to the individual
11 as shown on such return.

12 The written statement required under the preceding sentence
13 shall be furnished to the individual on or before January 31
14 of the year following the calendar year for which the return
15 under subsection (a) was made.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) APPROPRIATE FEDERAL OFFICIAL.—The
18 term ‘appropriate Federal official’ means—

19 “(A) the Secretary of Health and Human
20 Services in the case of social security benefits de-
21 scribed in section 86(d)(1)(A), and

22 “(B) the Railroad Retirement Board in the
23 case of social security benefits described in section
24 86(d)(1)(B).

1 “(2) *SOCIAL SECURITY BENEFIT.*—*The term*
2 *‘social security benefit’ has the meaning given to such*
3 *term by section 86(d)(1).’*”

4 (c) *TREATMENT OF NONRESIDENT ALIENS.*—

5 (1) *AMENDMENT OF SECTION 871(a).*—*Subsec-*
6 *tion (a) of section 871 of such Code (relating to tax on*
7 *income not connected with United States business) is*
8 *amended by adding at the end thereof the following*
9 *new paragraph:*

10 “(3) *TAXATION OF SOCIAL SECURITY BENE-*
11 *FITS.*—*For purposes of this section and section*
12 *1441—*

13 “(A) *one-half of any social security benefit*
14 *(as defined in section 86(d)) shall be included in*
15 *gross income, and*

16 “(B) *section 86 shall not apply.*”

17 (2) *DISCLOSURE OF INFORMATION TO SOCIAL*
18 *SECURITY ADMINISTRATION OR RAILROAD RETIRE-*
19 *MENT BOARD.*—

20 (A) *IN GENERAL.*—*Subsection (h) of section*
21 *6103 of such Code (relating to disclosure to cer-*
22 *tain Federal officers and employees for purposes*
23 *of tax administration, etc.) is amended by adding*
24 *at the end thereof the following new paragraph:*

1 “(6) *SOCIAL SECURITY BENEFITS.*—Upon writ-
2 *ten request, the Secretary may disclose available*
3 *return information from the master files of the Internal*
4 *Revenue Service with respect to the address and status*
5 *of an individual as a nonresident alien or as a citizen*
6 *or resident of the United States to the Social Security*
7 *Administration or the Railroad Retirement Board for*
8 *purposes of carrying out its responsibilities under sec-*
9 *tion 1441 with respect to social security benefits (as*
10 *defined in section 86(d)).”*

11 (B) *CONFORMING AMENDMENT.*—Para-
12 *graph (4) of section 6103(p) of such Code (relat-*
13 *ing to safeguards) is amended by inserting*
14 *“(h)(6),” after “(h)(2),” in the material preceding*
15 *subparagraph (A) and in subparagraph (F)(ii)*
16 *thereof.*

17 (d) *SOCIAL SECURITY BENEFITS TREATED AS*
18 *UNITED STATES SOURCED.*—Subsection (a) of section 861
19 *of such Code (relating to income from sources within the*
20 *United States) is amended by adding at the end thereof the*
21 *following new paragraph:*

22 “(8) *SOCIAL SECURITY BENEFITS.*—Any social
23 *security benefit (as defined in section 86(d)).”*

24 (e) *TRANSFERS TO TRUST FUNDS.*—

1 (1) *IN GENERAL.*—*There are hereby appropriated*
2 *to each payor fund amounts equivalent to the aggregate*
3 *increase in tax liabilities under chapter 1 of the Inter-*
4 *nal Revenue Code of 1954 which is attributable to the*
5 *application of sections 86 and 871(a)(3) of such Code*
6 *(as added by this section) to payments from such payor*
7 *fund.*

8 (2) *TRANSFERS.*—*The amounts appropriated by*
9 *paragraph (1) to any payor fund shall be transferred*
10 *from time to time (but not less frequently than quarter-*
11 *ly) from the general fund of the Treasury on the basis*
12 *of estimates made by the Secretary of the Treasury of*
13 *the amounts referred to in such paragraph. Any such*
14 *quarterly payment shall be made on the first day of*
15 *such quarter and shall take into account social security*
16 *benefits estimated to be received during such quarter.*
17 *Proper adjustments shall be made in the amounts sub-*
18 *sequently transferred to the extent prior estimates were*
19 *in excess of or less than the amounts required to be*
20 *transferred.*

21 (3) *DEFINITIONS.*—*For purposes of this subsec-*
22 *tion—*

23 (A) *PAYOR FUND.*—*The term “payor fund”*
24 *means any trust fund or account from which pay-*
25 *ments of social security benefits are made.*

1 (B) *SOCIAL SECURITY BENEFITS.*—*The*
2 *term “social security benefits” has the meaning*
3 *given such term by section 86(d)(1) of the Inter-*
4 *nal Revenue Code of 1954.*

5 (4) *REPORTS.*—*The Secretary of the Treasury*
6 *shall submit annual reports to the Congress and to the*
7 *Secretary of Health and Human Services and the*
8 *Railroad Retirement Board on—*

9 (A) *the transfers made under this subsection*
10 *during the year, and the methodology used in de-*
11 *termining the amount of such transfers and the*
12 *funds or account to which made, and*

13 (B) *the anticipated operation of this subsec-*
14 *tion during the next 5 years.*

15 (f) *TECHNICAL AMENDMENTS.*—

16 (1) *Subsection (a) of section 85 of such Code is*
17 *amended by striking out “this section,” and inserting*
18 *in lieu thereof “this section, section 86,”.*

19 (2) *Subparagraph (B) of section 128(c)(3) of such*
20 *Code (as in effect for taxable years beginning after De-*
21 *cember 31, 1984) is amended by striking out “85,”*
22 *and inserting in lieu thereof “85, 86,”.*

23 (3) *The table of sections for part II of subchapter*
24 *B of chapter 1 of such Code is amended by striking*

1 out the item relating to section 86 and inserting in lieu
2 thereof the following:

*"Sec. 86. Social security and tier 1 railroad retirement benefits.
"Sec. 87. Alcohol fuel credit."*

3 (4) *The table of sections for subpart B of part III*
4 *of subchapter A of chapter 61 of such Code is amended*
5 *by adding at the end thereof the following new item:*

"Sec. 6050F. Returns relating to social security benefits."

6 (g) *EFFECTIVE DATES.—*

7 (1) *IN GENERAL.—Except as provided in para-*
8 *graph (2), the amendments made by this section shall*
9 *apply to benefits received after December 31, 1983, in*
10 *taxable years ending after such date.*

11 (2) *TREATMENT OF CERTAIN LUMP-SUM PAY-*
12 *MENTS RECEIVED AFTER DECEMBER 31, 1983.—The*
13 *amendments made by this section shall not apply to*
14 *any portion of a lump-sum payment of social security*
15 *benefits (as defined in section 86(d) of the Internal*
16 *Revenue Code of 1954) received after December 31,*
17 *1983, if the generally applicable payment date for such*
18 *portion was before January 1, 1984.*

19 **SEC. 132. ACCELERATION OF INCREASES IN FICA TAXES; 1984**

20 **EMPLOYEE TAX CREDIT.**

21 (a) **ACCELERATION OF INCREASES IN FICA**
22 **TAXES.—**

23 (1) **TAX ON EMPLOYEES.—***Subsection (a) of sec-*
24 *tion 3101 of the Internal Revenue Code of 1954 (relat-*

1 ing to rate of tax on employees for old-age, survivors,
2 and disability insurance) is amended by striking out
3 paragraphs (1) through (7) and inserting in lieu there-
4 of the following:

| <i>"In cases of wages received during:</i> | <i>The rate shall be:</i> |
|--|---------------------------|
| 1984, 1985, 1986, or 1987..... | 5.7 percent |
| 1988 or 1989..... | 6.06 percent |
| 1990 or thereafter..... | 6.2 percent." |

5 (2) *EMPLOYER TAX.*—Subsection (a) of section
6 3111 of such Code is amended by striking out para-
7 graphs (1) through (7) and inserting in lieu thereof the
8 following:

| <i>"In cases of wages paid during:</i> | <i>The rate shall be:</i> |
|--|---------------------------|
| 1984, 1985, 1986, or 1987..... | 5.7 percent |
| 1988 or 1989..... | 6.06 percent |
| 1990 or thereafter..... | 6.2 percent." |

9 (3) *EFFECTIVE DATE.*—The amendments made
10 by this subsection shall apply to remuneration paid
11 after December 31, 1983.

12 (b) *1984 EMPLOYEE TAX CREDIT.*—

13 (1) *IN GENERAL.*—Chapter 25 of such Code is
14 amended by adding at the end thereof the following
15 new section:

16 "**SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EM-**
17 **PLOYEE TAXES AND RAILROAD RETIREMENT**
18 **TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.**

19 “(a) *GENERAL RULE.*—There shall be allowed as a
20 credit against the tax imposed by section 3101(a) on wages

1 received during 1984 an amount equal to $\frac{3}{10}$ of 1 percent of
2 the wages so received.

3 “(b) *TIME CREDIT ALLOWED.*—The credit under sub-
4 section (a) shall be taken into account in determining the
5 amount of the tax deducted under section 3102(a).

6 “(c) *WAGES.*—For purposes of this section, the term
7 ‘wages’ has the meaning given to such term by section
8 3121(a).

9 “(d) *APPLICATION TO AGREEMENTS UNDER SEC-*
10 *TION 218 OF THE SOCIAL SECURITY ACT.*—For purposes
11 of determining amounts equivalent to the tax imposed by sec-
12 tion 3101(a) with respect to remuneration which—

13 “(1) is covered by an agreement under section
14 218 of the Social Security Act, and

15 “(2) is paid during 1984,
16 the credit allowed by subsection (a) shall be taken into ac-
17 count. A similar rule shall also apply in the case of an agree-
18 ment under section 3121(l).

19 “(e) *CREDIT AGAINST RAILROAD RETIREMENT EM-*
20 *PLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.*—

21 “(1) *IN GENERAL.*—There shall be allowed as a
22 credit against the taxes imposed by sections 3201(a)
23 and 3211(a) on compensation paid during 1984 and
24 subject to such taxes an amount equal to $\frac{3}{10}$ of 1 per-
25 cent of such compensation.

1 “(2) *TIME CREDIT ALLOWED.*—*The credit under*
2 *paragraph (1) shall be taken into account in determin-*
3 *ing the amount of the tax deducted under section*
4 *3202(a) (or the amount of the tax under section*
5 *3211(a)).*

6 “(3) *COMPENSATION.*—*For purposes of this sub-*
7 *section, the term ‘compensation’ has the meaning given*
8 *to such term by section 3231(e).*

9 “(f) *COORDINATION WITH SECTION 6413(c).*—*For*
10 *purposes of subsection (c) of section 6413, in determining the*
11 *amount of the tax imposed by section 3101 or 3201, any*
12 *credit allowed by this section shall be taken into account.”.*

13 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
14 *tions for chapter 25 of such Code is amended by*
15 *adding at the end thereof the following new item:*

*“Sec. 3510. Credit for increased social security employee taxes and
railroad retirement tier 1 employee taxes imposed
during 1984.”.*

16 (3) *EFFECTIVE DATE.*—*The amendments made*
17 *by this subsection shall apply to remuneration paid*
18 *during 1984.*

19 (4) *DEPOSITS IN SOCIAL SECURITY TRUST*
20 *FUNDS.*—*For purposes of subsection (h) of section 218*
21 *of the Social Security Act (relating to deposits in*
22 *social security trust funds of amounts received under*
23 *section 218 agreements), amounts allowed as a credit*
24 *pursuant to subsection (d) of section 3510 of the Inter-*

1 *nal Revenue Code of 1954 (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.*

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6 *(5) DEPOSITS IN RAILROAD RETIREMENT ACCOUNT.—For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974, amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1954 shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code.*

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13 *(6) STATEMENTS FURNISHED TO EMPLOYEES.—Any written statement which is required to be furnished to an employee under section 6051(a) with respect to remuneration paid during 1984 shall include—*

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18 *(A) the total amount which would have been deducted and withheld as a tax under section 3101 if the credit allowable under section 3510 had not been taken into account, and*

19
20
21
22 *(B) the amount of the credit allowable under section 3510.*

23

1 **SEC. 133. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT**
 2 **AGAINST SUCH TAXES.**

3 (a) *INCREASE IN RATES.*—Subsections (a) and (b) of
 4 section 1401 of the Internal Revenue Code of 1954 (relating
 5 to rates of tax on self-employment income) are amended to
 6 read as follows:

7 “(a) *OLD-AGE, SURVIVORS, AND DISABILITY INSUR-*
 8 *ANCE.*—In addition to other taxes, there shall be imposed for
 9 each taxable year, on the self-employment income of every
 10 individual, a tax equal to the following percent of the amount
 11 of the self-employment income for such taxable year:

“In the case of a taxable year

| <i>Beginning after:</i> | <i>And before:</i> | <i>Percent:</i> |
|-------------------------------|-----------------------------|-----------------|
| <i>December 31, 1983.....</i> | <i>January 1, 1988.....</i> | <i>11.40</i> |
| <i>December 31, 1987.....</i> | <i>January 1, 1990.....</i> | <i>12.12</i> |
| <i>December 31, 1989.....</i> | | <i>12.40</i> |

12 “(b) *HOSPITAL INSURANCE.*—In addition to the tax
 13 imposed by the preceding subsection, there shall be imposed
 14 for each taxable year, on the self-employment income of every
 15 individual, a tax equal to the following percent of the amount
 16 of the self-employment income for such taxable year:

“In the case of a taxable year

| <i>Beginning after:</i> | <i>And before:</i> | <i>Percent:</i> |
|-------------------------------|-----------------------------|-----------------|
| <i>December 31, 1983.....</i> | <i>January 1, 1985.....</i> | <i>2.60</i> |
| <i>December 31, 1984.....</i> | <i>January 1, 1986.....</i> | <i>2.70</i> |
| <i>December 31, 1985.....</i> | | <i>2.90.”</i> |

1 (b) *CREDIT AGAINST SELF-EMPLOYMENT TAXES.*—
 2 *Section 1401 of such Code is amended by redesignating sub-*
 3 *section (c) as subsection (d) and by inserting after subsection*
 4 *(b) the following new subsection:*

5 “(c) *CREDIT AGAINST TAXES IMPOSED BY THIS*
 6 *SECTION.*—

7 “(1) *IN GENERAL.*—*There shall be allowed as a*
 8 *credit against the taxes imposed by this section for any*
 9 *taxable year an amount equal to the applicable percent-*
 10 *age of the self-employment income of the individual for*
 11 *such taxable year.*

12 “(2) *APPLICABLE PERCENTAGE.*—*For purposes*
 13 *of paragraph (1), the applicable percentage shall be de-*
 14 *termined in accordance with the following table:*

| <i>“In the case of taxable years beginning in:</i> | <i>The applicable percentage is:</i> |
|--|--|
| 1984..... | 2.9 |
| 1985..... | 2.5 |
| 1986..... | 2.2 |
| 1987, 1988, or 1989..... | 2.1 |
| 1990 or thereafter..... | 2.3.” |

15 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 16 *section shall apply to taxable years beginning after December*
 17 *31, 1983.*

18 *PART D—MISCELLANEOUS FINANCING PROVISIONS*
 19 *ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND*

20 *SEC. 141. (a) Section 201(b)(1) of the Social Security*
 21 *Act is amended by striking out clauses (K) through (M) and*
 22 *inserting in lieu thereof the following: “(K) 1.65 per centum of*

1 *the wages (as so defined) paid after December 31, 1981, and*
2 *before January 1, 1984, and so reported, (L) 1 per centum of*
3 *the wages (as so defined) paid after December 31, 1983, and*
4 *before January 1, 1988, and so reported, (M) 1.06 per*
5 *centum of the wages (as so defined) paid after December 31,*
6 *1987, and before January 1, 1990, and so reported, (N) 1.20*
7 *per centum of the wages (as so defined) paid after December*
8 *31, 1989, and before January 1, 2000, and (M) 1.30 per*
9 *centum of the wages (as so defined) paid after December 31,*
10 *1999, and so reported.”.*

11 *(b) Section 201(b)(2) of such Act is amended by striking*
12 *out clauses (K) through (M) and inserting in lieu thereof the*
13 *following: “(K) 1.2375 per centum of the amount of self-*
14 *employment income (as so defined) so reported for any taxable*
15 *year beginning after December 31, 1981, and before January 1,*
16 *1984, (L) 1 per centum of the amount of self-employment*
17 *income (as so defined) so reported for any taxable year*
18 *beginning after December 31, 1983, and before January 1,*
19 *1988, (M) 1.06 per centum of the amount of self-employment*
20 *income (as so defined) so reported for any taxable year*
21 *beginning after December 31, 1987, and before January 1,*
22 *1990, (N) 1.20 per centum of the self-employment income (as*
23 *so defined) so reported for any taxable year beginning after*
24 *December 31, 1989, and before January 1, 2000, and (M)*
25 *1.30 per centum of the amount of self-employment income (as*

1 *so defined) so reported for any taxable year beginning after*
2 *December 31, 1999,”.*

3 *INTERFUND BORROWING EXTENSION*

4 *SEC. 142. (a)(1) Section 201(l)(1) of the Social Secu-*
5 *rity Act is amended—*

6 *(A) by striking out “January 1983” and insert-*
7 *ing in lieu thereof “January 1988”; and*

8 *(B) by inserting after “or” the second place it ap-*
9 *pears “, subject to paragraph (5),”.*

10 *(2) (A) Section 201(l)(2) of such Act is amended—*

11 *(i) by striking out “from time to time” and insert-*
12 *ing in lieu thereof “on the last day of each month after*
13 *such loan is made”;*

14 *(ii) by striking out “interest” and inserting in*
15 *lieu thereof “the total interest accrued to such day”;*
16 *and*

17 *(iii) by striking out “the loan were an investment*
18 *under subsection (d)” and inserting in lieu thereof*
19 *“such amount had remained in the Depository Account*
20 *established with respect to such lending Trust Fund*
21 *under subsection (d) or section 1817(c)”.*

22 *(B) The amendment made by this paragraph shall*
23 *apply with respect to months beginning more than thirty days*
24 *after the date of enactment of this Act.*

25 *(3) Section 201(l)(3) of such Act is amended—*

1 (A) by inserting “(A)” after the paragraph desig-
2 nation; and

3 (B) by adding at the end thereof the following
4 new subparagraphs:

5 “(B)(i) If on the last day of any year after a loan has
6 been made under paragraph (1) by the Federal Hospital In-
7 surance Trust Fund to the Federal Old Age and Survivors
8 Trust Fund or the Federal Disability Insurance Trust
9 Fund, the Managing Trustee determines that the OASDI
10 trust fund ratio exceeds 15 percent, he shall transfer from the
11 borrowing Trust Fund to the Federal Hospital Insurance
12 Trust Fund an amount that—

13 “(I) together with any amounts transferred from
14 another borrowing Trust Fund under this paragraph
15 for such year, will reduce the OASDI trust fund ratio
16 to 15 percent; and

17 “(II) does not exceed the outstanding balance of
18 such loan.

19 “(ii) Amounts required to be transferred under clause
20 (i) shall be transferred on the last day of the first month of
21 the year succeeding the year in which the determination de-
22 scribed in clause (i) is made.

23 “(iii) For purposes of this subparagraph, the term
24 ‘OASDI trust fund ratio’ means, with respect to any calen-
25 dar year, the ratio of—

1 “(I) the combined balance in the Federal Old Age
2 and Survivors Insurance Trust Fund and the Federal
3 Disability Insurance Trust Fund, reduced by the out-
4 standing amount of any loan (including interest there-
5 on) theretofore made to either such Fund from the Fed-
6 eral Hospital Insurance Trust Fund, as of the last day
7 of such calendar year, to

8 “(II) the amount estimated by the Secretary to be
9 the total amount to be paid from the Federal Old Age
10 and Survivors Insurance Trust Fund and the Federal
11 Disability Insurance Trust Fund during the calendar
12 year following such calendar year for all purposes au-
13 thorized by section 201 (other than payments of inter-
14 est on, and repayments of, loans from the Federal Hos-
15 pital Insurance Trust Fund under paragraph (1)), but
16 excluding any transfer payments between such trust
17 funds and reducing the amount of any transfer to the
18 Railroad Retirement Account by the amount of any
19 transfers into either such trust fund from that Account.

20 “(C)(i) The full amount of all loans made under para-
21 graph (1) (whether made before or after January 1, 1983)
22 shall be repaid at the earliest feasible date and in any event
23 no later than December 31, 1989.

24 “(ii) For the period after December 31, 1987, and
25 before January 1, 1990, the Managing Trustee shall transfer

1 *each month to the Federal Hospital Insurance Trust Fund*
2 *from any Trust Fund with any amount outstanding on a*
3 *loan made from the Federal Hospital Insurance Trust Fund*
4 *under paragraph (1) an amount equal to one twenty-fourth of*
5 *the amount owed to the Federal Hospital Insurance Trust*
6 *Fund by such Trust Fund at the beginning of such period*
7 *(plus the interest accrued on the outstanding balance of such*
8 *loan during such month).”.*

9 (4) Section 201(l) of such Act is further amended by
10 adding at the end thereof the following new paragraph:

11 “(5)(A) No amounts may be borrowed from the Federal
12 Hospital Insurance Trust Fund under paragraph (1) during
13 any month if the Hospital Insurance Trust Fund ratio for
14 such month is less than 10 percent.

15 “(B) For purposes of this paragraph, the term ‘Hospital
16 Insurance trust fund ratio’ means, with respect to any
17 month, the ratio of—

18 “(i) the balance in the Federal Hospital Insur-
19 ance Trust Fund, reduced by the outstanding amount
20 of any loan (including interest thereon) theretofore
21 made to such Trust Fund under this subsection, as of
22 the last day of the second month preceding such month,
23 to

24 “(ii) the amount obtained by multiplying by
25 twelve the total amount which (as estimated by the

1 *Secretary) will be paid from the Federal Hospital In-*
2 *surance Trust Fund during the month for which such*
3 *ratio is to be determined (other than payments of inter-*
4 *est on, or repayments of loans from another Trust*
5 *Fund under this subsection), and reducing the amount*
6 *of any transfers to the Railroad Retirement Account by*
7 *the amount of any transfer into the Hospital Insurance*
8 *Trust Fund from that Account.”.*

9 *(b)(1) Section 1817(j)(1) of such Act is amended—*

10 *(A) by striking out “January 1983” and insert-*
11 *ing in lieu thereof “January 1988”; and*

12 *(B) by inserting “, subject to paragraph (5),”*
13 *after “may”.*

14 *(2)(A) Section 1817(j)(2) of such Act is amended—*

15 *(i) by striking out “from time to time” and insert-*
16 *ing in lieu thereof “on the last day of each month after*
17 *such loan is made”;*

18 *(ii) by striking out “interest” and inserting in*
19 *lieu thereof “the total interest accrued to such day”;*
20 *and*

21 *(iii) by striking out “the loan were an investment*
22 *under subsection (c)” and inserting in lieu thereof*
23 *“such amount had remained in the Depository Account*
24 *established with respect to such lending Trust Fund*
25 *under section 201(d)”.*

S. RES. 91

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1, an Act to implement the consensus recommendations of the National Commission on Social Security Reform and with respect to the consideration of H.R. 1900, dealing with the same subject matter. Such waiver is necessary because the recommendations of the National Commission on Social Security Reform require prompt action in order to ensure the stability of the social security system.

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

Mr. BAKER. Mr. President, I move that the Senate proceed to the consideration of H.R. 1900, the social security measure.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, as I understand the situation, the situation is this: It appears to me we are not going to be able to negotiate a compromise settlement of the jobs bill dilemma today. I regret that. I must say that all of the parties to this matter have given their best efforts and have done so conscientiously. I commend them all for it. Senator KASTEN and Senator DOLE have tried and tried repeatedly to reconcile the differences in their point of view on this matter without success. Finally, we have arrived at the place where we have to move on.

This in no way signals that we are not going to pass a jobs bill. We are going to pass a jobs bill if it is humanly possible for that to be done. But there is a cloture motion filed against further debate on the jobs bill that will not mature until Friday. In my judgment, there was simply no reason for us to sit here in quorum calls and what appeared to be endless efforts to negotiate a settlement on this matter until Friday. I think we can make good use of the time between now and Friday, 1 hour after we convene, by considering aspects of the social security bill and perhaps even passing it. I hope we can pass it.

On Friday, the cloture motion on the jobs bill will occur as the pending business. If cloture is invoked, we shall be back on the jobs bill, whether we

finish social security or not. I hope we have finished social security and we can continue then with the jobs bill in an orderly way.

The Senate should be on notice, Mr. President, of the strong possibility of a Saturday session.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. On behalf of Mr. MOYNIHAN, I make the following unanimous-consent request: I ask unanimous consent that floor privileges be granted during the disposition of the pending social security measure to Dr. John Hambor, Director of the Division of Economic Research in Office of Research & Statistics, Social Security Administration. He is serving as a legislative fellow in the office of Senator MOYNIHAN at this time. It is a bit of an unusual request, but I hope the Senate will grant it.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Senator from Kansas.

Mr. MOYNIHAN. Mr. President, may I express my appreciation to the minority leader for his courtesy in this matter and to the Senate. Dr. Hambor is a respected authority on the issues of fact that will come before the Senate.

Mr. BYRD. I thank the Senator.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. I ask that the Chair lay before the Senate S. Res. 91, a budget waiver with respect to consideration of S. 1.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 91) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution waiver.

The resolution (S. Res. 91) was agreed to as follows:

1 (B) *The amendment made by this paragraph shall*
 2 *apply with respect to months beginning more than 30 days*
 3 *after the date of enactment of this Act.*

4 (3) *Section 1817(j)(3) of such Act is amended—*

5 (A) *by inserting “(A)” after the paragraph desig-*
 6 *nation; and*

7 (B) *by adding at the end thereof the following*
 8 *new subparagraphs:*

9 “(B)(i) *If on the last day of any year after a loan has*
 10 *been made under paragraph (1) by the Federal Old Age and*
 11 *Survivors Insurance Trust Fund or the Federal Disability*
 12 *Insurance Trust Fund to the Federal Hospital Insurance*
 13 *Trust Fund, the Managing Trustee determines that the Hos-*
 14 *pital Insurance Trust Fund ratio exceeds 15 percent, he*
 15 *shall transfer from such Trust Fund to the lending trust fund*
 16 *an amount that—*

17 “(I) *together with any amounts transferred to an-*
 18 *other lending trust fund under this paragraph for such*
 19 *year, will reduce Hospital Insurance Trust Fund ratio*
 20 *to 15 percent; and*

21 “(II) *does not exceed the outstanding balance of*
 22 *such loan.*

23 “(i) *Amounts required to be transferred under clause*
 24 *(i) shall be transferred on the last day of the first month of*

1 *the year succeeding the year in which the determination de-*
2 *scribed in clause (i) is made.*

3 “(iii) For purposes of this subparagraph, the term ‘Hos-
4 *pital Insurance Trust Fund ratio*’ means, with respect to any
5 *calendar year, the ratio of—*

6 “(I) *the balance in the Federal Hospital Insur-*
7 *ance Trust Fund, reduced by the amount of any out-*
8 *standing loan (including interest thereon) from the*
9 *Federal Old Age and Survivors Insurance Trust Fund*
10 *and the Federal Disability Insurance Trust Fund, as*
11 *of the last day of such calendar year; to*

12 “(II) *the amount estimated by the Secretary to be*
13 *the total amount to be paid from the Federal Hospital*
14 *Insurance Trust Fund during the calendar year fol-*
15 *lowing such calendar year (other than payments of in-*
16 *terest on, and repayments of, loans from the Federal*
17 *Old Age and Survivors Insurance Trust Fund and the*
18 *Federal Disability Insurance Trust Fund under para-*
19 *graph (1)), and reducing the amount of any transfer to*
20 *the Railroad Retirement Account by the amount of any*
21 *transfers into such Trust Fund from the Railroad Re-*
22 *tirement Account.*

23 “(C)(i) *The full amount of all loans made under para-*
24 *graph (1) (whether made before or after January 1, 1983)*

1 shall be repaid at the earliest feasible date and in any event
2 no later than December 31, 1989.”

3 “(ii) For the period after December 31, 1987 and before
4 January 1, 1990, the Managing Trustee shall transfer each
5 month from the Federal Hospital Insurance Trust Fund to
6 any Trust Fund that is owed any amount by the Federal
7 Hospital Insurance Trust Fund on a loan made under para-
8 graph (1), an amount equal to $1/24$ of the amount owed to
9 such Trust Fund by the Federal Hospital Insurance Trust
10 Fund at the beginning of such period (plus the interest ac-
11 crued on the outstanding balance of such loan during such
12 month).”

13 (4) Section 1817(j) of such Act is further amended by
14 adding at the end thereof the following new paragraph:

15 “(5)(A) No amounts may be loaned by the Federal Old
16 Age and Survivors Insurance Trust Fund or the Federal
17 Disability Insurance Trust Fund under paragraph (1)
18 during any month if the OASDI trust fund ratio for such
19 month is less than 10 percent.

20 “(B) For purposes of this paragraph, the term ‘OASDI
21 trust fund ratio’ means, with respect to any month, the ratio
22 of—

23 “(i) the combined balance in the Federal Old Age
24 and Survivors Insurance Trust Fund and the Federal
25 Disability Insurance Trust Fund, reduced by the out-

1 *standing amount of any loan (including interest there-*
2 *on) theretofore made to either such Trust Fund from*
3 *the Federal Hospital Insurance Trust Fund under sec-*
4 *tion 201(l), as of the last day of the second month pre-*
5 *ceding such month, to*

6 *“(ii) the amount obtained by multiplying by*
7 *twelve the total amount which (as estimated by the*
8 *Secretary) will be paid from the Federal Old Age and*
9 *Survivors Insurance Trust Fund and the Federal Dis-*
10 *ability Insurance Trust Fund during the month for*
11 *which such ratio is to be determined for all purposes*
12 *authorized by section 201 (other than payments of in-*
13 *terest on, or repayments of, loans from the Federal*
14 *Hospital Insurance Trust Fund under section 201(l)),*
15 *but excluding any transfer payments between such*
16 *trust funds and reducing the amount of any transfers*
17 *to the Railroad Retirement Account by the amount of*
18 *any transfers into either such trust fund from that Ac-*
19 *count.”.*

20 *CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO*

21 *TRUST FUNDS*

22 *SEC. 143. (a) The Secretary of the Treasury shall take*
23 *such actions as may be necessary to ensure that amounts of*
24 *checks for benefits under title II of the Social Security Act*
25 *which have not been presented for payment within a reason-*

1 able length of time (not to exceed twelve months) after issu-
2 ance are credited to the Federal Old-Age and Survivors In-
3 surance Trust Fund or the Federal Disability Insurance
4 Trust Fund, whichever may be the fund from which the check
5 was issued. Amounts of any such check shall be recharged to
6 the fund from which they were issued if payment is subse-
7 quently made on such check.

8 (b)(1) The Secretary of the Treasury shall transfer from
9 the general fund of the Treasury to the Federal Old-Age and
10 Survivors Insurance Trust Fund and to the Federal Disabil-
11 ity Insurance Trust Fund, as appropriate, such sums as may
12 be necessary to reimburse such Trust Funds in the total
13 amounts of all currently unnegotiated benefit checks. After
14 the amounts appropriated by this subsection have been trans-
15 ferred to the Trust Funds, the provisions of subsection (a)
16 shall be applicable. There are hereby appropriated into such
17 Trust Funds such sums as may be necessary to reimburse
18 such Trust Funds for the amount of currently unnegotiated
19 benefit checks. The first such transfer shall be made within
20 thirty days after the date of the enactment of this Act with
21 respect to all such unnegotiated checks as of such date of
22 enactment.

23 (2) As used in paragraph (1), the term "currently unne-
24 gotiated benefit checks" means the checks issued under title
25 II of the Social Security Act prior to the date of the enact-

1 *ment of this Act, which remain unnegotiated after the twelfth*
2 *month following the date on which they were issued.*

3 *TRANSFER TO TRUST FUNDS FOR BENEFITS*

4 *ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957*

5 *SEC. 144. (a) Section 217(g) of the Social Security Act*
6 *is amended to read as follows:*

7 *“APPROPRIATION TO TRUST FUNDS*

8 *“(g)(1) Within thirty days after the date of the enact-*
9 *ment of the Social Security Amendments of 1983, the Secre-*
10 *tary shall determine the amount equal to the excess of—*

11 *“(A) the actuarial present value as of such date of*
12 *enactment of the past and future benefit payments from*
13 *the Federal Old-Age and Survivors Insurance Trust*
14 *Fund, the Federal Disability Insurance Trust Fund,*
15 *and the Federal Hospital Insurance Trust Fund under*
16 *this title and title XVIII, together with associated ad-*
17 *ministrative costs, resulting from the operation of this*
18 *section (other than this subsection) and section 210 of*
19 *this Act as in effect before the enactment of the Social*
20 *Security Act Amendments of 1950, over*

21 *“(B) any amounts previously transferred from the*
22 *general fund of the Treasury to such Trust Funds pur-*
23 *suant to the provisions of this subsection as in effect*
24 *immediately before the date of the enactment of the*
25 *Social Security Amendments of 1983.*

1 *Such actuarial present value shall be based on the relevant*
2 *actuarial assumptions set forth in the report of the Board of*
3 *Trustees of each such Trust Fund for 1983 under sections*
4 *201(c) and 1817(b). Within thirty days after the date of the*
5 *enactment of the Social Security Amendments of 1983, the*
6 *Secretary of the Treasury shall transfer the amount deter-*
7 *mined under this paragraph with respect to each such Trust*
8 *Fund to such Trust Fund from amounts in the general fund*
9 *of the Treasury not otherwise appropriated.*

10 “(2) *The Secretary shall revise the amount determined*
11 *under paragraph (1) with respect to each such Trust Fund in*
12 *1985 and each fifth year thereafter, as determined appropri-*
13 *ate by the Secretary from data which becomes available to*
14 *him after the date of the determination under paragraph (1)*
15 *on the basis of the amount of benefits and administrative*
16 *expenses actually paid from such Trust Fund under this title*
17 *or title XVIII and the relevant actuarial assumptions set*
18 *forth in the report of the Board of Trustees of such Trust*
19 *Fund for such year under section 201(c) or 1817(b). Within*
20 *30 days after any such revision, the Secretary of the Treas-*
21 *ury, to the extent provided in advance in appropriation Acts,*
22 *shall transfer to such Trust Fund, from amounts in the gen-*
23 *eral fund of the Treasury not otherwise appropriated, or from*
24 *such Trust Fund to the general fund of the Treasury, such*

1 *amounts as the Secretary of the Treasury determines neces-*
2 *sary to compensate for such revision.”.*

3 *PAYMENTS TO TRUST FUNDS OF AMOUNTS EQUIVALENT*
4 *TO TAXES ON SERVICE IN THE UNIFORMED SERV-*
5 *ICES PERFORMED AFTER 1956*

6 *SEC. 145. (a) Section 229(b) of the Social Security*
7 *Act is amended to read as follows:*

8 *“(b) There are authorized to be appropriated to each of*
9 *the Trust Funds, consisting of the Federal Old-Age and Sur-*
10 *vivors Insurance Trust, the Federal Disability Insurance*
11 *Trust Fund, and the Federal Hospital Insurance Trust*
12 *Fund, for transfer on July 1 of each calendar year to such*
13 *Trust Fund from amounts in the general fund in the Treas-*
14 *ury not otherwise appropriated, an amount equal to the total*
15 *of the additional amounts which would be appropriated to*
16 *such Trust Fund for the fiscal year ending September 30 of*
17 *such calendar year under section 201 or 1817 of this Act if*
18 *the amounts of the additional wages deemed to have been paid*
19 *for such calendar year by reason of subsection (a) constituted*
20 *remuneration for employment (as defined in section 3121(b)*
21 *of the Internal Revenue Code of 1954) for purposes of the*
22 *taxes imposed by sections 3101 and 3111 of the Internal*
23 *Revenue Code of 1954. Amounts authorized to be appropri-*
24 *ated under this subsection for transfer on July 1 of each cal-*
25 *endar year shall be determined on the basis of estimates of*

1 *the Secretary of the wages deemed to be paid for such calen-*
2 *dar year under subsection (a); and proper adjustments shall*
3 *be made in amounts authorized to be appropriated for subse-*
4 *quent transfer to the extent prior estimates were in excess of*
5 *or were less than such wages so deemed to be paid.”.*

6 *(b) The amendment made by subsection (a) shall be ef-*
7 *fective with respect to wages deemed to have been paid for*
8 *calendar years after 1983.*

9 *(c)(1) Within thirty days after the date of the enactment*
10 *of this Act, the Secretary of Health and Human Services*
11 *shall determine the additional amounts which would have*
12 *been appropriated into the Federal Old-Age and Survivors*
13 *Insurance Trust Fund, the Federal Disability Insurance*
14 *Trust Fund, and the Federal Hospital Insurance Trust*
15 *Fund under sections 201 and 1817 of the Social Security*
16 *Act, if the additional wages deemed to have been paid under*
17 *section 229(a) of the Social Security Act prior to 1984 had*
18 *constituted remuneration for employment (as defined in sec-*
19 *tion 3121(b) of the Internal Revenue Code of 1954) for pur-*
20 *poses of the taxes imposed by sections 3101 and 3111 of the*
21 *Internal Revenue Code of 1954, and the amount of interest*
22 *which would have been earned on such amounts if they had*
23 *been so appropriated.*

24 *(2)(A) The Secretary of the Treasury shall, within*
25 *thirty days after the date of the enactment of this Act, trans-*

1 *fer into each such Trust Fund, from the general fund in the*
2 *Treasury, an amount equal to the amount determined with*
3 *respect to such Trust Fund under paragraph (1), less any*
4 *amount appropriated into such Trust Fund under the provi-*
5 *sions of section 229(b) of the Social Security Act prior to the*
6 *date of the determination made under paragraph (1) with re-*
7 *spect to wages deemed to have been paid for calendar years*
8 *prior to 1984. There are hereby appropriated into such Trust*
9 *Funds sums equal to the amounts to be transferred in accord-*
10 *ance with this subparagraph into such Trust Funds.*

11 *(B) The Secretary shall revise the amount determined*
12 *under subparagraph (A) within one year after the date of the*
13 *transfer made under paragraph (1), as warranted by data*
14 *which may become available to him after the date of the*
15 *transfer under subparagraph (A) based upon actual benefits*
16 *paid under this title and title XVIII. Any amounts deter-*
17 *mined to be needed for transfer shall be transferred by the*
18 *Secretary of the Treasury into the appropriate Trust Fund*
19 *from the general fund in the Treasury, or out of the appropri-*
20 *ate Trust Fund into the general fund in the Treasury, as*
21 *may be appropriate. There are authorized to be appropriated*
22 *to such Trust Funds sums equal to the amounts to be trans-*
23 *ferred in accordance with this subparagraph into such Trust*
24 *Funds.*

1 *TRUST FUND INVESTMENT PROCEDURE*

2 *SEC. 146. (a) Section 201 of the Social Security Act is*
3 *amended by striking out subsections (d), (e), and (f) and in-*
4 *serting in lieu thereof the following new subsections:*

5 *“(d) There are hereby created on the books of the Treas-*
6 *ury of the United States an account to be known as the Old-*
7 *Age and Survivors Insurance Depository Account and an*
8 *account to be known as the Disability Insurance Depository*
9 *Account.*

10 *“(e) The Managing Trustee shall deposit that portion of*
11 *the Federal Old-Age and Survivors Insurance Trust Fund*
12 *not required to meet current withdrawals from such Trust*
13 *Fund in the Old-Age and Survivors Insurance Depository*
14 *Account and that portion of the Federal Disability Insurance*
15 *Trust Fund not required to meet current withdrawals from*
16 *such Trust Fund in the Disability Insurance Depository Ac-*
17 *count.*

18 *“(f)(1) The Secretary of the Treasury may apply*
19 *moneys deposited in an account pursuant to subsection (e) in*
20 *any way in which he is authorized by law to apply moneys*
21 *in the general fund of the Treasury.*

22 *“(2)(A) Moneys deposited in an account pursuant to*
23 *subsection (e) shall be treated as indebtedness of the United*
24 *States for purposes of section 1305(2) of title 31, United*
25 *States Code, and shall earn interest, payable monthly, in an*

1 amount equal to the product obtained by multiplying the
2 average balance of moneys in the account for such month by
3 the average market yield (computed by the Managing Trustee
4 on the basis of market quotations as of the end of each busi-
5 ness day of such month) on all marketable interest-bearing
6 obligations of the United States then forming a part of the
7 public debt which are not due or callable until after the expi-
8 ration of four years from the end of such month, except that
9 'flower bonds' shall not be included in such computation.

10 “(B) For purposes of this paragraph, the term ‘flower
11 bond’ means a United States Treasury bond which was
12 issued before March 4, 1971 and which may, at the option of
13 the duly constituted representatives of the estate of a deceased
14 individual, be redeemed at par (face) value, plus accrued in-
15 terest to the date of payment, if—

16 “(i) it was owned by such deceased individual at
17 the time of his death,

18 “(ii) it is part of the estate of such deceased indi-
19 vidual, and

20 “(iii) such representatives authorize the Secretary
21 of the Treasury to apply the entire proceeds of the re-
22 demption of such bond to the payment of Federal estate
23 taxes.

24 “(3) The Managing Trustee may withdraw moneys de-
25 posited in an account pursuant to subsection (e) whenever he

1 *determines that such moneys are necessary to meet current*
2 *withdrawals from the Trust Fund which deposited such*
3 *moneys, and the Secretary of the Treasury may sell obliga-*
4 *tions of the United States in the market in an amount not to*
5 *exceed the amount of such withdrawal if he determines that*
6 *such withdrawal necessitates an increase in the general fund*
7 *of the Treasury by an amount not exceeding such amount.”.*

8 **(b)** *Section 1817 of such Act is amended by striking out*
9 *subsections (c), (d), and (e) and inserting in lieu thereof the*
10 *following new subsections:*

11 **“(c)** *There is hereby created on the books of the Treas-*
12 *ury of the United States an account to be known as the Hos-*
13 *pital Insurance Depository Account.*

14 **“(d)** *The Managing Trustee shall deposit that portion of*
15 *the Federal Hospital Insurance Trust Fund not required to*
16 *meet current withdrawals from such Trust Fund in the Hos-*
17 *pital Insurance Depository Account.*

18 **“(e)(1)** *The Secretary of the Treasury may apply*
19 *moneys deposited in the account pursuant to subsection (d) in*
20 *any way in which he is authorized by law to apply moneys*
21 *in the general fund of the Treasury.*

22 **“(2)(A)** *Moneys deposited in the account pursuant to*
23 *subsection (d) shall be treated as indebtedness of the United*
24 *States for purposes of section 1305(2) of title 31, United*
25 *States Code, and shall earn interest, payable monthly, in an*

1 amount equal to the product obtained by multiplying the
2 average balance of moneys in the account for such month by
3 the average market yield (computed by the Managing Trustee
4 on the basis of market quotations as of the end of each busi-
5 ness day of such month) on all marketable interest-bearing
6 obligations of the United States then forming a part of the
7 public debt which are not due or callable until after the expi-
8 ration of four years from the end of such month, except that
9 'flower bonds' shall not be included in such computation.

10 “(B) For purposes of this paragraph, the term ‘flower
11 bond’ means a United States Treasury bond which was
12 issued before March 4, 1971, and which may, at the option of
13 the duly constituted representatives of the estate of a deceased
14 individual, be redeemed at par (face) value, plus accrued in-
15 terest to the date of payment, if—

16 “(i) it was owned by such deceased individual at
17 the time of his death,

18 “(ii) it is part of the estate of such deceased indi-
19 vidual, and

20 “(iii) such representatives authorize the Secretary
21 of the Treasury to apply the entire proceeds of the re-
22 demption of such bond to the payment of Federal estate
23 taxes.

24 “(3) The Managing Trustee may withdraw moneys de-
25 posited in the account pursuant to subsection (d) whenever he

1 *determines that such moneys are necessary to meet current*
2 *withdrawals from the Trust Fund, and the Secretary of the*
3 *Treasury may sell obligations of the United States in the*
4 *market in an amount not to exceed the amount of such with-*
5 *drawal if he determines that such withdrawal necessitates an*
6 *increase in the general fund of the Treasury by an amount*
7 *not exceeding such amount.”.*

8 *(c) Section 1841 of such Act is amended by striking out*
9 *subsections (c), (d), and (e) and inserting in lieu thereof the*
10 *following new subsections:*

11 *“(c) There is hereby established on the books of the*
12 *Treasury an account to be known as the Supplementary*
13 *Medical Insurance Depository Account.*

14 *“(d) The Managing Trustee shall deposit that portion of*
15 *the Federal Supplementary Medical Insurance Trust Fund*
16 *not required to meet current withdrawals from such Trust*
17 *Fund in the Supplementary Medical Insurance Depository*
18 *Account.*

19 *“(e)(1) The Secretary of the Treasury may apply*
20 *moneys deposited in the account pursuant to subsection (d) in*
21 *any way in which he is authorized by law to apply moneys*
22 *in the general fund of the Treasury.*

23 *“(2)(A) Moneys deposited in the account pursuant to*
24 *subsection (d) shall be treated as indebtedness of the United*
25 *States for purposes of section 1305(2) of title 31, United*

1 *States Code, and shall earn interest, payable monthly, in an*
2 *amount equal to the product obtained by multiplying the*
3 *average balance of moneys in the account for such month by*
4 *the average market yield (computed by the Managing Trustee*
5 *on the basis of market quotations as of the end of each busi-*
6 *ness day of such month) on all marketable interest-bearing*
7 *obligations of the United States then forming a part of the*
8 *public debt which are not due or callable until after the expi-*
9 *ration of four years from the end of such month, except that*
10 *'flower bonds' shall not be included in such computation.*

11 “(B) *For purposes of this paragraph, the term 'flower*
12 *bond' means a United States Treasury bond which was*
13 *issued before March 4, 1971, and which may, at the option of*
14 *the duly constituted representatives of the estate of a deceased*
15 *individual, be redeemed at par (face) value, plus accrued in-*
16 *terest to the date of payment, if—*

17 “(i) *it was owned by such deceased individual at*
18 *the time of his death,*

19 “(ii) *it is part of the estate of such deceased indi-*
20 *vidual, and*

21 “(iii) *such representatives authorize the Secretary*
22 *of the Treasury to apply the entire proceeds of the re-*
23 *demption of such bond to the payment of Federal estate*
24 *taxes.*

1 “(3) *The Managing Trustee may withdraw moneys de-*
2 *posited in the account pursuant to subsection (d) whenever he*
3 *determines that such moneys are necessary to meet current*
4 *withdrawals from the Trust Fund, and the Secretary of the*
5 *Treasury may sell obligations of the United States in the*
6 *market in an amount not to exceed the amount of such with-*
7 *drawal if he determines that such withdrawal necessitates an*
8 *increase in the general fund of the Treasury by an amount*
9 *not exceeding such amount.”.*

10 (d)(1) *No later than the date on which this section takes*
11 *effect, the Secretary of the Treasury shall redeem at par all*
12 *outstanding obligations of the United States issued under the*
13 *Second Liberty Bond Act exclusively for purchase by the*
14 *Federal Old-Age Insurance Trust Fund, the Federal Dis-*
15 *ability Insurance Trust Fund, the Federal Hospital Insur-*
16 *ance Trust Fund, and the Federal Supplementary Medical*
17 *Insurance Trust Fund (hereinafter in this subsection re-*
18 *ferred to as the “Trust Funds”).*

19 (2)(A) *The Managing Trustee may sell any marketable*
20 *obligation of the United States held by the Trust Funds at*
21 *market price at any time and shall sell (or redeem) all*
22 *“flower bonds” held by the Trust Funds on the date of enact-*
23 *ment of this section at market price no later than the date on*
24 *which this section takes effect.*

1 (B) For purposes of this paragraph, the term “flower
2 bond” means a United States Treasury bond which was
3 issued before March 4, 1971, and which may, at the option of
4 the duly constituted representatives of the estate of a deceased
5 individual, be redeemed at par (face) value, plus accrued in-
6 terest to the date of payment, if—

7 (i) it was owned by such deceased individual at
8 the time of his death,

9 (ii) it is part of the estate of such deceased indi-
10 vidual, and

11 (iii) such representatives authorize the Secretary
12 of the Treasury to apply the entire proceeds of the re-
13 demption of such bond to the payment of Federal estate
14 taxes.

15 (3) The proceeds from the redemption and sale of obliga-
16 tions of the United States pursuant to paragraphs (1) and
17 (2) shall be paid to the Trust Fund selling or redeeming such
18 obligations and that portion of such proceeds which is not
19 required to meet current withdrawals from such Trust Fund
20 shall be deposited in the account established with respect to
21 such Trust Fund by subsection (a), (b), or (c) of this Act.

22 (e) The amendments made by this section shall take
23 effect on the first day of the first month beginning more than
24 30 days after the date of enactment of this Act.

1 *ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARDS*
2 *OF TRUSTEES*

3 *SEC. 147. (a) Sections 201(c), 1817(b), and 1841(b) of*
4 *the Social Security Act are each amended—*

5 *(1) by striking out the period at the end of the*
6 *first sentence and inserting in lieu thereof a comma*
7 *and “and of two members of the public (both of whom*
8 *may not be from the same political party), who shall be*
9 *nominated by the President for a term of four years*
10 *and subject to confirmation by the Senate; and*

11 *(2) by adding at the end thereof the following new*
12 *sentence: “A member of the public serving on the*
13 *Board of Trustees shall not be considered to be a fidu-*
14 *ciary and shall not be personally liable for actions*
15 *taken in such capacity with respect to the Trust*
16 *Funds.”.*

17 *(b) The amendments made by subsection (a) shall*
18 *become effective on the date of enactment of this Act.*

19 *PAYMENT SCHEDULE BY STATE AND LOCAL*
20 *GOVERNMENTS*

21 *SEC. 148. (a) Section 218(e)(1)(A) of the Social Secu-*
22 *rity Act is amended by striking out “within the thirty-day*
23 *period immediately following the last day of each calendar*
24 *month” and inserting in lieu thereof “in accordance with the*
25 *same payment schedule as applies to payment by employers*

1 of the taxes imposed under sections 3101 and 3111 of the
2 Internal Revenue Code of 1954”.

3 (b) The amendment made by subsection (a) shall be ef-
4 fective with respect to payments due on or after January 1,
5 1984.

6 *NORMALIZED CREDITING OF SOCIAL SECURITY TAXES TO*

7 *TRUST FUNDS*

8 *SEC. 149. (a) Section 201(a) of the Social Security*
9 *Act is amended by striking out “The amounts appropriated”*
10 *in the last sentence and inserting in lieu thereof “Except as*
11 *provided in subsection (m), the amounts appropriated”.*

12 (b) Section 201 of such Act is further amended by
13 adding at the end thereof the following new subsection:

14 “(m)(1) The procedures in effect on January 1, 1983,
15 with respect to the transfer of the amounts appropriated by
16 clauses (3) and (4) of subsection (a) and the amounts appro-
17 priated by clauses (1) and (2) of subsection (b) shall apply to
18 a calendar month unless the Secretary makes a finding
19 under this paragraph that the OASDI trust fund ratio as of
20 the first day of such calendar month is less than 12 percent.

21 “(2) If the Secretary makes the finding described in
22 paragraph (1) with respect to a calendar month, the amounts
23 appropriated by clauses (3) and (4) shall be transferred on
24 the first day of such calendar month from the general fund of
25 the Treasury to the Federal Old-Age and Survivors Insur-

1 *ance Trust Fund, and the amounts appropriated by clauses*
2 *(1) and (2) of subsection (b) shall be transferred on the first*
3 *day of such calendar month from the general fund of the*
4 *Treasury to the Federal Disability Insurance Trust Fund,*
5 *such amounts to be determined on the basis of estimates by*
6 *the Secretary of the Treasury of the taxes, specified in*
7 *clauses (3) and (4) of subsection (a), to be paid to or deposit-*
8 *ed into the Treasury during such calendar month.*

9 “(3) *Proper adjustments shall be made in amounts sub-*
10 *sequently transferred to the extent prior estimates were in*
11 *excess of or were less than the taxes specified in clauses (3)*
12 *and (4) of subsection (a).*

13 “(4) *All amounts transferred to either Trust Fund*
14 *under paragraph (2) shall be treated by the Managing*
15 *Trustee in the same manner and to the same extent as the*
16 *other assets of such Trust Fund; and such Trust Fund shall*
17 *pay interest to the general fund on the amount so transferred*
18 *at a rate (calculated on a daily basis, and applied against the*
19 *difference between the amount so transferred on such first*
20 *day and the amount which would have been transferred to the*
21 *Trust Fund up to that day under the procedures in effect on*
22 *January 1, 1983) equal to the average 91-day Treasury bill*
23 *rate during such month (payable on the last day of such*
24 *month).*

1 “(5) For purposes of this subsection, the term ‘OASDI
2 trust fund ratio’ means, with respect to any month, the ratio
3 of—

4 “(A) the combined balance in the Federal Old-
5 Age and Survivors Insurance Trust Fund and the
6 Federal Disability Insurance Trust Fund, reduced by
7 the outstanding amount of any loan (including interest
8 thereon) theretofore made to either such Trust Fund
9 from the Federal Hospital Insurance Trust Fund
10 under subsection (l), and determined without regard to
11 amounts transferred theretofore under this subsection,
12 as of the last day of the second month preceding such
13 month, to

14 “(B) the amount obtained by multiplying by
15 twelve the total amount which (as estimated by the
16 Secretary) will be paid from the Federal Old-Age and
17 Survivors Insurance Trust Fund and the Federal Dis-
18 ability Insurance Trust Fund during the month for
19 which such ratio is to be determined for all purposes
20 authorized by section 201 (other than payments of in-
21 terest on, or repayments of, loans from the Federal
22 Hospital Insurance Trust Fund under subsection (l)),
23 but excluding any transfer payments between such
24 trust funds and reducing the amount of any transfers
25 to the Railroad Retirement Account by the amount of

1 *any transfers into either such trust fund from that Ac-*
 2 *count.”.*

3 *(c) The amendments made by this section shall apply to*
 4 *calendar months beginning after the date of enactment of this*
 5 *section and before January 1, 1988.*

6 **AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COM-**
 7 **PENSATION AND SALARY REDUCTION ARRANGE-**
 8 **MENTS TREATED AS WAGES FOR FICA TAXES**

9 *SEC. 150. (a)(1) Section 3121 of the Internal Revenue*
 10 *Code of 1954 (relating to definitions) is amended by adding*
 11 *at the end thereof the following new subsection:*

12 **“(v) TREATMENT OF CERTAIN DEFERRED COMPEN-**
 13 **SATION AND SALARY REDUCTION ARRANGEMENTS.—**

14 **“(1) CERTAIN EMPLOYER CONTRIBUTIONS**
 15 **TREATED AS WAGES.—***Nothing in any paragraph of*
 16 *subsection (a) (other than paragraph (1)) shall exclude*
 17 *from the term ‘wages’ any employer contribution—*

18 **“(A) under a qualified cash or deferred ar-**
 19 **rangement (as defined in section 401(k)) to the**
 20 **extent not included in gross income by reason of**
 21 **section 402(a)(8), or**

22 **“(B) under a cafeteria plan (as defined in**
 23 **section 125(d)) which includes an arrangement**
 24 **described in subparagraph (A) to the extent the**
 25 **employee had the right to choose cash, property, or**

1 *other benefits which would be wages for purposes*
2 *of this chapter.*

3 “(2) *GOVERNMENTAL PLANS.—For purposes of*
4 *subsection (a)—*

5 “(A) *IN GENERAL.—Except as provided in*
6 *subparagraph (B), the term ‘wages’ shall not in-*
7 *clude any payment to or from a Governmental*
8 *plan (within the meaning of section 414(d)).*

9 “(B) *EXCEPTIONS.—The term ‘wages’ shall*
10 *include any amount—*

11 “(i) *deferred under a plan described in*
12 *section 457(a) (at the time the services which*
13 *relate to such payment were performed),*

14 “(ii) *deferred under a plan described in*
15 *subsection (e)(1), (e)(2)(D), or (e)(2)(E) of*
16 *section 457, or*

17 “(iii) *which is treated as wages under*
18 *subsection (a)(5)(E) by reason of a salary*
19 *reduction agreement.”.*

20 (2) *Paragraph (5) of section 3121(a) of such Code (de-*
21 *fining wages) is amended—*

22 (A) *by striking out “or” at the end of subpara-*
23 *graph (C),*

1 (B) by striking out the semicolon at the end of
2 subparagraph (D) and inserting in lieu thereof a
3 comma and “or”, and

4 (C) by adding at the end thereof the following
5 new subparagraph:

6 “(E) under an annuity contract described in sec-
7 tion 403(b), other than a payment for the purchase of
8 such contract which is made by reason of a salary re-
9 duction agreement;”.

10 (3) Subsection (a) of section 3121 of such Code (defin-
11 ing wages) is amended—

12 (A) in paragraph (2), by striking out subpara-
13 graph (A) and redesignating subparagraphs (B), (C),
14 and (D) as subparagraphs (A), (B), and (C), respec-
15 tively,

16 (B) by striking out paragraphs (3) and (9),

17 (C) in paragraph (13)(A)—

18 (i) by inserting “or” after “death,” and

19 (ii) by striking out “or (iii) retirement after
20 attaining an age specified in the plan referred to
21 in subparagraph (B) or in a pension plan of the
22 employer,” and

23 (D) by striking out “subparagraph (B)” in the
24 last sentence thereof and inserting in lieu thereof “sub-
25 paragraph (A)”.

1 **(b)(1)** *Section 3306 of the Internal Revenue Code of*
2 *1954 (relating to definitions) is amended by adding at the*
3 *end thereof the following new subsection:*

4 “(r) **TREATMENT OF CERTAIN DEFERRED COMPEN-**
5 **SATION AND SALARY REDUCTION ARRANGEMENTS.—**

6 “(1) **CERTAIN EMPLOYER CONTRIBUTIONS**
7 **TREATED AS WAGES.—***Nothing in any paragraph of*
8 *subsection (b) (other than paragraph (1)) shall exclude*
9 *from the term ‘wages’ any employer contribution—*

10 “(A) *under a qualified cash or deferred ar-*
11 *rangement (as defined in section 401(k)) to the*
12 *extent not included in gross income by reason of*
13 *section 402(a)(8), or*

14 “(B) *under a cafeteria plan (as defined in*
15 *section 125(d)) which includes an arrangement*
16 *described in subparagraph (A) to the extent the*
17 *employee had the right to choose cash, property, or*
18 *other benefits which would be wages for purposes*
19 *of this chapter.*

20 “(2) **GOVERNMENTAL PLANS.—***For purposes of*
21 *subsection (b)—*

22 “(A) **IN GENERAL.—***Except as provided in*
23 *subparagraph (B), the term ‘wages’ shall not in-*
24 *clude any payment to or from a governmental*
25 *plan (within the meaning of section 414(d)).*

1 “(B) *EXCEPTIONS.*—The term ‘wages’ shall
2 include any amount—

3 “(i) *deferred under a plan described in*
4 *section 457(a) (at the time the services which*
5 *relate to such payment were performed),*

6 “(ii) *deferred under a plan described in*
7 *subsection (e)(1), (e)(2)(D), or (e)(2)(E) of*
8 *section 457, or*

9 “(iii) *which is treated as wages under*
10 *subsection (b)(5)(E) by reason of a salary*
11 *reduction agreement.”.*

12 (2) *Paragraph (5) of section 3306(b) of such Code (de-*
13 *fining wages) is amended—*

14 (A) *by striking out “or” at the end of subpara-*
15 *graph (C),*

16 (B) *by striking out the semicolon at the end of*
17 *subparagraph (D) and inserting in lieu thereof a*
18 *comma and “or”, and*

19 (C) *by adding at the end thereof the following*
20 *new subparagraph:*

21 “(E) *under an annuity contract described in sec-*
22 *tion 403(b), other than a payment for the purchase of*
23 *such contract which is made by reason of a salary re-*
24 *duction agreement;”.*

1 (3) Subsection (b) of section 3306 of such Code (defin-
2 ing wages) is amended—

3 (A) in paragraph (2), by striking out subpara-
4 graph (A) and redesignating subparagraphs (B), (C),
5 and (D) as subparagraphs (A), (B), and (C), respec-
6 tively,

7 (B) by striking out paragraphs (3) and (8), and
8 (C) in paragraph (10)(A)—

9 (i) by inserting “or” after “death,” and

10 (ii) by striking out “or (iii) retirement after
11 attaining an age specified in the plan referred to
12 in subparagraph (B) or in a pension plan of the
13 employer,”.

14 (4)(A) Subparagraph (A) of section 3306(b)(2) of such
15 Code, as redesignated by paragraph (3)(A), is amended to
16 read as follows:

17 “(A) sickness or accident disability (but, in
18 the case of payments made to an employee or any of
19 his dependents, this subparagraph shall exclude
20 from the term ‘wages’ only payments which are
21 received under a workman’s compensation law),
22 or”.

23 (B) Subsection (b) of section 3306 of such Code (defin-
24 ing wages) is amended by adding at the end thereof the fol-
25 lowing new flush sentence:

1 *“Except as otherwise provided in regulations prescribed by*
2 *the Secretary, any third party which makes a payment in-*
3 *cluded in wages solely by reason of the parenthetical matter*
4 *contained in subparagraph (A) of paragraph (2) shall be*
5 *treated for purposes of this chapter and chapter 22 as the*
6 *employer with respect to such wages.”*

7 *(C) Rules similar to the rules of subsections (d) and (e)*
8 *of section 3 of the Act entitled “An Act to amend the Omni-*
9 *bus Reconciliation Act of 1981 to restore minimum benefits*
10 *under the Social Security Act” (Public Law 97-123), ap-*
11 *proved December 29, 1981, shall apply in the administration*
12 *of section 3306(b)(2)(A) of such Code (as amended by sub-*
13 *paragraph (A)).*

14 *(c)(1) Section 209 of the Social Security Act is amend-*
15 *ed by adding at the end thereof (as amended by this Act) the*
16 *following new paragraphs:*

17 *“Nothing in any of the foregoing provisions of this sec-*
18 *tion (other than subsection (a)) shall exclude from the term*
19 *‘wages’ any employer contribution—*

20 *“(1) under a qualified cash or deferred arrange-*
21 *ment (as defined in section 401(k)) to the extent not*
22 *included in gross income by reason of section*
23 *402(a)(8), or*

24 *“(2) under a cafeteria plan (as defined in section*
25 *125(d)) which includes an arrangement described in*

1 *paragraph (1) to the extent the employee had the right*
2 *to choose cash, property, or other benefits which would*
3 *be wages for purposes of this chapter.*

4 *“For purposes of this section—*

5 *“(1) the term ‘wages’ shall not include any pay-*
6 *ment to or from a governmental plan (within the*
7 *meaning of section 414(d) of the Internal Revenue*
8 *Code of 1954); except that*

9 *“(2) the term ‘wages’ shall include any amount—*

10 *“(A) deferred under a plan described in sec-*
11 *tion 457(a) of such Code (at the time the services*
12 *which relate to such payment were performed),*

13 *“(B) deferred under a plan described in sub-*
14 *section (e)(1), (e)(2)(D), or (e)(2)(E) of section*
15 *457 of such Code, or*

16 *“(C) which is treated as wages under subsec-*
17 *tion (e)(5) by reason of a salary reduction agree-*
18 *ment.”.*

19 *(2) Subsection (e) of section 209 of such Act is amended*
20 *by adding before the semicolon at the end thereof the follow-*
21 *ing: “, or (5) under an annuity contract described in section*
22 *403(b) of the Internal Revenue Code of 1954, other than a*
23 *payment for the purchase of such contract which is made by*
24 *reason of a salary reduction agreement;”.*

25 *(3) Section 209 of such Act is amended—*

1 *furnishing it is reasonable to believe that the employee*
2 *will be able to exclude such items from income under*
3 *section 119.”.*

4 *(2) Section 209 of the Social Security Act is amended*
5 *by striking out “or” at the end of subsection (p), by striking*
6 *out the period at the end of subsection (q) and inserting in*
7 *lieu thereof “; or”, and by inserting after subsection (q) the*
8 *following new subsection:*

9 *“(r) The value of any meals or lodging furnished by or*
10 *on behalf of the employer if at the time of such furnishing it*
11 *is reasonable to believe that the employee will be able to ex-*
12 *clude such items from income under section 119 of the Inter-*
13 *nal Revenue Code of 1954.”.*

14 *(b)(1) Subsection (a) of section 3121 of such Code is*
15 *amended by inserting after paragraph (19) (as added by sub-*
16 *section (a) of this section) the following new sentence: “Noth-*
17 *ing in the regulations prescribed for purposes of chapter 24*
18 *(relating to income tax withholding) which provides an exclu-*
19 *sion from ‘wages’ as used in such chapter shall be construed*
20 *to require a similar exclusion from ‘wages’ in the regulations*
21 *prescribed for purposes of this chapter.”.*

22 *(2) Section 209 of the Social Security Act is amended*
23 *by inserting immediately after subsection (r) (as added by*
24 *subsection (a) of this section) the following new sentence:*

1 *“Nothing in the regulations prescribed for purposes of chap-*
2 *ter 24 of the Internal Revenue Code of 1954 (relating to*
3 *income tax withholding) which provides an exclusion from*
4 *‘wages’ as used in such chapter shall be construed to require*
5 *a similar exclusion from ‘wages’ in the regulations prescribed*
6 *for purposes of this title.”*

7 *(c) Subsection (b) of section 3306 of the Internal Reve-*
8 *nue Code of 1954 (defining wages) is amended—*

9 *(1) by striking out “or” at the end of paragraph*
10 *(12),*

11 *(2) by striking out the period at the end of para-*
12 *graph (13) and inserting in lieu thereof “, or”,*

13 *(3) by adding immediately after paragraph (13)*
14 *the following new paragraph:*

15 *“(14) the value of any meals or lodging furnished*
16 *by or on behalf of the employer if at the time of such*
17 *furnishing it is reasonable to believe that the employee*
18 *will be able to exclude such items from income under*
19 *section 119.”, and*

20 *(4) by adding at the end thereof the following new*
21 *flush sentence:*

22 *“Nothing in the regulations prescribed for purposes of chap-*
23 *ter 24 (relating to income tax withholding) which provides an*
24 *exclusion from ‘wages’ as used in such chapter shall be con-*

1 *strued to require a similar exclusion from 'wages' in the reg-*
2 *ulations prescribed for purposes of this chapter."*

3 *(d)(1) Except as provided in paragraph (2), the amend-*
4 *ments made by subsections (a) and (b) shall apply to remu-*
5 *neration paid after December 31, 1983.*

6 *(2) The amendments made by subsection (c) shall apply*
7 *to remuneration paid after December 31, 1984.*

8 **TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED**

9 **EMPLOYEE PENSIONS**

10 *SEC. 152. (a) Subparagraph (D) of section 3121(a)(5)*
11 *of the Internal Revenue Code of 1954 (defining wages) is*
12 *amended by striking out "section 219" and inserting in lieu*
13 *thereof "section 219(b)(2)".*

14 *(b) Subsection (e) of section 209 of the Social Security*
15 *Act, as amended by this Act, is amended by striking out the*
16 *semicolon at the end thereof and inserting in lieu thereof the*
17 *following: ", or (6) under a simplified employee pension (as*
18 *defined in section 408(k) of the Internal Revenue Code of*
19 *1954) if, at the time of the payment, it is reasonable to be-*
20 *lieve that the employee will be entitled to a deduction under*
21 *section 219(b)(2) of such Code for such payment;".*

22 *(c) Subparagraph (D) of section 3306(b)(5) of the In-*
23 *ternal Revenue Code of 1954 is amended by striking out*
24 *"section 219" and inserting in lieu thereof "section*
25 *219(b)(2)".*

1 (d)(1) *Except as provided in paragraph (2), the amend-*
2 *ments made by this section shall apply to remuneration paid*
3 *after December 31, 1983.*

4 (2) *The amendments made by subsection (c) shall apply*
5 *to remuneration paid after December 31, 1984.*

6 **TITLE II—SUPPLEMENTAL SECURITY**

7 **INCOME**

8 **INCREASE IN BENEFIT STANDARD**

9 **SEC. 201.** (a) *Section 1617 of the Social Security Act*
10 *is amended by adding at the end thereof the following new*
11 *subsection:*

12 “(c) *Effective July 1, 1983—*

13 “(1) *each of the dollar amounts in effect under*
14 *subsections (a)(1)(A) and (b)(1) of section 1611, as*
15 *previously increased under this section, shall be in-*
16 *creased by \$240 (and the dollar amount in effect under*
17 *subsection (a)(1)(A) of Public Law 93-66, as previous-*
18 *ly so increased, shall be increased by \$120); and*

19 “(2) *each of the dollar amounts in effect under*
20 *subsections (a)(2)(A) and (b)(2) of section 1611, as*
21 *previously increased under this section, shall be in-*
22 *creased by \$360.”.*

23 (b) *Section 1617(b) of such Act is amended by striking*
24 *out “this section” and inserting in lieu thereof “subsection*
25 *(a) of this section”.*

1 *deemed instead to be equal to the amount of the cost-of-living*
2 *adjustment which would have occurred in July 1983 (with-*
3 *out regard to the 3-percent limitation contained in section*
4 *215(i)(1)(B)) if section 111 of the Social Security Act*
5 *Amendments of 1983 had not been enacted.”.*

6 **NOTIFICATION REGARDING SSI**

7 *SEC. 203. Prior to July 1, 1984, the Secretary of*
8 *Health and Human Services shall notify all elderly recipi-*
9 *ents of benefits under title II of the Social Security Act, who*
10 *may be eligible for supplemental security income benefits*
11 *under title XVI of such Act, of the availability of the supple-*
12 *mental security income program, and shall encourage such*
13 *recipients to contact the Social Security district office. Such*
14 *notification shall also be made to all recipients prior to at-*
15 *tainment of age 65, with the notification made with respect to*
16 *eligibility for supplemental medical insurance.*

17 **TITLE III—MEDICARE**

18 **MEDICARE PAYMENTS FOR INPATIENT HOSPITAL**
19 **SERVICES ON THE BASIS OF PROSPECTIVE RATES**

20 *SEC. 301. (a)(1) Section 1886(a)(4) of the Social Se-*
21 *curity Act is amended by adding at the end the following new*
22 *sentence: “Such term does not include costs of approved edu-*
23 *cational activities, or, with respect to costs incurred in cost*
24 *reporting periods beginning prior to October 1, 1986, capital-*
25 *related costs, as defined by the Secretary.”.*

1 (2) Subsection (a)(1) of section 1886 of such Act is
2 amended by adding at the end thereof the following new sub-
3 paragraph:

4 “(D) Subparagraph (A) shall not apply to cost reporting
5 periods beginning on or after October 1, 1985.”

6 (3) It is the intent of Congress that, in considering the
7 implementation of a system for including capital-related costs
8 under a prospectively determined payment rate for inpatient
9 hospital services, costs related to capital projects initiated on
10 or after the effective date of the implementation of such a
11 system, may or may not be distinguished and treated differ-
12 ently from costs of projects initiated before such date.

13 (b) Section 1886(b) of such Act is amended—

14 (1) by striking out “Notwithstanding sections
15 1814(b), but subject to the provisions of sections” in
16 paragraph (1) and inserting in lieu thereof “Notwith-
17 standing section 1814(b) but subject to the provisions
18 of section”;

19 (2) by inserting “(other than a subsection (d) hos-
20 pital, as defined in subsection (d)(1)(B))” in the
21 matter before subparagraph (A) of paragraph (1) after
22 “of a hospital”;

23 (3) by inserting, in the matter in paragraph (1)
24 following subparagraph (B), “(other than on the basis

1 of a DRG prospective payment rate determined under
2 subsection (d))” after “payable under this title”;

3 (4) by repealing paragraph (2);

4 (5) by inserting “and subsection (d) and except as
5 provided in subsection (e)” in paragraph (3)(B) after
6 “subparagraph (A)”;

7 (6) by inserting “or fiscal year” after “cost re-
8 porting period” each place it appears in paragraph
9 (3)(B);

10 (7) by inserting “before the beginning of the
11 period or year” in paragraph (3)(B) after “estimated
12 by the Secretary”;

13 (8) by striking out “exceeds” in paragraph (3)(B)
14 and inserting in lieu thereof “will exceed”; and

15 (9) by amending paragraph (6), effective with re-
16 spect to cost reporting periods beginning on or after
17 October 1, 1982, to read as follows:

18 “(6) In the case of any hospital which becomes subject
19 to the taxes under section 3111 of the Internal Revenue Code
20 for 1954 for part or all of a cost reporting period, and was
21 not subject to such taxes for the 12-month cost-reporting
22 period referred to in subsection (b)(3)(A)(i), the Secretary
23 shall provide for an adjustment by increasing the base year
24 amount referred to in subsection (b)(3)(A)(i) for such hospi-
25 tal applicable to such cost reporting period by the amount of

1 *such taxes paid or accrued by such hospital for such cost*
2 *reporting period.”.*

3 *(c)(1) Subsection (c)(1) of such section is amended—*

4 *(A) by striking out “and” at the end of subpara-*
5 *graph (B),*

6 *(B) by striking out the period at the end of sub-*
7 *paragraph (C) and inserting in lieu thereof “; and”,*
8 *and*

9 *(C) by adding at the end the following:*

10 *“(D) the Secretary determines that the system*
11 *will not preclude an eligible organization (as defined in*
12 *section 1876(b)) from negotiating directly with hospi-*
13 *tals with respect to the organization’s rate of payment*
14 *for inpatient hospital services.*

15 *The Secretary cannot deny the application of a State under*
16 *this subsection on the ground that the State’s hospital reim-*
17 *bursement control system is based on a payment methodology*
18 *other than on the basis of a diagnosis-related group or on the*
19 *ground that the amount of payments made under this title*
20 *under such system must be less than the amount of payments*
21 *which would otherwise have been made under this title not*
22 *using such system. If the Secretary determines that the con-*
23 *ditions described in subparagraph (C) are based on main-*
24 *taining payment amounts at no more than a specified per-*
25 *centage increase above the payment amounts in a base period,*

1 *the State has the option of applying such test (for inpatient*
2 *hospital services under part A) on an aggregate payment*
3 *basis or on the basis of the amount of payment per inpatient*
4 *discharge or admission. If the Secretary determines that the*
5 *conditions described in subparagraph (C) are based on main-*
6 *taining aggregate payment amounts below a national average*
7 *percentage increase in total payments under part A for inpa-*
8 *tient hospital services, the Secretary cannot deny the applica-*
9 *tion of a State under this subsection on the ground that the*
10 *State's rate of increase in such payments for such services*
11 *must be less than such national average rate of increase.";*

12 (2) Subsection (c)(3) of such section is amended—

13 (A) by striking out “requirement of paragraph
14 (1)(A)” and inserting in lieu thereof “requirements of
15 subparagraphs (A) and (D) of paragraph (1) and, if
16 applicable, the requirements of paragraph (5),”, and

17 (B) by inserting “(or, if applicable, in paragraph
18 (5))” in subparagraph (B) after “paragraph (1)”.

19 (3) Subsection (c) of such section is further amended by
20 adding at the end the following new paragraphs:

21 “(4) The Secretary shall approve the request of a State
22 under paragraph (1) with respect to a hospital reimbursement
23 control system if—

1 “(A) the requirements of subparagraphs (A), (B),
2 (C), and (D) of paragraph (1) have been met with re-
3 spect to the system, and

4 “(B) with respect to that system a waiver of cer-
5 tain requirements of title XVIII of the Social Security
6 Act has been approved on or before (and which is in
7 effect as of) the date of the enactment of the Social Se-
8 curity Act Amendments of 1983, pursuant to section
9 402(a) of the Social Security Amendments of 1967 or
10 section 222(a) of the Social Security Amendments of
11 1972.

12 *With respect to a State system described in this paragraph,*
13 *the Secretary shall judge the effectiveness of such system on*
14 *the basis of its rate of increase or inflation in inpatient hospi-*
15 *tal payments for individuals under this title, as compared to*
16 *the national rate of increase or inflation for such payments,*
17 *with the State retaining the option to have the test applied on*
18 *the basis of the aggregate payment or payments per inpatient*
19 *admission or discharge during the three cost reporting periods*
20 *beginning on or after October 1, 1983, after which such test*
21 *shall no longer apply, and such hospitals shall be treated in*
22 *the same manner as under other waivers.*

23 “(5) The Secretary shall approve the request of a State
24 under paragraph (1) with respect to a hospital reimbursement
25 control system if—

1 “(A) the requirements of subparagraphs (A), (B),
2 (C), and (D) of paragraph (1) have been met with re-
3 spect to the system;

4 “(B) the Secretary determines that the system—

5 “(i) is operated directly by the State or by
6 an entity designated pursuant to State law,

7 “(ii) provides for payment of hospitals cov-
8 ered under the system under a methodology
9 (which sets forth exceptions and adjustments, as
10 well as any method for changes in the methodolo-
11 gy) by which rates or amounts to be paid for hos-
12 pital services during a specified period are estab-
13 lished under the system prior to the defined rate
14 period, and

15 “(iii) hospitals covered under the system will
16 make such reports (in lieu of cost and other re-
17 ports, identified by the Secretary, otherwise re-
18 quired under this title) as the Secretary may re-
19 quire in order to properly monitor assurances pro-
20 vided under this subsection;

21 “(C) the State has provided the Secretary with
22 satisfactory assurances that operation of the system
23 will not result in any change in hospital admission
24 practices which result in—

1 “(i) a significant reduction in the proportion
2 of patients (receiving hospital services covered
3 under the system) who have no third-party cover-
4 age and who are unable to pay for hospital serv-
5 ices,

6 “(ii) a significant reduction in the proportion
7 of individuals admitted to hospitals for inpatient
8 hospital services for which payment is (or is
9 likely to be) less than the anticipated charges for
10 or costs of such services,

11 “(iii) the refusal to admit patients who
12 would be expected to require unusually costly or
13 prolonged treatment for reasons other than those
14 related to the appropriateness of the care available
15 at the hospital, or

16 “(iv) the refusal to provide emergency serv-
17 ices to any person who is in need of emergency
18 services if the hospital provides such services;

19 “(D) any change by the State in the system
20 which has the effect of materially reducing payments to
21 hospitals can only take effect upon 60 days notice to
22 the Secretary and to the hospitals the payment to
23 which is likely to be materially affected by the change;
24 and

1 “(E) the State has provided the Secretary with
2 satisfactory assurances that in the development of the
3 system the State has consulted with local governmental
4 officials concerning the impact of the system on public
5 hospitals.

6 The Secretary shall respond to requests of States under this
7 paragraph within 60 days of the date the request is submitted
8 to the Secretary.

9 “(6) If the Secretary determines that the assurances de-
10 scribed in paragraph (1)(C) have not been met with respect to
11 any 36-month period, the Secretary may reduce payments
12 under this title to hospitals under the system in an amount
13 equal to the amount by which the payments under this title
14 under such system for such period exceeded the amount of
15 payments which would otherwise have been made under this
16 title not using such system.”.

17 (d) Subsection (d) of such section, as added by section
18 110 of the Tax Equity and Fiscal Responsibility Act of
19 1982, is amended—

20 (1) by striking out “section 1814(b)” in para-
21 graph (2)(A) and inserting in lieu thereof “subsection
22 (b)”, and

23 (2) by redesignating the subsection as subsection
24 (j) and transferring and inserting such subsection at

1 *the end of section 1814 of the Social Security Act*
2 *under the following heading:*

3 *“Elimination of Lesser-of-Cost-or-Charges Provision”.*

4 *(e) Such section 1886 is further amended by adding at*
5 *the end the following new subsections:*

6 *“(d)(1)(A) Notwithstanding section 1814(b) but subject*
7 *to the provisions of section 1813, the amount of the payment*
8 *with respect to the operating costs of inpatient hospital serv-*
9 *ices (as defined in subsection (a)(4)) of a subsection (d) hos-*
10 *pital (as defined in subparagraph (B)) for inpatient hospital*
11 *discharges in a cost reporting period or in a fiscal year—*

12 *“(i) beginning on or after October 1, 1983, and*
13 *before October 1, 1986, is equal to the sum of—*

14 *“(I) the target percentage (as defined in sub-*
15 *paragraph (C)) of the hospital’s target amount for*
16 *the cost reporting period (as defined in subsection*
17 *(b)(3)(A)) for the period, and*

18 *“(II) the DRG percentage (as defined in*
19 *subparagraph (C)) of the applicable combined ad-*
20 *justed DRG prospective payment rate determined*
21 *under subparagraph (D) for such discharges; or*

22 *“(ii) beginning on or after October 1, 1986, is*
23 *equal to the national adjusted DRG prospective pay-*
24 *ment rate determined under paragraph (3) for such*
25 *discharges.*

1 “(B) As used in this section, the term ‘subsection (d)
2 hospital’ means a hospital located in one of the fifty States or
3 the District of Columbia other than—

4 “(i) a psychiatric hospital (as defined in section
5 1861(f)),

6 “(ii) a rehabilitation hospital (as defined by the
7 Secretary),

8 “(iii) a hospital whose inpatients are predomi-
9 nantly individuals under 18 years of age, or

10 “(iv) a hospital which has an average inpatient
11 length of stay (as determined by the Secretary) of
12 greater than 25 days;

13 and, in accordance with regulations of the Secretary, does not
14 include a psychiatric or rehabilitation unit of the hospital
15 which is a distinct part of the hospital (as defined by the
16 Secretary). The exclusion of any category of hospitals or
17 units under this subparagraph shall become inapplicable at
18 such time as the Secretary determines that adequate data of
19 clinical and statistical significance is available such that the
20 Secretary may include such category in the payment system
21 established under this subsection.

22 “(C) For purposes of this subsection, for cost reporting
23 periods beginning, or discharges occurring—

1 “(i) on or after October 1, 1983, and before Octo-
2 ber 1, 1984, the ‘target percentage’ is 75 percent and
3 the ‘DRG percentage’ is 25 percent;

4 “(ii) on or after October 1, 1984, and before Oc-
5 tober 1, 1985, the ‘target percentage’ is 50 percent and
6 the ‘DRG percentage’ is 50 percent; and

7 “(iii) on or after October 1, 1985, and before Oc-
8 tober 1, 1986, the ‘target percentage’ is 25 percent and
9 the ‘DRG percentage’ is 75 percent.

10 “(D) For purposes of subparagraph (A)(i)(II), the ‘ap-
11 plicable combined adjusted DRG prospective payment rate’
12 for cost reporting periods beginning, or discharges occur-
13 ring—

14 “(i) on or after October 1, 1983, and before Octo-
15 ber 1, 1984, is a combined rate consisting of 25 per-
16 cent of the national DRG prospective payment rate,
17 and 75 percent of the regional DRG prospective pay-
18 ment rate, determined under paragraph (2) for such
19 discharges;

20 “(ii) on or after October 1, 1984, and before Oc-
21 tober 1, 1985, is a combined rate consisting of 50 per-
22 cent of the national DRG prospective payment rate,
23 and 50 percent of the regional DRG prospective pay-
24 ment rate, determined under paragraph (3) for such
25 discharges;

1 “(iii) on or after October 1, 1985, and before Oc-
2 tober 1, 1986, is a combined rate consisting of 75 per-
3 cent of the national DRG prospective payment rate,
4 and 25 percent of the regional DRG prospective pay-
5 ment rate, determined under paragraph (3); and

6 “(iv) on or after October 1, 1986, is a rate equal
7 to the national DRG prospective payment rate deter-
8 mined under paragraph (3).

9 “(2) The Secretary shall determine a national adjusted
10 DRG prospective payment rate, for each inpatient hospital
11 discharge in fiscal year 1984 involving inpatient hospital
12 services of a subsection (d) hospital in the United States, and
13 shall determine a regional adjusted DRG prospective pay-
14 ment rate for such discharges in each such region, for which
15 payment may be made under part A of this title. Each such
16 rate shall also be determined for hospitals located in urban or
17 rural areas within the United States and within each such
18 region. Such determinations shall be made as follows:

19 “(A) DETERMINING ALLOWABLE INDIVIDUAL
20 HOSPITAL COSTS FOR BASE PERIOD.—The Secretary
21 shall determine the allowable operating costs per dis-
22 charge of inpatient hospital services for the hospital for
23 the most recent cost reporting period for which data are
24 available.

1 “(B) *UPDATING FOR FISCAL YEAR 1984.*—*The*
2 *Secretary shall update each amount determined under*
3 *subparagraph (A) for fiscal year 1984 by—*

4 “(i) *updating for fiscal year 1983 by the es-*
5 *timated average rate of change of hospital costs*
6 *industry-wide between the cost reporting period*
7 *used under such subparagraph and fiscal year*
8 *1983, and*

9 “(ii) *projecting for fiscal year 1984 by the*
10 *applicable percentage increase (as defined in sub-*
11 *section (b)(3)(B)) for fiscal year 1984.*

12 “(C) *STANDARDIZING AMOUNTS.*—*The Secre-*
13 *tary shall standardize the amount updated under sub-*
14 *paragraph (B) for each hospital by—*

15 “(i) *excluding an estimate of indirect medi-*
16 *cal education costs,*

17 “(ii) *adjusting for variations among hospi-*
18 *tals by area and region in the average hospital*
19 *wage level, and*

20 “(iii) *adjusting for variations in case mix*
21 *among hospitals.*

22 “(D) *COMPUTING URBAN AND RURAL AVER-*
23 *AGES.*—*The Secretary shall compute an average of the*
24 *standardized amounts determined under subparagraph*
25 *(C) for the United States and for each region—*

1 “(i) for all subsection (d) hospitals located in
2 an urban area, and

3 “(ii) for all subsection (d) hospitals located
4 in a rural area.

5 For purposes of this subsection, the term ‘region’
6 means one of the four census regions established by the
7 Bureau of the Census, established by the Secretary;
8 the term ‘urban area’ means an area within a Stand-
9 ard Metropolitan Statistical Area (as defined by the
10 Office of Management and Budget) or within such
11 similar area as the Secretary has recognized under
12 subsection (a) by regulation; and the term ‘rural area’
13 means any area outside such an area or similar area.

14 “(E) REDUCING FOR VALUE OF OUTLIER PAY-
15 MENTS.—The Secretary shall reduce each of the aver-
16 age standardized amounts determined under subpara-
17 graph (D) by a proportion equal to the proportion (esti-
18 mated by the Secretary) of the amount of payments
19 under this subsection based on DRG prospective pay-
20 ment rates which are additional payments described in
21 paragraph (5)(A) (relating to outlier payments).

22 “(F) MAINTAINING BUDGET NEUTRALITY.—The
23 Secretary shall adjust each of such average standard-
24 ized amounts as may be required under subsection
25 (e)(1)(B) for that fiscal year.

1 “(G) COMPUTING DRG-SPECIFIC RATES FOR
2 URBAN AND RURAL HOSPITALS IN THE UNITED
3 STATES AND IN EACH REGION.—For each discharge
4 classified within a diagnosis-related group, the Secre-
5 tary shall establish a DRG prospective payment rate
6 which is equal—

7 “(i) for hospitals located in an urban area in
8 the United States, and for hospitals located in an
9 urban area in each region, to the product of—

10 “(I) the average standardized amount
11 (computed under subparagraph (D), reduced
12 under subparagraph (E), and adjusted under
13 subparagraph (F)) for hospitals located in an
14 urban area in the United States or in that
15 region, and

16 “(II) the weighting factor (determined
17 under paragraph (4)(B)) for that diagnosis-
18 related group; and

19 “(ii) for hospitals located in a rural area in
20 the United States, and for hospitals located in a
21 rural area in each region, to the product of—

22 “(I) the average standardized amount
23 (computed under subparagraph (D), reduced
24 under subparagraph (E), and adjusted under
25 subparagraph (F)) for hospitals located in a

1 *rural area in the United States or in that*
2 *region, and*

3 *“(II) the weighting factor (determined*
4 *under paragraph (4)(B)) for that diagnosis-*
5 *related group.*

6 *“(H) ADJUSTING FOR DIFFERENT AREA WAGE*
7 *LEVELS.—The Secretary shall adjust the proportion*
8 *(as estimated by the Secretary from time to time) of*
9 *hospitals’ costs which are attributable to wages and*
10 *wage-related costs, of the DRG prospective payment*
11 *rates computed under subparagraph (G) for area dif-*
12 *ferences in hospital wage levels by a factor (established*
13 *by the Secretary) reflecting the relative hospital wage*
14 *level in the geographic area of the hospital compared to*
15 *the national or regional average hospital wage level as*
16 *appropriate.*

17 *“(3) The Secretary shall determine an adjusted DRG*
18 *prospective payment rate, for each inpatient hospital dis-*
19 *charge in a fiscal year after fiscal year 1984 involving inpa-*
20 *tient hospital services of a subsection (d) hospital for which*
21 *payment may be made under part A of this title, as follows:*

22 *“(A) UPDATING PREVIOUS STANDARDIZED*
23 *AMOUNTS.—The Secretary shall compute an average*
24 *standardized amount for hospitals located in an urban*
25 *area within the United States and, for fiscal year*

1 1985, for hospitals located in an urban area within
2 each region, and for hospitals located in a rural area
3 within the United States, and for fiscal year 1985, for
4 hospitals located in a rural area within each region,
5 and equal to the respective average standardized
6 amount computed for the previous fiscal year under
7 paragraph (2)(D) or under this subparagraph, in-
8 creased by the applicable percentage increase under
9 subsection (b)(3)(B) for that particular fiscal year.

10 **“(B) REDUCING FOR VALUE OF OUTLIER PAY-**
11 **MENTS.—***The Secretary shall reduce each of the aver-*
12 *age standardized amounts determined under subpara-*
13 *graph (A) by a proportion equal to the proportion (esti-*
14 *mated by the Secretary) of the amount of payments*
15 *under this subsection based on DRG prospective pay-*
16 *ment amounts which are additional payments described*
17 *in paragraph (5)(A) (relating to outlier payments).*

18 **“(C) MAINTAINING BUDGET NEUTRALITY.—***The*
19 *Secretary shall adjust each of such average standard-*
20 *ized amounts as may be required under subsection*
21 *(e)(1)(B) for that fiscal year.*

22 **“(D) COMPUTING DRG-SPECIFIC RATES FOR**
23 **URBAN AND RURAL HOSPITALS.—***For each discharge*
24 *classified within a diagnosis-related group, the Secre-*

1 “(II) the weighting factor (determined
2 under paragraph (4)(B)) for that diagnosis-
3 related group.

4 “(E) ADJUSTING FOR DIFFERENT AREA WAGE
5 LEVELS.—The Secretary shall adjust the proportion,
6 (as estimated by the Secretary from time to time) of
7 hospitals’ costs which are attributable to wages and
8 wage-related costs, of the DRG prospective payment
9 rates computed under subparagraph (D) for area differ-
10 ences in hospital wage levels by a factor (established by
11 the Secretary) reflecting the relative hospital wage level
12 in the geographic area of the hospital compared to the
13 national or regional average hospital wage level as ap-
14 propriate.

15 “(4)(A) The Secretary shall establish a classification of
16 inpatient hospital discharges by diagnosis-related groups and
17 a methodology for classifying specific hospital discharges
18 within these groups.

19 “(B) For each such diagnosis-related group the Secre-
20 tary shall assign an appropriate weighting factor which re-
21 flects the relative hospital resources used with respect to dis-
22 charges classified within that group compared to discharges
23 classified within other groups.

24 “(C) The Secretary shall adjust the classifications and
25 weighting factors established under subparagraphs (A) and

1 *(B), at least every five years, to reflect changes in treatment*
2 *patterns, technology, and other factors which may change the*
3 *relative use of hospital resources.*

4 *“(D) The Commission (established under subsection*
5 *(e)(2)) shall consult with and make recommendations to the*
6 *Secretary with respect to adjustments to be made under sub-*
7 *paragraph (C), based upon its evaluation of scientific evi-*
8 *dence with respect to new practices, including the use of new*
9 *technologies and treatment modalities. The Commission shall*
10 *report to the Congress with respect to its evaluation of any*
11 *adjustments made by the Secretary under subparagraph (C).*

12 *“(5)(A)(i) The Secretary shall provide for an additional*
13 *payment for a subsection (d) hospital for any discharge in a*
14 *diagnosis-related group, the length of stay of which exceeds*
15 *the mean length of stay for discharges within that group by a*
16 *fixed number of days, or exceeds such mean length of stay by*
17 *some fixed number of standard deviations, whichever is the*
18 *lesser.*

19 *“(ii) For cases which are not included in clause (i), a*
20 *hospital may request additional payments in any case where*
21 *changes, adjusted to cost, exceed a fixed multiple of the DRG*
22 *rate, or exceed such other fixed dollar amount, whichever is*
23 *greater.*

24 *“(iii) The amount of such additional payment under*
25 *clauses (i) and (ii) shall be determined by the Secretary and*

1 *shall approximate the marginal cost of care beyond the cutoff*
2 *point applicable under clause (i) or (ii).*

3 “(iv) *The total amount of the additional payments made*
4 *under this subparagraph for discharges in a fiscal year may*
5 *not be less than 5 percent nor more than 6 percent of the total*
6 *payments made based on DRG prospective payment rates for*
7 *discharges in that year, and the DRG rates shall be reduced*
8 *to compensate for any payments under this subparagraph in*
9 *excess of such 6 percent.*

10 “(B) *The Secretary shall provide for an additional pay-*
11 *ment amount for subsection (d) hospitals with indirect costs*
12 *of medical education, in an amount computed in the same*
13 *manner as the adjustment for such costs under regulations*
14 *(in effect as of January 1, 1983) under subsection (a)(2),*
15 *except that in the computation under this subparagraph the*
16 *Secretary shall use an educational adjustment factor equal to*
17 *twice the factor provided under such regulations.*

18 “(C)(i) *The Secretary shall provide for such exceptions*
19 *and adjustments to the payment amounts established under*
20 *this subsection as the Secretary deems appropriate to take*
21 *into account the special needs of public or other hospitals that*
22 *serve a significantly disproportionate number of patients who*
23 *have low income or are entitled to benefits under part A of*
24 *this title.*

1 “(ii) *With respect to a hospital which is a ‘sole commu-*
2 *nity hospital’, payment under paragraph (1)(A)(i) for any*
3 *cost reporting period or fiscal year beginning on or after Oc-*
4 *tober 1, 1983, shall be determined using the target percentage*
5 *and DRG percentage applicable for the fiscal year beginning*
6 *on October 1, 1983, and in no case shall total payments to*
7 *such a hospital under this title for any cost reporting period*
8 *beginning on or after October 1, 1983, and before October 1,*
9 *1986, be less than such payments to such hospital for the*
10 *preceding cost reporting period. For purposes of this subpara-*
11 *graph, the term ‘sole community hospital’ means a hospital*
12 *that, by reason of factors such as isolated location, weather*
13 *conditions, travel conditions, or absence of other hospitals (as*
14 *determined by the Secretary), is the sole source of inpatient*
15 *hospital services reasonably available to individuals in a geo-*
16 *graphical area who are entitled to benefits under part A.*

17 “(iii) *The Secretary may provide for such adjustments*
18 *to the payment amounts as the Secretary deems appropriate*
19 *to take into account the unique circumstances of hospitals*
20 *located in Alaska and Hawaii.*

21 “(D)(i) *The Secretary shall estimate the amount of re-*
22 *imbursement made for services described in section*
23 *1862(a)(14) with respect to which payment was made under*
24 *part B in the base reporting periods referred to in paragraph*

1 (2)(A) and with respect to which payment is no longer being
2 made.

3 “(ii) The Secretary shall provide for an adjustment to
4 the payment for subsection (d) hospitals in each fiscal year so
5 as appropriately to reflect the net amount described in clause
6 (i).

7 “(E) This paragraph shall apply only to subsection (d)
8 hospitals that receive payments in amounts computed under
9 this subsection.

10 “(6) The Secretary shall provide for publication in the
11 Federal Register, on or before the September 1 before each
12 fiscal year (beginning with fiscal year 1984), of a description
13 of the methodology and data used in computing the adjusted
14 DRG prospective payment rates under this subsection, in-
15 cluding any adjustments required under subsection (e)(1)(B).

16 “(7) There shall be no administrative or judicial review
17 under section 1878 or otherwise of—

18 “(A) the determination of the requirement, or the
19 proportional amount, of any adjustment effected pursu-
20 ant to subsection (e)(1), and

21 “(B) the establishment of diagnosis-related
22 groups, of the methodology for the classification of dis-
23 charges within such groups, and of the appropriate
24 weighting factors thereof under paragraph (4).

1 “(e)(1)(A) For cost reporting periods of hospitals begin-
2 ning in fiscal year 1984 or fiscal year 1985, the Secretary
3 shall provide for such proportional adjustment in the applica-
4 ble percentage increase (otherwise applicable to the periods
5 under subsection (b)(3)(B)) as may be necessary to assure
6 that—

7 “(i) the aggregate payment amounts otherwise
8 provided under subsection (d)(1)(A)(i)(I) and (d)(5) for
9 that fiscal year for operating costs of inpatient hospital
10 services of hospitals,
11 are not greater or less than—

12 “(ii) the target percentage (as defined in subsec-
13 tion (d)(1)(C)) of the payment amounts which would
14 have been payable for such services for those same hos-
15 pitals for that fiscal year under this section under the
16 law as in effect before the date of the enactment of the
17 Social Security Act Amendments of 1983;
18 except that the adjustment made under this subparagraph
19 shall apply only to subsection (d) hospitals and shall not
20 apply for purposes of making computations under subsection
21 (d)(2)(B)(ii) or subsection (d)(3)(A).

22 “(B) For discharges occurring in fiscal year 1984 or
23 fiscal year 1985, the Secretary shall provide under subsec-
24 tions (d)(2)(F) and (d)(3)(C) for such equal proportional ad-
25 justment in each of the average standardized amounts other-

1 *wise computed for that fiscal year as may be necessary to*
2 *assure that—*

3 “(i) *the aggregate payment amounts otherwise*
4 *provided under subsection (d)(1)(A)(i)(II) and (d)(5)*
5 *for that fiscal year for operating costs of inpatient hos-*
6 *pital services of hospitals,*

7 *are not greater or less than—*

8 “(ii) *the DRG percentage (as defined in subsec-*
9 *tion (d)(1)(C)) of the payment amounts which would*
10 *have been payable for such services for those same hos-*
11 *pitals for that fiscal year under this section under the*
12 *law as in effect before the date of the enactment of the*
13 *Social Security Act Amendments of 1983.*

14 “(2) *The Secretary shall provide for appointment of a*
15 *Commission of independent experts, selected by the Office of*
16 *Technology Assessment (hereinafter in this subsection re-*
17 *ferred to as the ‘Commission’) to review the applicable per-*
18 *centage increase factor described in subsection (b)(3)(B) and*
19 *make recommendations to the Secretary on the appropriate*
20 *percentage increase which should be effected for hospital in-*
21 *patient discharges under subsections (b) and (d) for fiscal*
22 *years beginning with fiscal year 1985. In making its recom-*
23 *mendations, the Commission shall take into account changes*
24 *in the hospital market-basket described in subsection*
25 *(b)(3)(B), hospital productivity, technological and scientific*

1 *advances, the quality of health care provided in hospitals (in-*
2 *cluding the quality and skill level of professional nursing*
3 *required to maintain quality care), and long-term cost-effec-*
4 *tiveness in the provision of inpatient hospital services.*

5 “(3) *The Commission, not later than the April 1 before*
6 *the beginning of each fiscal year (beginning with fiscal year*
7 *1985), shall report its recommendations to the Secretary on*
8 *an appropriate increase factor which should be used (instead*
9 *of the applicable percentage increase described in subsection*
10 *(b)(3)(B)) for inpatient hospital services for discharges in*
11 *that fiscal year.*

12 “(4) *Taking into consideration the recommendations of*
13 *the Commission, the Secretary shall determine for each fiscal*
14 *year (beginning with fiscal year 1986) the percentage in-*
15 *crease which will apply for purposes of this section as the*
16 *applicable percentage increase (otherwise described in subsec-*
17 *tion (b)(3)(B)) for discharges in that fiscal year, and which*
18 *will assure adequate compensation for the efficient and effec-*
19 *tive delivery of medically appropriate and necessary care of*
20 *high quality.*

21 “(5) *The Secretary shall cause to have published in the*
22 *Federal Register, not later than—*

23 “(A) *the June 1 before each fiscal year (beginning*
24 *with fiscal year 1985), the Secretary’s proposed deter-*
25 *mination under paragraph (4) for that fiscal year, and*

1 “(B) the September 1 before such fiscal year, the
2 Secretary’s final determination under such paragraph
3 for that year.

4 The Secretary shall include in the publication referred to in
5 subparagraph (A) for a fiscal year the report of the Commis-
6 sion’s recommendations submitted under paragraph (3) for
7 that fiscal year.

8 “(6)(A) The Commission shall consist of fifteen individ-
9 uals selected and appointed by the Director of the Congres-
10 sional Office of Technology Assessment (hereafter in this
11 part referred to as the ‘Director’ and the ‘Office’, respective-
12 ly). Such appointments shall be without regard to the provi-
13 sions of title 5, United States Code, governing appointments
14 in the competitive service. Members of the Commission shall
15 be appointed no later than April 1, 1984, for a term of three
16 years, except that the Director may provide initially for such
17 shorter terms as will insure that (on a continuing basis) the
18 terms of no more than seven members shall expire in any one
19 year. Members of the Commission shall be eligible for reap-
20 pointment for no more than two consecutive terms.

21 “(B) The membership of the Commission shall provide
22 expertise and experience in the provision and financing of
23 health care, including but not limited to physicians and reg-
24 istered professional nurses, employers, third party payors,
25 and individuals skilled in the conduct and interpretation of

1 *biomedical, health services, and health economics research.*
2 *The Director shall seek nominations from a wide range of*
3 *groups, including but not limited to—*

4 “(i) *national organizations representing physi-*
5 *cians, including medical specialty organizations and*
6 *registered professional nurses and other skilled health*
7 *professionals;*

8 “(ii) *national organizations representing hospitals,*
9 *including teaching hospitals; and*

10 “(iii) *national organizations representing the*
11 *business community, health benefit programs, labor,*
12 *and the elderly.*

13 “(C) *The Commission may employ such personnel (not*
14 *to exceed 50) as may be necessary to carry out its duties.*
15 *Subject to approval by the Director, the Commission shall*
16 *appoint one of the members of its staff as Executive Director.*
17 *The Commission is authorized to seek such assistance and*
18 *support as may be required in the performance of its duties*
19 *from appropriate Federal departments and agencies. Such*
20 *assistance may include the provision of detailees, office space,*
21 *and related services, with or without reimbursement, as*
22 *agreed upon by the Commission and the head of the appropri-*
23 *ate department or agency.*

24 “(D) *While serving on the business of the Commission*
25 *(including traveltime), a member of the Commission shall be*

1 *entitled to compensation at the per diem equivalent of the rate*
2 *provided for level IV of the Executive Schedule under section*
3 *5315 of title 5, United States Code; and while so serving*
4 *away from home and his regular place of business, a member*
5 *may be allowed travel expenses, including per diem in lieu of*
6 *subsistence, as authorized by the Chairman of the Commis-*
7 *sion.*

8 “(E) *The Executive Director shall be compensated at*
9 *the rate provided for level IV of the Executive Schedule*
10 *under section 5315 of title 5, United States Code.*

11 “(F) *The Executive Director shall, in accordance with*
12 *such policies as the Commission may prescribe, appoint and*
13 *fix the rates of compensation of such personnel as may be*
14 *necessary to carry out the provisions of this part. Such rates*
15 *of compensation may not exceed the level specified in subpar-*
16 *agraph (E).*

17 “(G) *The Commission shall have the authority to—*

18 “(i) *enter into contracts or make other arrange-*
19 *ments, as may be necessary for the conduct of the work*
20 *of the Commission, with any competent personnel or*
21 *organization, with or without reimbursement, without*
22 *performance or other bonds, and without regard to sec-*
23 *tion 3709 of the Revised Statutes (41 U.S.C. 5);*

24 “(ii) *make advance, progress, and other payments*
25 *which relate to the work of the Commission without*

1 regard to the provisions of section 3324 of title 31,
2 United States Code;

3 “(iii) accept services of voluntary and uncompen-
4 sated personnel that are necessary for the conduct of
5 the work of the Commission and provide transportation
6 and subsistence as authorized by section 5703 of title
7 5, United States Code, for persons serving without
8 compensation;

9 “(iv) acquire by purchase, lease, loan, or gift, and
10 hold and dispose of by sale, lease, or loan, real and
11 personal property of all kinds that is necessary for, or
12 results from, the exercise of authority granted by this
13 part (without regard to the first section of the Act of
14 March 3, 1877 (19 Stat. 370, chapter 106; 40 U.S.C.
15 34)); and

16 “(v) prescribe such rules and regulations as it
17 deems necessary with respect to the internal organiza-
18 tion and operation of the Commission.

19 “(H) In order to identify medically appropriate patterns
20 of health resources use in accordance with paragraph (2)(A),
21 the Commission shall collect and assess information on medi-
22 cal and surgical procedures and services, including informa-
23 tion on regional variations of medical practice and lengths of
24 hospitalization and on other patient-care data, giving special
25 attention to treatment patterns for conditions which appear to

1 *involve excessively costly or inappropriate services not*
2 *adding to the quality of care provided. In order to assess the*
3 *safety, efficiency, and cost-effectiveness of new and existing*
4 *medical and surgical procedures, the Commission shall, in*
5 *coordination to the extent possible with the Secretary, collect*
6 *and assess factual information, giving special attention to the*
7 *needs of updating existing DRG's, establishing new DRG's,*
8 *and making recommendations on relative DRG weights to*
9 *reflect appropriate differences in resource consumption in de-*
10 *livering safe, efficacious, and cost-effective care. In collecting*
11 *and assessing information, the Commission shall—*

12 “(i) *utilize existing information, both published*
13 *and unpublished, where possible, collected and assessed*
14 *either by its own staff or under other arrangements*
15 *made in accordance with this part; and*

16 “(ii) *carry out, or award grants or contracts for,*
17 *original research where existing information is inad-*
18 *equiate for the development of useful and valid guide-*
19 *lines by the Commission.*

20 “(I) *The Commission shall have access to such relevant*
21 *information and data as may be available from appropriate*
22 *Federal agencies. The Commission shall maintain the confi-*
23 *dentiality of all confidential information it receives.*

1 “(J) There shall be established a Federal Liaison Com-
2 mittee to the Commission (hereafter in this part referred to as
3 the ‘Committee’). The Committee shall—

4 “(1) arrange for the acquisition of information in
5 accordance with subparagraph (I) and assure that its
6 activities, especially the conduct of original research
7 and medical studies, are coordinated with the activities
8 of Federal agencies; and

9 “(2) advise the Commission with respect to the
10 activities of Federal agencies that relate to the duties of
11 the Commission or to particular medical procedures
12 and services under study, or being considered for
13 study, by the Commission.

14 The Federal Liaison Committee shall consist of delegates of
15 those Federal agencies which can, in the judgment of the
16 Commission, play a significant role in assisting the Commis-
17 sion. The Administrator of the Health Care Financing Ad-
18 ministration shall serve as the Chairman of the Committee.
19 Members of the Committee shall serve without additional
20 compensation. The Committee shall meet at the call of the
21 Chairman of the Committee, or at the call of the Chairman
22 of the Commission, but not less than six times a year.

23 “(K)(i) The Office shall report to the Congress, from
24 time to time, on the functioning and progress of the Commis-
25 sion and on the status of the assessment of medical proce-

1 *dures and services by the Commission. Such reports shall be*
2 *annual for the first three years of the Commission's operation*
3 *and biannual thereafter, and shall be delivered to the Con-*
4 *gress by March 15 of each reporting year.*

5 “(ii) *The Office shall have unrestricted access to all de-*
6 *liberations, records, and data of the Commission, immediate-*
7 *ly upon its request.*

8 “(iii) *In order to carry out its duties under this part, the*
9 *Office is authorized to expend reasonable and necessary*
10 *funds as mutually agreed upon by the Office and the Com-*
11 *mission. The Office shall be reimbursed for such funds by the*
12 *Commission from the appropriations made with respect to the*
13 *Commission. The Office shall carry out such duties subject*
14 *to approval of the Technology Assessment Board, as pre-*
15 *scribed by sections 3(d) (2) and (3) of the Technology Assess-*
16 *ment Act of 1972 (2 U.S.C. 472(d) (2) and (3)).*

17 “(L)(i) *There are authorized to be appropriated such*
18 *sums as may be necessary to carry out the provisions of this*
19 *paragraph.*

20 “(ii) *Eighty-five percent of such appropriation shall be*
21 *payable from the Federal Hospital Insurance Trust Fund,*
22 *and 15 percent of such appropriation shall be payable from*
23 *the Federal Supplementary Medical Insurance Trust*
24 *Fund.”.*

1 *in lieu thereof "the amount that would be payable for such*
2 *services under subsection (b) and section 1886"*.

3 (c)(1) *The matter in section 1861(v)(1)(G)(i) of such*
4 *Act following subclause (III) is amended by striking out "on*
5 *the basis of the reasonable cost of" and inserting in lieu*
6 *thereof "the amount otherwise payable under part A with re-*
7 *spect to"*.

8 (2) *Section 1861(v)(2)(A) of such Act is amended by*
9 *striking out "an amount equal to the reasonable cost of" and*
10 *inserting in lieu thereof "the amount that would be taken into*
11 *account with respect to"*.

12 (3) *Section 1861(v)(2)(B) of such Act is amended by*
13 *striking out "the equivalent of the reasonable cost of"*.

14 (4) *Section 1861(v)(3) of such Act is amended by strik-*
15 *ing out "the reasonable cost of such bed and board furnished*
16 *in semiprivate accommodations (determined pursuant to*
17 *paragraph (1))" and inserting in lieu thereof "the amount*
18 *otherwise payable under this title for such bed and board fur-*
19 *nished in semiprivate accommodations"*.

20 (d) *Section 1862(a) of such Act is amended—*

21 (1) *by striking out "or" at the end of paragraph*

22 (12),

23 (2) *by striking out the period at the end of para-*
24 *graph (13) and inserting in lieu thereof "; or", and*

1 (3) *by adding at the end the following new para-*
2 *graph:*

3 “(14) *which are other than physicians’ services*
4 *(as defined in regulations) and which are furnished to*
5 *an individual who is an inpatient of a hospital by an*
6 *entity other than the hospital, unless the services are*
7 *furnished under arrangements (as defined in section*
8 *1861(w)(1)) with the entity made by the hospital.”.*

9 *(e)(1) Section 1866(a)(1) of such Act is amended—*

10 *(A) by striking out “and” at the end of subpara-*
11 *graph (D),*

12 *(B) by striking out the period at the end of sub-*
13 *paragraph (E), and*

14 *(C) by adding at the end the following new sub-*
15 *paragraphs:*

16 “(F) *in the case of hospitals which provide inpa-*
17 *tient hospital services for which payment may be made*
18 *under subsection (c) or (d) of section 1886, to main-*
19 *tain an agreement with a utilization and quality con-*
20 *trol peer review organization (if there is such an orga-*
21 *nization which has a contract with the Secretary under*
22 *part B of title XI for the area in which the hospital is*
23 *located) under which the organization will perform*
24 *functions under that part with respect to the review of*
25 *the accuracy of diagnostic information on such hospi-*

1 *tal's bills, the completeness and adequacy of care pro-*
2 *vided, the appropriateness of admissions, and the ap-*
3 *propriateness of care provided for which additional*
4 *payments are sought under section 1886(d)(5), with re-*
5 *spect to inpatient hospital services for which payment*
6 *may be made under part A of this title (and for pur-*
7 *poses of payment under this title, the cost of such*
8 *agreement to the hospital shall be considered a cost in-*
9 *curring by such hospital in providing inpatient services*
10 *under part A, but shall be paid directly by the Secre-*
11 *tary to such organization on behalf of such hospital in*
12 *accordance with a budget approved by the Secretary),*

13 *“(G) in the case of hospitals which provide inpa-*
14 *tient hospital services for which payment may be made*
15 *under subsection (b) or (d) of section 1886, not to*
16 *charge any individual or any other person for inpatient*
17 *hospital services for which such individual would be*
18 *entitled to have payment made under part A but for a*
19 *denial or reduction of payments under section 1886(f),*
20 *and*

21 *“(H) in the case of hospitals which provide inpa-*
22 *tient hospital services for which payment may be made*
23 *under section 1886(d), to have all items and services*
24 *(other than physicians' services as defined in regula-*
25 *tions) (i) that are furnished to an individual who is an*

1 inpatient of the hospital, and (ii) for which the individ-
2 ual is entitled to have payment made under this title,
3 furnished by the hospital or otherwise under arrange-
4 ments (as defined in section 1861(w)(1)) made by the
5 hospital.”.

6 (2) The matter in section 1866(a)(2)(B)(ii) of such Act
7 preceding subclause (I) is amended by inserting “and except
8 with respect to inpatient hospital costs with respect to which
9 amounts are payable under section 1886(d)” after “(except
10 with respect to emergency services)”.

11 (f) Section 1876(g) of such Act is amended by adding at
12 the end the following:

13 “(4) A risk-sharing contract under this subsection may,
14 at the option of an eligible organization, provide that the Sec-
15 retary—

16 “(A) will reimburse hospitals for payment
17 amounts determined in accordance with section 1886,
18 as applicable, of inpatient hospital services furnished to
19 individuals enrolled with such organization pursuant to
20 subsection (d), and

21 “(B) will deduct the amount of such reimburse-
22 ment for payment which would otherwise be made to
23 such organization.”.

24 (g)(1) Section 1878(a) of such Act is amended—

1 (A) by inserting “and (except as provided in sub-
2 section (g)(2)) any hospital which receives payments in
3 amounts computed under section 1886(d) and which
4 has submitted such reports within such time as the
5 Secretary may require in order to make payment
6 under such section may obtain a hearing with respect
7 to such payment by the Board” after “subsection (h)”
8 in the matter before paragraph (1),

9 (B) by inserting “(i)” after “(A)” in paragraph
10 (1)(A),

11 (C) by inserting “or” at the end of paragraph
12 (1)(A) and by adding after such paragraph the follow-
13 ing new clause:

14 “(ii) is dissatisfied with a final determina-
15 tion of the Secretary as to the amount of the pay-
16 ment under section 1886(d),”, and

17 (D) by striking out “(1)(A)” in paragraph (3)
18 and inserting in lieu thereof “(1)(A)(i), or with respect
19 to appeals under paragraph (1)(A)(ii), 180 days after
20 notice of the Secretary’s final determination,”.

21 (2)(A) The last sentence of section 1878(f)(1) of the
22 Social Security Act is amended by inserting “(or, in an
23 action brought jointly by several providers, the judicial dis-
24 trict in which the greatest number of such providers are locat-

1 *ed) after “the judicial district in which the provider is locat-*
2 *ed”.*

3 *(B) Section 1878(f)(1) of such Act is further amended*
4 *by adding at the end thereof the following new sentence:*
5 *“Any appeal to the Board or action for judicial review by*
6 *providers which are under common ownership or control must*
7 *be brought by such providers as a group with respect to any*
8 *matter involving an issue common to such providers.”.*

9 *(3) Section 1878(g) of such Act is amended by inserting*
10 *“(1)” after “(g)” and by adding at the end the following new*
11 *paragraph:*

12 *“(2) The determinations and other decisions described*
13 *in section 1886(d)(7) shall not be reviewed by the Board or*
14 *by any court pursuant to an action brought under subsection*
15 *(f) or otherwise.”.*

16 *(4) The third sentence of section 1878(h) of such Act is*
17 *amended striking out “cost reimbursement” and inserting in*
18 *lieu thereof “payment of providers of services”.*

19 *(h) The first sentence of section 1881(b)(2)(A) of such*
20 *Act is amended by inserting “or section 1886 (if applicable)”*
21 *after “section 1861(v)”.*

22 *(i) Section 1887(a)(1)(B) of such Act is amended by*
23 *inserting “or on the bases described in section 1886” after*
24 *“on a reasonable cost basis”.*

1 (j) *The Secretary may, for any cost reporting period*
2 *beginning prior to October 1, 1986, waive the requirements*
3 *of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Se-*
4 *curity Act in the case of a hospital which has followed a*
5 *practice of allowing direct billing under part B of title*
6 *XVIII of such Act for services (other than physician serv-*
7 *ices) so extensively, that immediate compliance with those*
8 *requirements would threaten the stability of patient care. Any*
9 *such waiver shall provide that such billing may continue to*
10 *be made under part B but that the payments to such hospital*
11 *under part A of such title shall be reduced by the amount of*
12 *the billings for such services under part B. If such a waiver*
13 *is granted, at the end of the waiver period the Secretary may*
14 *provide for such methods of payments under part A as is*
15 *appropriate, given the organizational structure of the institu-*
16 *tion.*

17 *REPORTS, EXPERIMENTS, AND DEMONSTRATION*

18 *PROJECTS*

19 *SEC. 303. (a)(1) The Secretary of Health and Human*
20 *Services (hereinafter in this title referred to as the "Secre-*
21 *tary") shall study and report to the Congress within 18*
22 *months after the date of the enactment of this Act on the*
23 *method by which capital-related costs, such as return on net*
24 *equity, associated with inpatient hospital services can be in-*

1 *cluded within the prospective payment amounts computed*
2 *under section 1886(d) of the Social Security Act.*

3 (2)(A) *The Secretary shall study and report annually to*
4 *the Congress at the end of each year (beginning with 1984*
5 *and ending with 1987) on the impact, of the payment meth-*
6 *odology under section 1886(d) of the Social Security Act*
7 *during the previous year, classes of hospitals, beneficiaries,*
8 *and other payors for inpatient hospital services, and other*
9 *providers.*

10 (B) *During fiscal year 1984, the Secretary shall begin*
11 *the collection of data necessary to compute the amount of phy-*
12 *sician charges attributable, by diagnosis-related groups, to*
13 *physicians' services furnished to inpatients of hospitals whose*
14 *discharges are classified within those groups. The Secretary*
15 *shall include, in a report to Congress in 1985, legislative*
16 *recommendations on the advisability and feasibility of pro-*
17 *viding for determining the amount of the payments for physi-*
18 *cians' services furnished to hospital inpatients based on the*
19 *DRG classification of the discharges of those inpatients.*

20 (C) *In the annual report to Congress under subpara-*
21 *graph (A) for 1985, the Secretary shall include the results of*
22 *studies on—*

23 (i) *the feasibility and impact of eliminating or*
24 *phasing out separate urban and rural DRG prospec-*

1 *tive payment rates under paragraph (3) of section*
2 *1886(d) of the Social Security Act;*

3 *(ii) whether and the method under which hospi-*
4 *tals, not paid based on amounts determined under such*
5 *section, can be paid for inpatient hospital services on a*
6 *prospective basis as under such section;*

7 *(iii) the application of severity of illness, intensity*
8 *of care, or other modifications to the diagnosis-related*
9 *groups, and the advisability and feasibility of provid-*
10 *ing for such modifications; and*

11 *(iv) the feasibility and desirability of applying the*
12 *payment methodology under such section to payment*
13 *by all payors for inpatient hospital services.*

14 *(3) Prior to April 1, 1985, the Secretary shall complete*
15 *a study and make legislative recommendations to the Con-*
16 *gress with respect to an equitable method of reimbursing sole*
17 *community hospitals which takes into account their unique*
18 *vulnerability to substantial variations in occupancy. In addi-*
19 *tion, the Secretary shall examine ways to coordinate an in-*
20 *formation transfer between parts A and B, particularly with*
21 *respect to those cases where a denial of coverage is made*
22 *under part A, and no adjustment is made in the reimburse-*
23 *ment to the admitting physician, or physicians. The Secre-*
24 *tary also reports on the appropriate treatment of uncompen-*
25 *sated care costs, and adjustments that might be appropriate*

1 *for large teaching hospitals located in rural areas. The Secre-*
2 *tary shall also on the advisability of having hospitals make*
3 *available information on the cost of care to patients financed*
4 *by both public programs and private payors.*

5 (4) *The Secretary shall complete a study and make rec-*
6 *ommendations to the Congress, before April 1, 1984, with*
7 *respect to whether hospitals located outside of the fifty States*
8 *and the District of Columbia should be included under a*
9 *prospective payment system.*

10 (b)(1) *Except as provided in paragraph (2), the amend-*
11 *ments made by this title shall not affect the authority of the*
12 *Secretary to develop, carry out, or continue experiments and*
13 *demonstration projects.*

14 (2) *The Secretary shall provide that, upon the request of*
15 *a State which has a demonstration project, for payment of*
16 *hospitals under title XVIII of the Social Security Act ap-*
17 *proved under section 402(a) of the Social Security Amend-*
18 *ments of 1967 or section 222(a) of the Social Security*
19 *Amendments of 1972, which (A) is in effect as of March 1,*
20 *1983, and (B) was entered into after August 1982, the terms*
21 *of the demonstration agreement shall be modified so that the*
22 *percentage by which such demonstration project is required to*
23 *maintain the rate of increase in medicare hospital costs in*
24 *that State below the national rate of increase in medicare*
25 *hospital costs shall be decreased by one-half of one percentage*

1 *point per contract year, beginning with the contract year be-*
2 *ginning in 1983.*

3 *(c) The Secretary shall approve, with appropriate terms*
4 *and conditions as defined by the Secretary, within 30 days*
5 *after the date of enactment of this Act—*

6 *(1) the risk-sharing application of On Lok Senior*
7 *Health Services (according to terms and conditions as*
8 *specified by the Secretary), dated July 2, 1982, for*
9 *waivers, pursuant to section 222 of the Social Security*
10 *Amendments of 1972 and section 402(a) of the Social*
11 *Security Amendments of 1967, of certain requirements*
12 *of title XVIII of the Social Security Act over a period*
13 *of 36 months in order to carry out a long-term care*
14 *demonstration project, and*

15 *(2) the application of the Department of Health*
16 *Services, State of California, dated November 1, 1982,*
17 *pursuant to section 1115 of the Social Security Act,*
18 *for the waiver of certain requirements of title XIX of*
19 *such Act over a period of 36 months in order to carry*
20 *out a demonstration project for capitated reimburse-*
21 *ment for comprehensive long-term care services involv-*
22 *ing On Lok Senior Health Services.*

23 *(d) The Secretary shall continue demonstrations with*
24 *hospitals in areas with critical shortages of skilled nursing*

1 *facilities to study the feasibility of providing alternative sys-*
2 *tems of care or methods of payment.*

3 *EFFECTIVE DATES*

4 *SEC. 304. (a)(1) Except as provided in paragraph (2),*
5 *the amendments made by the preceding provisions of this title*
6 *apply to items and services furnished by or under arrange-*
7 *ments with a hospital beginning with its first cost reporting*
8 *period that begins on or after October 1, 1983. A change in a*
9 *hospital's cost reporting period that has been made after No-*
10 *vember 1982 shall be recognized for purposes of this section*
11 *only if the Secretary finds good cause for that change.*

12 *(2) Section 1866(a)(1)(F) of the Social Security Act*
13 *(as added by section 302(f)(1)(C) of this title), section*
14 *1862(a)(14) (as added by section 302(e)(3) of this title) and*
15 *sections 1886(a)(1) (G) and (H) of such Act (as added by*
16 *section 302(f)(1)(C) of this title) take effect on October 1,*
17 *1983.*

18 *(b) The Secretary shall make an appropriate reduction*
19 *in the payment amount under section 1886(d) of the Social*
20 *Security Act (as amended by this title) for any discharge, if*
21 *the admission has occurred before a hospital's first cost re-*
22 *porting period that begins after September 1983, to take into*
23 *account amounts payable under title XVIII of that Act (as*
24 *in effect before the date of the enactment of this Act) for items*
25 *and services furnished before that period.*

1 (c)(1) *The Secretary shall cause to be published in the*
 2 *Federal Register a notice of the interim final DRG prospec-*
 3 *tive payment rates established under subsection (d) of section*
 4 *1886 of the Social Security Act (as amended by this title) no*
 5 *later than September 1, 1983, and allow for a period of*
 6 *public comment thereon. The DRG prospective payment*
 7 *rates shall become effective on October 1, 1983, without the*
 8 *necessity for consideration of comments received, but the Sec-*
 9 *retary shall, by notice published in the Federal Register,*
 10 *affirm or modify the amounts by December 31, 1983, after*
 11 *considering those comments.*

12 (2) *A modification under paragraph (1) that reduces a*
 13 *DRG prospective payment rate shall apply only to discharges*
 14 *occurring after 30 days after the date the notice of the modifi-*
 15 *cation is published in the Federal Register.*

16 (3) *Rules to implement subsection (d) of section 1886 of*
 17 *the Social Security Act (as so amended) shall, and excep-*
 18 *tions, adjustments, or additional payment amounts under*
 19 *paragraph (5) of such subsection may, be established in ac-*
 20 *cordance with the procedure described in this subsection.*

21 **DELAY IN PROVISION RELATING TO HOSPITAL-BASED**

22 **SKILLED NURSING FACILITIES**

23 **SEC. 305.** (a) *Section 102 of the Tax Equity and*
 24 *Fiscal Responsibility Act of 1982 is amended by striking out*

1 "October 1, 1982" and inserting in lieu thereof "October 1,
2 1983".

3 (b) *The Secretary of Health and Human Services shall,*
4 *prior to December 31, 1983, complete a study and report to*
5 *the Congress, with respect to the effect which the implementa-*
6 *tion of section 102 of the Tax Equity and Fiscal Responsi-*
7 *bility Act of 1982 would have on hospital-based skilled nurs-*
8 *ing facilities, given the differences (if any) in the patient*
9 *populations served by such facilities and by community-*
10 *based skilled nursing facilities.*

11 *SHIFT IN PART B PREMIUM TO COINCIDE WITH COST-OF-*
12 *LIVING INCREASE*

13 *SEC. 306. (a) Section 1839 of the Social Security Act*
14 *is amended by striking out subsections (a), (b), and (c) and*
15 *inserting in lieu thereof the following:*

16 *"(a)(1) The Secretary shall, during October of 1983 and*
17 *of each year thereafter, determine the monthly actuarial rate*
18 *for enrollees who have attained retirement age (as defined in*
19 *section 216(a)) which shall be applicable for the succeeding*
20 *calendar year. Such actuarial rate shall be the amount the*
21 *Secretary estimates to be necessary so that the aggregate*
22 *amount for such calendar year with respect to those enrollees*
23 *who have attained retirement age will equal one-half of the*
24 *total of the benefits and administrative costs which he esti-*
25 *mates will be payable from the Federal Supplementary*

1 *Medical Insurance Trust Fund for services performed and*
2 *related administrative costs incurred in such calendar year*
3 *with respect to such enrollees. In calculating the monthly ac-*
4 *tuarial rate, the Secretary shall include an appropriate*
5 *amount for a contingency margin.*

6 “(2) *The monthly premium of each individual enrolled*
7 *under this part for each month after December 1983 shall,*
8 *except as provided in subsections (b) and (e), be the amount*
9 *determined under paragraph (3).*

10 “(3) *The Secretary shall, during October of 1983 and*
11 *of each year thereafter, determine and promulgate the month-*
12 *ly premium applicable for individuals enrolled under this*
13 *part for the succeeding calendar year. The monthly premium*
14 *shall (except as otherwise provided in subsection (e)) be equal*
15 *to the smaller of—*

16 “(A) *the monthly actuarial rate for enrollees who*
17 *have attained retirement age, determined according to*
18 *paragraph (1) of this subsection, for that calendar*
19 *year, or*

20 “(B) *the monthly premium rate most recently pro-*
21 *mulgated by the Secretary under this paragraph, in-*
22 *creased by a percentage determined as follows: The Sec-*
23 *retary shall ascertain the primary insurance amount*
24 *computed under section 215(a)(1), based upon average*
25 *indexed monthly earnings of \$900, that applied to in-*

1 *dividuals who became eligible for and entitled to old-*
2 *age insurance benefits for December of the year preced-*
3 *ing the promulgation. He shall increase the monthly*
4 *premium rate by the same percentage by which that*
5 *primary insurance amount is increased when, by*
6 *reason of the law in effect at the time the promulgation*
7 *is made, it is so computed to apply to those individuals*
8 *for the following December.*

9 *Whenever the Secretary promulgates the dollar amount*
10 *which shall be applicable as the monthly premium for any*
11 *period, he shall, at the time such promulgation is announced,*
12 *issue a public statement setting forth the actuarial assump-*
13 *tions and bases employed by him in arriving at the amount of*
14 *an adequate actuarial rate for enrollees who have attained*
15 *retirement age as provided in paragraph (1) and the deriva-*
16 *tion of the dollar amounts specified in this paragraph.*

17 *“(4) The Secretary shall also, during October of 1983*
18 *and of each year thereafter, determine the monthly actuarial*
19 *rate for disabled enrollees who have not attained retirement*
20 *age which shall be applicable for the succeeding calendar*
21 *year. Such actuarial rate shall be the amount the Secretary*
22 *estimates to be necessary so that the aggregate amount for*
23 *such calendar year with respect to disabled enrollees who*
24 *have not attained retirement age will equal one-half of the*
25 *total of the benefits and administrative costs which he esti-*

1 *mates will be payable from the Federal Supplementary*
2 *Medical Insurance Trust Fund for services performed and*
3 *related administrative costs incurred in such calendar year*
4 *with respect to such enrollees. In calculating the monthly ac-*
5 *tuarial rate under this paragraph, the Secretary shall include*
6 *an appropriate amount for a contingency margin.”.*

7 (2) *Subsections (d), (e), (f), and (g) of section 1839 of*
8 *such Act are redesignated as subsections (b), (c), (d), and (e),*
9 *respectively.*

10 (3) (A) *Section 1839(b) of such Act (as so redesignated)*
11 *is amended by striking out “subsection (b), (c), or (g)” and*
12 *inserting in lieu thereof “subsection (a) or (e)”.*

13 (B) *Section 1839(d) of such Act (as so redesignated) is*
14 *amended by striking out “purposes of subsection (c)” and*
15 *inserting in lieu thereof “purposes of subsection (b)”.*

16 (C) *Section 1839(e) of such Act (as so redesignated) is*
17 *amended by striking out “subsection (c)” and “subsection*
18 *(c)(1)” and by inserting in lieu thereof “subsection (a)” and*
19 *“subsection (a)(1)”, respectively.*

20 (D) *Section 1818(c) of such Act is amended by striking*
21 *out “subsection (c) of section 1839” and inserting in lieu*
22 *thereof “subsection (a) of section 1839”.*

23 (E) *Section 1843(d)(1) of such Act is amended by*
24 *striking out “without any increase under subsection (c) there-*

1 of” and inserting in lieu thereof “without any increase under
2 subsection (b) thereof”.

3 (F) Section 1844(a)(1)(A)(i) of such Act is amended—

4 (i) by striking out “1839(c)(1)” and inserting in
5 lieu thereof “1839(a)(1)”; and

6 (ii) by striking out “1839(c)(3) or 1839(g)” and
7 inserting in lieu thereof “1839(a)(3) or 1839(e)”.

8 (G) Section 1844(a)(1)(B)(i) of such Act is amended—

9 (i) by striking out “1839(c)(4)” and inserting in
10 lieu thereof “1839(a)(4)”; and

11 (ii) by striking out “1839(c)(3) or 1839(g)” and
12 inserting in lieu thereof “1839(a)(3) or 1839(e)”.

13 (H) Section 1876(a)(5) of such Act is amended—

14 (i) in subparagraph (A)(ii), by striking out
15 “1839(c)(1)” and inserting in lieu thereof
16 “1839(a)(1)”; and

17 (ii) in subparagraph (B)(ii), by striking out
18 “1839(c)(4)” and inserting in lieu thereof
19 “1839(a)(4)”.

20 (4) The amendments made by this subsection shall
21 apply with respect to premiums payable for January 1984
22 and each month thereafter.

23 (5) The monthly premium amount under section 1839
24 of the Social Security Act for the months of July through
25 December of 1983 shall be equal to the monthly premium

1 amount as determined under such section (as in effect prior
2 to the amendments made by this section) for June 1983.

3 SHIFT IN VOLUNTARY PART A PREMIUM TO COINCIDE
4 WITH COST-OF-LIVING INCREASES

5 SEC. 307. (a) Section 1818(d)(2) of the Social Secu-
6 rity Act is amended—

7 (1) by striking out “during the last calendar
8 quarter of each year, beginning in 1973,” in the first
9 sentence and inserting in lieu thereof “during the next
10 to last calendar quarter of each year”;

11 (2) by striking out “the 12-month period com-
12 mencing July 1 of the next year” in the first sentence
13 and inserting in lieu thereof “the following calendar
14 year”; and

15 (3) by striking out “for such next year” in the
16 second sentence and inserting in lieu thereof “for that
17 following calendar year”.

18 (b) The amendments made by this section shall apply to
19 premiums for months beginning with January 1984, and for
20 months after June 1983 and before January 1984, the
21 monthly premium under part A of title XVIII of the Social
22 Security Act for individuals enrolled under each respective
23 part shall be the monthly premium under that part for the
24 month of June 1983.

1 *TITLE IV—UNEMPLOYMENT COMPENSATION*
2 *PROVISIONS*

3 *PART A—FEDERAL SUPPLEMENTAL COMPENSATION*
4 *EXTENSION OF PROGRAM*

5 *SEC. 401. (a) Paragraph (2) of section 602(f) of the*
6 *Federal Supplemental Compensation Act of 1982 is amend-*
7 *ed by striking out "March 31, 1983" and inserting in lieu*
8 *thereof "September 30, 1983".*

9 *(b) Section 605(2) of such Act is amended by striking*
10 *out "April 1, 1983" and inserting in lieu thereof "October 1,*
11 *1983".*

12 *NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE*

13 *SEC. 402. (a) Subsection (e) of section 602 of the Fed-*
14 *eral Supplemental Compensation Act of 1982 is amended by*
15 *redesignating paragraph (3) as paragraph (4) and by strik-*
16 *ing out paragraph (2) and inserting in lieu thereof the follow-*
17 *ing new paragraphs:*

18 *"(2)(A) In the case of any account from which Federal*
19 *supplemental compensation was first payable to an individu-*
20 *al for a week beginning after March 31, 1983, the amount*
21 *established in such account shall be equal to the lesser of—*

22 *"(i) 65 per centum of the total amount of regular*
23 *compensation (including dependents' allowances) pay-*
24 *able to the individual with respect to the benefit year*
25 *(as determined under the State law) on the basis of*

1 *which he most recently received regular compensation,*
 2 *or*

3 *“(ii) the applicable limit determined under the fol-*
 4 *lowing table times his average weekly benefit amount*
 5 *for his benefit year,*

| <i>“In the case of weeks during a:</i> | <i>The applicable limit is:</i> |
|--|-------------------------------------|
| <i>6-percent period.....</i> | <i>14</i> |
| <i>5-percent period.....</i> | <i>12</i> |
| <i>4-percent period.....</i> | <i>10</i> |
| <i>Low-unemployment period.....</i> | <i>8</i> |

6 *“(B) Notwithstanding the provisions of clause (ii) of*
 7 *subparagraph (A), the applicable limit under such clause*
 8 *shall not be lower than 4 less than the number of weeks appli-*
 9 *cable to such State under this paragraph as in effect for the*
 10 *week beginning March 27, 1983, to the amendments made by*
 11 *the Social Security Amendments of 1983.*

12 *“(C) In the case of any account from which Federal*
 13 *supplemental compensation was payable to an individual for*
 14 *a week beginning before April 1, 1983, the amount estab-*
 15 *lished in such account shall be equal to the lesser of the sub-*
 16 *paragraph (A) entitlement or the sum of—*

17 *“(i) the subparagraph (A) entitlement reduced*
 18 *(but not below zero) by the aggregate amount of Feder-*
 19 *al supplemental compensation paid to such individual*
 20 *for weeks beginning before April 1, 1983, plus*

21 *“(ii) such individual’s additional entitlement.*

1 “(D) For purposes of subparagraph (C) and this sub-
2 paragraph—

3 “(i) The term ‘subparagraph (A) entitlement’
4 means the amount which would have been established
5 in the account if subparagraph (A) had applied to such
6 account.

7 “(ii) The term ‘additional entitlement’ means the
8 applicable limit determined under the following table
9 times the individual’s average weekly benefit amount
10 for his benefit year.

| | |
|----------------------------|-----------------------|
| “In the case of | The applicable |
| weeks during a: | limit is: |
| 6-percent period..... | 8 |
| 5-percent period..... | 6 |
| 4-percent period..... | 4 |
| Low-employment period..... | 4 |

11 “(D) Except as provided in subparagraph (C)(i), for
12 purposes of determining the amount of Federal supplemental
13 compensation payable for weeks beginning after March 31,
14 1983, from an account described in subparagraph (C), no
15 reduction in such account shall be made by reason of any
16 Federal supplemental compensation paid to the individual for
17 weeks beginning before April 1, 1983.

18 “(3)(A) For purposes of this subsection, the terms ‘6-
19 percent period’, ‘5-percent period’, ‘4-percent period’, and
20 ‘low-unemployment period’ mean, with respect to any State,
21 the period which—

1 “(i) begins with the 3d week after the 1st week in
 2 which the rate of insured unemployment in the State
 3 for the period consisting of such week and the immedi-
 4 ately preceding 12 weeks falls in the applicable range,
 5 and

6 “(ii) ends with the 3d week after the 1st week in
 7 which the rate of insured unemployment for the period
 8 consisting of such week and the immediately preceding
 9 12 weeks does not fall within the applicable range.

10 “(B) For purposes of subparagraph (A), the applicable
 11 range is as follows:

| “In the case of a: | The applicable range is: |
|-----------------------------|--|
| 6-percent period..... | A rate equal to or exceeding 6 percent. |
| 5-percent period..... | A rate equal to or exceeding 5 percent but less than 6 percent. |
| 4-percent period..... | A rate equal to or exceeding 4 percent but less than 5 percent. |
| Low-employment period | A rate less than 4 percent. |

12 “(C) No 6-percent period, 5-percent period, or 4-percent
 13 period, as the case may be, shall last for a period of less than
 14 4 weeks unless the State enters a period with a higher per-
 15 centage designation.

16 “(D) For purposes of this subsection—

17 “(i) The rate of insured unemployment for any
 18 period shall be determined in the same manner as de-
 19 termined for purposes of section 203 of the Federal-
 20 State Extended Unemployment Compensation Act of
 21 1970.

1 “(ii) *The amount of an individual’s average*
2 *weekly benefit amount shall be determined in the same*
3 *manner as determined for purposes of section*
4 *202(b)(1)(C) of such Act.”.*

5 **(b)(1)** *Section 602(f)(2) of such Act is amended by in-*
6 *serting before the period at the end thereof the following: “;*
7 *except that in the case of any individual who received such*
8 *compensation for the week preceding the last week beginning*
9 *after such date, such compensation shall be payable to such*
10 *individual for weeks beginning after such date, but the total*
11 *amount of such compensation payable for such weeks shall be*
12 *limited to 50 percent of the total amount which would other-*
13 *wise be payable for such weeks”.*

14 **(2)** *Section 605(2) of such Act is amended by inserting*
15 *before the semicolon the following: “(except as otherwise pro-*
16 *vided in section 602(f)(2))”.*

17 **(c)(1)** *Section 602(b)(1) of such Act is amended by*
18 *striking out “and” at the end of subparagraph (B), adding*
19 *“and” at the end of subparagraph (C), and inserting after*
20 *subparagraph (C) the following:*

21 *“(D) had at least 26 weeks of full-time insured*
22 *employment, during his base period or the equivalent*
23 *in insured wages during his base period (as determined*
24 *using a methodology equivalent to that used under sec-*

1 *not be limited or terminated by reason of any event, or fail-*
2 *ure to meet any requirement of law relating to eligibility for*
3 *unemployment compensation, occurring after the date of such*
4 *exhaustion of rights and before April 1, 1983 (and the period*
5 *after such exhaustion and before April 1, 1983, shall not be*
6 *counted for purposes of determining the expiration of the two*
7 *years following the end of his benefit year for purposes of*
8 *section 602(b) of the Federal Supplemental Compensation*
9 *Act of 1982).*

10 (c) *The Secretary of Labor shall, at the earliest practi-*
11 *cable date after the date of the enactment of this Act, propose*
12 *to each State with which he has in effect an agreement under*
13 *section 602 of the Federal Supplemental Compensation Act*
14 *of 1982 a modification of such agreement designed to provide*
15 *for the payment of Federal supplemental compensation under*
16 *such Act in accordance with the amendments made by this*
17 *part. Notwithstanding any other provision of law, if any*
18 *State fails or refuses, within the 3-week period beginning on*
19 *the date the Secretary of Labor proposed such a modification*
20 *to such State, to enter into such a modification of such agree-*
21 *ment, the Secretary of Labor shall terminate such agreement*
22 *effective with the end of the last week which ends on or before*
23 *such 3-week period.*

1 *PART B—PROVISIONS RELATING TO INTEREST AND*
2 *CREDIT REDUCTIONS*
3 *DEFERRAL OF INTEREST*

4 *SEC. 411. (a) Section 1202(b) of the Social Security*
5 *Act is amended by adding at the end thereof the following*
6 *new paragraph:*

7 *“(8)(A) With respect to interest due under this section*
8 *for any year after December 31, 1982, and before January 1,*
9 *1986, a State may pay 80 percent of such interest in four*
10 *annual installments of at least 20 percent beginning with the*
11 *year after the year in which it is otherwise due, if such State*
12 *meets the criteria of subparagraph (B). Interest shall accrue*
13 *on such deferred interest in the same manner as under para-*
14 *graph (3)(C).*

15 *“(B) To meet the criteria of this subparagraph a State*
16 *must—*

17 *“(i) have taken no action since October 1, 1982,*
18 *which would reduce its net unemployment tax effort or*
19 *the net solvency of its unemployment system (as deter-*
20 *mined for purposes of section 3302(f) of the Internal*
21 *Revenue Code of 1954); and*

22 *“(ii) have taken an action (as certified by the*
23 *Secretary of Labor) after October 1, 1982, which will*
24 *increase revenues and decrease benefits under the*
25 *State’s unemployment compensation system (herein-*

1 *after referred to as a 'solvency effort') by a combined*
2 *total of the applicable percentage (as compared to such*
3 *revenues and benefits as they would have been in effect*
4 *without such State action).*

5 *In the case of the first year for which there is a deferral (over*
6 *a 4-year period) of the interest otherwise payable for such*
7 *year, the applicable percentage shall be 30 percent. In the*
8 *case of the second such year, the applicable percentage shall*
9 *be 40 percent. In the case of the third such year, the applica-*
10 *ble percentage shall be 50 percent.*

11 *“(C)(i) The base year is the first year for which deferral*
12 *under this provision is granted. The Secretary of Labor shall*
13 *estimate the unemployment rate for the base year. To deter-*
14 *mine whether a State meets the requirements of subpara-*
15 *graph (B)(ii), the Secretary of Labor shall determine the per-*
16 *centage by which the benefits and taxes in the base year with*
17 *the application of the action referred to in subparagraph*
18 *(B)(ii) are lower or greater, as the case may be, than such*
19 *benefits and taxes would have been without the application of*
20 *such action. In making this determination, the Secretary*
21 *shall deem the application of the action referred to in subpar-*
22 *agraph (B)(ii) to have been effective for the base year to the*
23 *same extent as such action is effective for the year following*
24 *the base year. Once a deferral is approved a State must con-*
25 *tinue to maintain its solvency effort. Failure to do so shall*

1 *cable to taxpayers in such State for such taxable*
2 *year and each subsequent year (in a period of*
3 *consecutive years for each of which a credit reduc-*
4 *tion is in effect for taxpayers in such State) shall*
5 *be reduced by 0.1 percentage point.*

6 *“(B) In the case of a State described in sub-*
7 *paragraph (A) which also meets the requirements*
8 *of section 1202(b)(8)(B) with respect to such tax-*
9 *able year, the reduction under subsection (c)(2) in*
10 *credits otherwise applicable to taxpayers in such*
11 *State for such taxable year and each subsequent*
12 *year (in a period of consecutive years for each of*
13 *which a credit reduction is in effect for taxpayers*
14 *in such State) shall be further reduced by an ad-*
15 *ditional 0.1 percentage point.”.*

16 *(2) The amendment made by paragraph (1) shall apply*
17 *with respect to taxable year 1983 and taxable years thereaf-*
18 *ter.*

19 *(b) Section 3302(f)(1) of such Code is amended by*
20 *striking out “beginning before January 1, 1988,”.*

21 *AVERAGE EMPLOYER CONTRIBUTION RATE*

22 *SEC. 413. (a) Section 3302(d)(4)(B) of the Internal*
23 *Revenue Code of 1954 is amended by striking out “the total*
24 *of the remuneration subject to contributions under the State*
25 *unemployment compensation law” and inserting in lieu*

1 *thereof "the total of the wages attributable to such State sub-*
 2 *ject to taxation under this chapter".*

3 **(b)** *Sections 3302(c)(2)(B)(i) and 3302(c)(4) of such*
 4 *Code are each amended by striking out "2.7" and inserting*
 5 *in lieu thereof "2.7 multiplied by the ratio of the wage base*
 6 *under this chapter divided by the estimated average annual*
 7 *wage in covered employment for the calendar year in which*
 8 *the determination is to be made".*

9 **(c)** *The amendments made by this section shall be effec-*
 10 *tive for taxable year 1984 and taxable years thereafter.*

11 **DATE FOR PAYMENT OF INTEREST**

12 **SEC. 414.** *Section 1202(b)(3)(A) of the Social Security*
 13 *Act is amended by striking out "not later than" and insert-*
 14 *ing in lieu thereof "prior to".*

15 **RECOUPMENT OF INTEREST**

16 **SEC. 415.** *Section 3302 of the Internal Revenue Code*
 17 *of 1954 is amended by adding at the end thereof the following*
 18 *new subsection:*

19 **"(h) RECOUPMENT OF OVERDUE INTEREST.—**

20 **"(1)** *In addition to any other reduction required*
 21 *under this section, if any accrued interest under sec-*
 22 *tion 1202(b) of the Social Security Act has not been*
 23 *paid by a State within one year after the date such*
 24 *payment is otherwise required to be paid, then the total*
 25 *credits (after applying any other provisions of this sec-*

1 *tion) otherwise allowable under this section for the fol-*
2 *lowing taxable year, in the case of a taxpayer subject*
3 *to the unemployment compensation law of such State,*
4 *shall be reduced by an amount equal to 0.1 percent of*
5 *the amount of the wages paid by such taxpayer during*
6 *such taxable year which are attributable to such State.*

7 *“(2) Any increase in the amount of tax paid by*
8 *reason of paragraph (1) shall be first applied as a pay-*
9 *ment of such overdue interest, and any remainder shall*
10 *be applied as a repayment of principal under section*
11 *1202(b) of the Social Security Act.”.*

12 *PART C—MISCELLANEOUS PROVISIONS*

13 *TREATMENT OF EMPLOYEES PROVIDING SERVICES TO*
14 *EDUCATIONAL INSTITUTIONS*

15 *SEC. 421. (a)(1) Section 3306(a)(6)(A) of the Internal*
16 *Revenue Code of 1954 is amended by adding at the end*
17 *thereof the following new clause:*

18 *“(v) with respect to services to which section*
19 *3309(a)(1) applies, if such services are provided to or*
20 *on behalf of an educational institution, compensation*
21 *shall be denied in the same manner as if such services*
22 *were performed directly for an educational institution,*
23 *and”.*

1 (2) Clauses (ii)(I), (iii), and (iv) of such section are
2 each amended by striking out "may be denied" and inserting
3 in lieu thereof "shall be denied".

4 (b)(1) Except as provided in paragraph (2), the amend-
5 ments made by this section shall apply in the case of compen-
6 sation paid for weeks beginning on or after April 1, 1984.

7 (2) In the case of a State with respect to which the
8 Secretary of Labor has determined that State legislation is
9 required in order to comply with the amendment made by this
10 section, the amendment made by this section shall apply in
11 the case of compensation paid for weeks which begin on or
12 after April 1, 1984, and after the end of the first session of
13 the State legislature which begins after the date of the enact-
14 ment of this Act, or which began prior to the date of the
15 enactment of this Act and remained in session for at least
16 twenty-five calendar days after such date of enactment. For
17 purposes of the preceding sentence, the term "session" means
18 a regular, special, budget, or other session of a State legisla-
19 ture.

20 **EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE**

21 **HOSPITALIZED OR ON JURY DUTY**

22 **SEC. 422.** (a) Clause (ii) of paragraph (3)(A) of section
23 202(a) of the Federal-State Extended Unemployment Com-
24 pensation Act of 1970 is amended to read as follows:

1 “(ii) during which he fails to actively engage in
2 seeking work, unless such individual is not actively en-
3 gaged in seeking work because such individual is, as
4 determined in accordance with State law—

5 “(I) before any court of the United States or
6 any State pursuant to a lawfully issued summons
7 to appear for jury duty (as such term may be de-
8 fined by the Secretary of Labor), or

9 “(II) hospitalized for treatment of an emer-
10 gency or a life-threatening condition (as such term
11 may be defined by such Secretary),

12 if such exemptions in clauses (I) and (II) apply to recipients
13 of regular benefits, and the State chooses to apply such ex-
14 emptions for recipients of extended benefits; or”.

15 (b) The amendment made by this section shall become
16 effective on the date of the enactment of this Act.

Amendment No. 516

H. R. 1900

S. RES. 91

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1, an Act to implement the consensus recommendations of the National Commission on Social Security Reform and with respect to the consideration of H.R. 1900, dealing with the same subject matter. Such waiver is necessary because the recommendations of the National Commission on Social Security Reform require prompt action in order to ensure the stability of the social security system.

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

Mr. BAKER. Mr. President, I move that the Senate proceed to the consideration of H.R. 1900, the social security measure.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, as I understand the situation, the situation is this: It appears to me we are not going to be able to negotiate a compromise settlement of the jobs bill dilemma today. I regret that. I must say that all of the parties to this matter have given their best efforts and have done so conscientiously. I commend them all for it. Senator KASTEN and Senator DOLE have tried and tried repeatedly to reconcile the differences in their point of view on this matter without success. Finally, we have arrived at the place where we have to move on.

This in no way signals that we are not going to pass a jobs bill. We are going to pass a jobs bill if it is humanly possible for that to be done. But there is a cloture motion filed against further debate on the jobs bill that will not mature until Friday. In my judgment, there was simply no reason for us to sit here in quorum calls and what appeared to be endless efforts to negotiate a settlement on this matter until Friday. I think we can make good use of the time between now and Friday, 1 hour after we convene, by considering aspects of the social security bill and perhaps even passing it. I hope we can pass it.

On Friday, the cloture motion on the jobs bill will occur as the pending business. If cloture is invoked, we shall be back on the jobs bill, whether we

finish social security or not. I hope we have finished social security and we can continue then with the jobs bill in an orderly way.

The Senate should be on notice, Mr. President, of the strong possibility of a Saturday session.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. On behalf of Mr. MOYNIHAN, I make the following unanimous-consent request: I ask unanimous consent that floor privileges be granted during the disposition of the pending social security measure to Dr. John Hambor, Director of the Division of Economic Research in Office of Research & Statistics, Social Security Administration. He is serving as a legislative fellow in the office of Senator MOYNIHAN at this time. It is a bit of an unusual request, but I hope the Senate will grant it.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Senator from Kansas.

Mr. MOYNIHAN. Mr. President, may I express my appreciation to the minority leader for his courtesy in this matter and to the Senate. Dr. Hambor is a respected authority on the issues of fact that will come before the Senate.

Mr. BYRD. I thank the Senator.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. I ask that the Chair lay before the Senate S. Res. 91, a budget waiver with respect to consideration of S. 1.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 91) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution waiver.

The resolution (S. Res. 91) was agreed to as follows:

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

The Senate continued with the consideration of H.R. 1900.

UP AMENDMENT NO. 67

(Subsequently numbered amendment No. 516.)

Mr. DOLE. Mr. President, I send to the desk a Finance Committee amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 67.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof:

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1983".

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Sec. 1. Short title.

TITLE I—SOCIAL SECURITY

PART A—CHANGES IN COVERAGE

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Sec. 123. Limitation on payments to prisoners.

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Sec. 401. Extension of program.

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Sec. 421. Treatment of employees providing services to educational institutions.
Sec. 422. Extended benefits for individuals who are hospitalized or on jury duty.

TITLE I—SOCIAL SECURITY

PART A—CHANGES IN COVERAGE

COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES

SEC. 101. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

"(A) would not be included in the term 'employment' for purposes of this subsection by reason of the provisions of paragraph (5) or (6) of this subsection as in effect on January 1, 1983, and

"(B) is performed by an individual who has been continuously in the employ of the United States or an instrumentality thereof (including, solely for purposes of this paragraph, the receipt of benefits under the Civil Service Retirement and Disability Fund, or any other benefits (based upon service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government or members of the Uniformed Services as being 'in the employ' of the United States) since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after a separation from such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 days); except that this paragraph shall not apply with respect to—

"(i) service performed as the President or Vice President of the United States,

"(ii) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress,

"(iii) service performed as the Commissioner of Social Security, or

"(iv) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code.

"(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

"(A) in a penal institution of the United States by an inmate thereof;

"(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency."

(2) Section 210(p) of such Act is amended by striking out "provisions of—" and all that follows and inserting in lieu thereof "provisions of subsection (a)(5)."

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) service performed in the employ of the United States or any instrumentality of the United States, if such service—

"(A) would not be included in the term 'employment' for purposes of this subsection by reason of the provisions of paragraph (5) or (6) of this subsection as in effect on January 1, 1983, and

"(B) is performed by an individual who has been continuously in the employ of the United States or an instrumentality thereof (including, solely for purposes of this paragraph, the receipt of benefits under the Civil Service Retirement and Disability Fund, or any other benefits (based upon service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government or members of the Uniformed Services as being 'in the employ' of the United States) since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after a separation from such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 days); except that this paragraph shall not apply with respect to—

"(i) service performed as the President or Vice President of the United States,

"(ii) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress,

"(iii) service performed as the Commissioner of Social Security, or

"(iv) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

"(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

"(A) in a penal institution of the United States by an inmate thereof;

"(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;"

(2) Section 3121(u)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof."

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

(d) Nothing in this Act shall reduce the accrued entitlements to future benefits under the Federal Retirement System of current and retired Federal employees and their families.

COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

SEC. 102. (a) Section 210(a)(8) of the Social Security Act is amended by striking out subparagraph (B) thereof and by striking out "(A)" after "(8)".

(b)(1) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by striking out subparagraph (B) thereof and by striking out "(A)" after "(8)".

(2) Subsection (k) of section 3121 of such Code is repealed.

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

(d) Notwithstanding any provision of section 3121(k) of the Internal Revenue Code of 1954 (or any other provision of law) the period for which a certificate is in effect under such section may not be terminated on or after the date of the enactment of this Act.

DURATION OF AGREEMENT FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 103. (a) Subsection (g) of section 218 of the Social Security Act is amended to read as follows:

"Duration of Agreement

"(g) No agreement under this section may be terminated, in its entirety or with respect to any coverage group, on or after the date of the enactment of the Social Security Amendments of 1983."

(b) The amendment made by subsection (a) shall apply to any agreement in effect under section 218 of the Social Security Act on the date of the enactment of this Act, without regard to whether a notice of termination was in effect on such date, and to any agreement or modification thereof which may become effective under such section 218 after that date.

EXCLUSION OF SERVICES PERFORMED BY MEMBERS OF CERTAIN RELIGIOUS SECTS

SEC. 104. (a) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(v) MEMBERS OF CERTAIN RELIGIOUS FAITHS.—

"(1) EXEMPTION.—Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by this chapter with respect to wages paid to such individual by an employer who is exempt from the tax imposed under section 1401 by reason of an exemption granted under section 1402(g), if such individual is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—

"(A) such evidence of such individual's membership in, and adherence to the tenets or teachings of the sect or division thereof as the Secretary may require for purposes of determining such individual's compliance with the preceding sentence, and

"(B) his waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person, and only if the Secretary of Health and Human Services finds that—

"(i) such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,

"(ii) it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is rea-

sonable in view of their general level of living, and

"(iii) such sect or division thereof has been in existence at all times since December 31, 1950.

An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable for, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.

"(2) PERIOD FOR WHICH EXEMPTION EFFECTIVE.—An exemption granted to any individual pursuant to this subsection shall apply with respect to all taxable years beginning after December 31, 1983, except that such exemption shall not apply for any calendar year—

"(A) beginning (i) before the calendar year in which such individual first met the requirements of the first sentence of paragraph (1), or (ii) before the time as of which the Secretary of Health and Human Services finds that the sect or division thereof of which such individual is a member met the requirements of clauses (i) and (ii) of paragraph (1), or

"(B) ending (i) after the time such individual ceases to meet the requirements of the first sentence of paragraph (1), or (ii) after the time as of which the Secretary of Health and Human Services finds that the sect or division thereof of which he is a member ceases to meet the requirements of clauses (i) and (ii) of paragraph (1)."

(b) Section 210(a) of the Social Security Act is amended—

(1) by striking out "or" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(21) Service performed, in the employ of an employer who is exempt from the tax imposed under section 1401 of the Internal Revenue Code of 1954 by reason of an exemption granted under section 1402(g) of such Code, by an individual with respect to whom an exemption has been granted (and is applicable) under section 3121(v) of such Code."

(c) Section 3121(b) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "or" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(21) service performed, in the employ of an employer who is exempt from the tax imposed under section 1401 by reason of an exemption granted under section 1402(g), by an individual with respect to whom an exemption has been granted (and is applicable) under subsection (v) of this section."

(d) Section 202(v) of the Social Security Act is amended by inserting "or 3121(v)" after "1402(g)" each place it appears.

(e) The amendments made by this section shall apply with respect to remuneration paid after December 31, 1983.

Part B—Changes in Benefits

SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR YEAR BASIS

SEC. 111. (a)(1) Section 215(i)(2)(A)(ii) of the Social Security Act is amended by striking out "June" and inserting in lieu thereof "December".

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "May" and inserting in lieu thereof "November".

(3) Section 215(i)(2)(B) of such Act is amended by striking out "May" each place

it appears and inserting in lieu thereof in each instance "November".

(4) Section 203(f)(8)(A) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(5) Section 230(a) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(6) Section 215(i)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "June" in subparagraph (A)(ii) and inserting in lieu thereof "December", and by striking out "May" each place it appears in subparagraph (B) and inserting in lieu thereof in each instance "November".

(7) Section 202(m) of such Act (as it applies in certain cases by reason of section 2 of Public Law 97-123) is amended by striking out "May" and inserting in lieu thereof "November".

(8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1982.

(b)(1) Section 215(i)(1)(A) of the Social Security Act is amended by striking out "March 31" and inserting in lieu thereof "September 30", and by striking out "1974" and inserting in lieu thereof "1982".

(2) Section 215(i)(1)(A) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "March 31" and inserting in lieu thereof "September 30".

(3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1983.

(c) Section 215(i)(4) of such Act is amended by inserting " , and as amended by section 201 (a)(6) and (b)(2) of the Social Security Amendments of 1983," after "as in effect in December 1978".

(d) Notwithstanding any provision to the contrary in section 215(i) of the Social Security Act, the "base quarter" (as defined in paragraph (1)(A)(i) of such section) in the calendar year 1983 shall be a "cost-of-living computation quarter" within the meaning of paragraph (1)(B) of such section (and shall be deemed to have been determined by the Secretary of Health and Human Services to be a "cost-of-living computation quarter" under paragraph (2)(A) of such section) for all of the purposes of such Act as amended by this section and by other provisions of this Act, without regard to the extent by which the Consumer Price Index has increased since the last prior cost-of-living computation quarter which was established under such paragraph (1)(B).

ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS RECEIVING PENSIONS FROM NONCOVERED EMPLOYMENT

SEC. 112. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In the case of an individual who was not eligible for an old-age or disability insurance benefit for December 1983 and whose primary insurance amount would be computed under paragraph (1) of this subsection, and who first becomes eligible after 1983 to a monthly periodic payment (or a payment determined under subparagraph (D)) based (in whole or in part) upon his earnings for service which did not constitute 'employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(5) referred to as 'noncovered service') of at least one

year's duration, the primary insurance amount of that individual during his entitlement to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) with respect to the initial month in which the individual becomes eligible for such benefits, and shall be periodically recomputed thereafter at such times as the Secretary determines there has been a significant change in the amount of such periodic payment.

"(B)(ii) If paragraph (1) of this subsection would apply to that individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under this subsection (other than this paragraph), except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under this subsection (other than this paragraph), except that such second amount shall be reduced by an amount equal to the applicable fraction (as determined under subparagraph (E)) of the portion of the monthly periodic payment attributable to noncovered service to which the individual is entitled (or deemed to be entitled) for the month for which such old-age or disability insurance benefits are payable. For purposes of the preceding sentence, the portion of the monthly periodic payment attributable to noncovered service shall be that portion of such payment which bears the same ratio to the amount of such payment as the number of months of service in noncovered service to which such benefit is attributable (but only counting any such months occurring after 1956) bears to the total number of months of service to which such benefit is attributable. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i)) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

"(ii) For purposes of clause (i), the percent specified in this clause is—

"(I) 78.4 percent, with respect to individuals who initially become eligible for old age or disability insurance benefits, or who die (before becoming eligible for such benefits) in 1984;

"(II) 66.8 percent with respect to individuals who so become eligible or die in 1985;

"(III) 55.2 percent with respect to individuals who so become eligible or die in 1986;

"(IV) 43.6 percent with respect to individuals who so become eligible or die in 1987; and

"(V) 32.0 percent with respect to individuals who so become eligible or die in 1988 or thereafter.

"(C) No primary insurance amount may be reduced by reason of this paragraph below the amount of the primary insurance amount as determined under paragraph (1)(C)(i).

"(D)(i) Any periodic payment that otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Secretary), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

"(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survi-

vors benefit to any other individual, the payment is deemed to be increased (for the purpose of any computation under this paragraph) by such reduction.

"(iii) If an individual to whom subparagraph (A) applies is eligible for a periodic payment beginning with a month that is subsequent to the month in which he becomes eligible for old-age or disability insurance benefits, the amount of that payment for purposes of subparagraph (B) shall be deemed to be the amount to which he is, or is deemed, to become entitled (subject to clauses (i), (ii), and (iv) of this subparagraph) in such subsequent month.

"(iv) For purposes of this subparagraph, the term 'periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(E) For purposes of subparagraph (B), the applicable fraction is—

"(i) in the case of an individual who first becomes eligible during 1984 to a monthly periodic payment described in subparagraph (A), one-fifteenth,

"(ii) in the case of an individual who first becomes eligible during 1985 to a monthly periodic payment described in subparagraph (A), two-fifteenths,

"(iii) in the case of an individual who first becomes eligible during 1986 to a monthly periodic payment described in subparagraph (A), one-fifth,

"(iv) in the case of an individual who first becomes eligible during 1987 to a monthly periodic payment described in subparagraph (A), four-fifteenths, and

"(v) in the case of an individual who first becomes eligible during 1988 or thereafter to a monthly periodic payment described in subparagraph (A), one-third.

"(F) This paragraph shall not apply in the case of an individual who has more than 30 years of coverage (as defined in paragraph (1)(C)(ii)). In the case of an individual who has more than 24 years of coverage (as so defined), the figure '32 percent' in subparagraph (B) shall, if larger, be deemed to be—

"(i) 90 percent, in the case of an individual who has 30 or more of such years of coverage;

"(ii) 80 percent, in the case of an individual who has 29 of such years;

"(iii) 70 percent, in the case of an individual who has 28 of such years;

"(iv) 60 percent, in the case of an individual who has 27 of such years;

"(v) 50 percent, in the case of an individual who has 26 of such years; and

"(vi) 40 percent, in the case of an individual who has 25 of such years."

(b) Section 215(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) In the case of an individual who was not eligible for an old-age or disability insurance benefit for December 1983 and whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)(ii) of that subsection, and who first becomes eligible after 1983 to a monthly periodic payment (or a payment determined under subsection (a)(7)(D)) based (in whole or in part) upon his earnings in noncovered service of at least one year's duration, his primary insurance amount for purposes of his entitlement to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

"(i) one-half of the primary insurance amount (computed without regard to this paragraph and before the application of subsection (i)), or

"(ii) the applicable fraction (as determined under subparagraph (B)) of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(D)) attributable to noncovered service to which that individual is entitled (or deemed to be entitled) for the initial month of his eligibility for old-age or disability insurance benefits.

For purposes of the preceding sentence, the portion of the monthly periodic payment attributable to noncovered service shall be that portion of such payment which bears the same ratio to the amount of such payment as the number of months of service in noncovered service to which such benefit is attributable bears to the total number of months of service to which such benefit is attributable. The amount of such periodic payment for purposes of clause (ii) shall be periodically recomputed at such times as the Secretary determines there has been a significant change in the amount of such periodic payment.

"(B) For purposes of subparagraph (A), the applicable fraction is—

"(i) in the case of an individual who first becomes eligible during 1984 to a monthly periodic payment described in subparagraph (A), one-fifteenth,

"(ii) in the case of an individual who first becomes eligible during 1985 to a monthly periodic payment described in subparagraph (A), two-fifteenths,

"(iii) in the case of an individual who first becomes eligible during 1986 to a monthly periodic payment described in subparagraph (A), one-fifth,

"(iv) in the case of an individual who first becomes eligible during 1987 to a monthly periodic payment described in subparagraph (A), four-fifteenths, and

"(v) in the case of an individual who first becomes eligible during 1988 or thereafter to a monthly periodic payment described in subparagraph (A), one-third.

"(C) No primary insurance amount may be reduced by reason of this paragraph below the amount of the primary insurance amount as determined under subsection (a)(1)(C)(i)."

(c) Section 215(f) of such Act is amended by adding at the end the following new paragraph:

"(9)(A) In the case of an individual who first becomes eligible for a periodic payment determined under subsection (a)(7)(A) or (a)(7)(D) in a month subsequent to the first month in which he becomes eligible for an old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed, in accordance with either such subsection or subsection (d)(5), as may be applicable, effective with the first month of his concurrent eligibility for either such benefit and such periodic payment.

"(B) If an individual's primary insurance amount has been computed under subsection (a)(7) or (d)(5), and it becomes necessary to recompute that primary insurance amount under this subsection—

"(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (other than in the case of the individual's death), such increase shall be determined as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5), or

"(ii) by reason of the individual's death, such primary insurance amount shall be recomputed without regard to (and as though it had never been computed with regard to) subsection (a)(7) or (d)(5).

"(C) In the case of any individual whose primary insurance amount is subject to the requirements of subsection (a)(7) or (d)(5), the amount of such primary insurance amount shall be recomputed as may be required under such subsections by reason of a significant change in the amount of the relevant periodic payment."

(d) Sections 202(e)(2)(B)(i) and 202(f)(3)(B)(i) of such Act are each amended by striking out "section 215(f)(5) or (6)" and inserting in lieu thereof "section 215(f)(5), 215(f)(6), or 215(f)(9)(B)".

BENEFITS FOR SURVIVING DIVORCED SPOUSES AND DISABLED WIDOWS AND WIDOWERS WHO REMARRY

SEC. 113. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

(2) Section 202(e)(4) of such Act is amended to read as follows:

"(4) For purposes of paragraph (1), if—

"(A) a widow or a surviving divorced wife marries after attaining age 60, or

"(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred."

(b)(1) Section 202(f)(4) of such Act is repealed.

(2) Section 202(f)(5) of such Act is amended to read as follows:

"(5) For purposes of paragraph (1), if—

"(A) a widower marries after attaining age 60, or

"(B) a disabled widower described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred."

(c)(1) The amendments made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

DETERMINATION OF PRIMARY INSURANCE AMOUNT FOR DEFERRED SURVIVOR BENEFITS

SEC. 114. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) If a person is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual whose primary insurance amount would otherwise be determined under paragraph (1), the primary insurance amount of such deceased individual shall be determined, for purposes of determining the amount of the benefit under such subsection, as if such deceased individual died in the year in which the person entitled to benefits under such subsection first became eligible for such benefits or, if earlier, the year in which such deceased individual would have attained age 62 if he had not died (except that the actual year of death of such deceased individual shall be used for purposes of section 215(b)(2)(B)(ii)(II)).

"(B) Notwithstanding subparagraph (A), if a person—

"(i) is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual, and

"(ii) was entitled to benefits under this title on the basis of the wages and self-employment income of such deceased individual in the month before the month in which

such person became eligible for the benefits described in clause (i),

the primary insurance amount of such deceased individual shall be the primary insurance amount determined under the rules which would apply (but for subparagraph (A)) or the primary insurance amount determined under subparagraph (A), whichever is larger."

(b) The amendments made by subsection (a) shall apply to the benefits of individuals who become eligible for benefits under section 202 (e) and (f) of the Social Security Act after December 1984.

BENEFITS FOR DIVORCED SPOUSE REGARDLESS OF WHETHER FORMER SPOUSE HAS RETIRED

SEC. 115. (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of determining the entitlement of a divorced wife to a benefit under this subsection and the amount of such benefit, in the case of a wife who has been divorced from her former husband for a period of not less than 24 months—

"(A) such former husband shall be deemed to be entitled to an old-age insurance benefit if he would be entitled to such a benefit if he applied therefor; and

"(B) the amount of such benefit for such divorced wife shall be determined without regard to reductions which are or would be made under section 203 on account of work performed by such former husband."

(b)(1) The amendment made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1984.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1984, no benefit shall be paid under such title by reason of such amendment unless proper application for such benefit is made.

INCREASE IN BENEFIT AMOUNT FOR DISABLED WIDOWS AND WIDOWERS

SEC. 116. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(ii) and all that follows and inserting in lieu thereof a period.

(2) Section 202(q)(6) of such Act is amended to read as follows:

"(6) For purposes of this subsection, the 'reduction period' for an old-age, wife's, husband's, widow's, or widower's insurance benefit is the period beginning—

"(A) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

"(B) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

"(C) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is later, and ending with the last day of the month before the month in which such individual attains retirement age."

(3) Section 202(q)(7) of such Act is amended by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following:

"(7) For purposes of this subsection, the 'adjusted reduction period' for an old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—"

(4) Paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii) of section 202(q) of such Act are

each amended by striking out "(6)(A)" and inserting in lieu thereof in each instance "(6)".

(5) Section 202(q)(3)(G) of such Act is amended by striking out "paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))" and inserting in lieu thereof "paragraph (6)".

(6) Section 202(q)(10) of such Act is amended—

(A) by striking out "or an additional adjusted reduction period";

(B) in subparagraphs (B)(i), (C)(i), and (C)(ii), by striking out ", plus the number of months in the adjusted additional reduction period multiplied by $\frac{1}{240}$ of 1 percent"; and

(C) in subparagraph (B)(ii), by striking out ", plus the number of months in the additional reduction period multiplied by $\frac{1}{240}$ of 1 percent".

(b)(1) The amendments made by this section shall be effective with respect to monthly benefits under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

ADJUSTMENT TO COST-OF-LIVING INCREASE WHEN TRUST FUND RATIO FALLS BELOW 20 PERCENT

SEC. 117. (a) Section 215(i)(2)(A)(ii) of the Social Security Act is amended, in the matter following clause (III), by striking out "The increase shall be derived" and inserting in lieu thereof "Except as otherwise provided in paragraph (5), the increase shall be derived".

(b) Section 215(i) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The amount of the increase under paragraph (2) to become effective for monthly benefits payable for December 1988 or any December thereafter shall, if the Secretary makes a finding under this paragraph that the combined trust funds ratio (as defined in subparagraph (D)) as of the start of business on January 1 of the calendar year in which such December falls is less than 20.0 percent, be determined under paragraph (2) by substituting—

"(i) the percentage (rounded to the nearest one-tenth of 1 percent) by which the average of the total wages for the preceding calendar year (as determined for purposes of subsection (b)(3)(A)(ii)) exceeds such average for the second preceding calendar year (and if no increase in such wages took place, the percentage shall be deemed to be zero), for

"(ii) the percentage otherwise applicable under paragraph (2),

but only if the percentage determined under clause (i) is less than the percentage determined under clause (ii).

"(B) In any case in which a cost-of-living adjustment would not be made under this subsection on account of the relevant increase in the Consumer Price Index being less than 3 percent, no such cost-of-living increase shall be made by reason of this paragraph. For purposes of any subsequent determination of a cost-of-living increase based upon a period of more than 12 months, the percentage of the cost-of-living increase (if any) to be applied under paragraph (2) shall be the sum of the percentage increases for each relevant 12-month period in such longer period which would have been effective under this subsection (including this paragraph) but for the provision of paragraph (1) which limits such increases only to cases in which the relevant increase in the Consumer Price Index is equal to or greater than 3 percent.

"(C) The Secretary shall make the finding with respect to the combined trust funds

ratio (as of the start of business on January 1 of each calendar year) on October 1 of each calendar year, based upon the most recent data available as of that time.

"(D) For purposes of this paragraph, the term 'combined trust funds ratio' means the ratio of—

"(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Hospital Insurance Trust Fund, as of the start of business on January 1 of any calendar year, to

"(ii) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201, but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from the Railroad Retirement Account.

"(E) If any increase under paragraph (2) has been determined on the basis of the substitute formula in subparagraph (A)(i) of this paragraph, and, for any succeeding calendar year, the Secretary determines that the combined trust funds ratio is greater than 32.0 percent, the Secretary shall pay additional benefits with respect to the 12-month period beginning with the following December in amounts not to exceed—

"(i) in the aggregate, a total amount which, according to actuarial estimate, equals the amount by which the balance in such trust funds on the date of such determination exceeds the amount necessary to effect a combined trust funds ratio of 32.0 percent for the following year; and

"(ii) with respect to any individual, for benefits for each month in such 12-month period, an amount equal to one-twelfth of the total amount by which all benefits paid to him during all previous years were less than the amounts which would have been paid to him but for the provisions of this paragraph.

Such additional benefits shall be paid as a percentage increase in the monthly benefits otherwise payable for months during such 12-month period. If there are not sufficient funds available to pay additional benefits in the full amount to all individuals (taking into account the limitation in clause (i)), amounts paid under this subparagraph shall be paid on a pro rata basis to all individuals who are entitled to any such amount and are entitled to a benefit under this title for the months in which such additional amounts are being paid.

"(F) In any case in which additional payments are made by reason of the provisions of subparagraph (E), for purposes of determining benefit amounts for months after the 12-month period for which such additional benefits were made, the percentage increase under this subsection applicable to benefits payable for such 12-month period shall be deemed to be the actual percentage achieved by reason of such additional payments (as measured with respect to payments which are not subject to reduction under any other provision of this Act)."

(c) Only with respect to the determination made for January 1, 1988, the combined trust fund ratio for such year (for purposes of determining the increase under section 215(i) of the Social Security Act for benefits payable for December of such year) shall be determined by using the actuarial estimate of the Secretary of Health and Human services of the ratio of—

(1) the combined balance which will be available in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Hospital Insurance Trust Fund, at the close of business on December 31 of such calendar year, to

(2) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for calendar year 1988 for all purposes authorized by section 201 of such Act, but excluding any transfer payments between such trust funds, and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from the Railroad Retirement Account.

(d) Section 1617(a)(2) of the Social Security Act is amended by inserting "or, if greater, the percentage by which benefit amounts under title II would be increased for such month but for the provisions of section 215(i)(5)," after "are increased for such month".

INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON ACCOUNT OF DELAYED RETIREMENT
SEC. 118. (a) Section 202(w)(1)(A) of the Social Security Act is amended to read as follows:

"(A) the applicable percentage (as determined under paragraph (6)) of such amount, multiplied by"

(b) Section 202(w) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of paragraph (1)(A), the applicable percentage is—

"(A) $\frac{1}{2}$ of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit before 1979; and

"(B) $\frac{1}{4}$ of 1 percent in the case of an individual who first becomes so eligible after 1978, and before 1998;

"(C) in the case of an individual who first becomes so eligible after 1989 and before 2009, a percentage equal to the percentage in effect under this subparagraph for individuals who first became eligible in the preceding calendar year (as increased pursuant to this clause), plus $\frac{1}{100}$ of 1 percent, and

"(D) in the case of an individual who first becomes so eligible after 2008, $\frac{1}{3}$ of 1 percent."

(c)(1) Paragraphs (2)(A) and (3) of section 202(w) of such Act are each amended by striking out "age 72" and inserting in lieu thereof "age 70".

(2) The amendments made by paragraph (1) shall apply with respect to increment months in calendar years after 1983.

INCREASE IN RETIREMENT AGE

SEC. 119. (a) Section 216 of the Social Security Act is amended by inserting before subsection (b) the following new subsection:

"Retirement Age

"(a) (1) The term 'retirement age' means—
 "(A) with respect to an individual who attains the early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age;

"(B) with respect to an individual who attains early retirement age after December 31, 1999, and before January 1, 2012, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the year in which such individual attains early retirement age; and

"(C) with respect to an individual who attains early retirement age after December 31, 2014, 66 years of age.

"(2) The term 'early retirement age' means age 62 in the case of an old-age, wife's, or

husband's benefit, and age 60 in the case of a widow's or widower's benefit.

"(3) The age increase factor for individuals who attain early retirement age in the period described in subparagraph (B) shall be equal to one-twelfth of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

(b)(1) Section 202(q)(9) of such Act is amended to read as follows:

"(9) The amount of the reduction for early retirement specified in paragraph (1) shall be periodically revised by the Secretary such that—

"(A) for old-age insurance benefits, wife's insurance benefits, and husband's insurance benefits, the reduction applicable to an individual entitled to such a benefit at an age not more than 3 years lower than the retirement age applicable to such individual, shall be the same as under such paragraph (1), and such reduction shall be increased by five-twelfths of 1 percent for each month below that age which is 3 years lower than the applicable retirement age; and

"(B) for widow's insurance benefits and widower's insurance benefits, the reduction for those entitled to such benefits at the earliest possible early retirement age shall be the same as specified in paragraph (1), and those for later ages shall be established by linear interpolation between the applicable reduction for such earliest possible early retirement age and a factor of unity at the applicable retirement age."

(2) Section 202(q)(1) of such Act is amended by striking out "if" and inserting in lieu thereof "Subject to paragraph (9), if"

(c) The Social Security Act is amended—

(1) by striking out "age 65" or "age of 65", as the case may be, each place it appears in the following sections and inserting in lieu thereof in each instance "retirement age (as defined in section 216(a))":

- (A) subsections (a), (b), (c), (d), (e), (f), (g), (r), and (w) of section 202,
- (B) subsections (c) and (f) of section 203,
- (C) section 211(b)(3),
- (D) subsection (f) of section 215,
- (E) subsections (h) and (i) of section 216,
- (F) section 223(a),
- (G) subsections (a), (b), (c), and (e) of section 226,
- (H) section 1811,
- (I) section 1818(a)(1),
- (J) section 1836(2),
- (K) section 1837,
- (L) subsections (c) and (f) of section 1839,
- (M) section 1838,
- (N) section 1844(a), and
- (O) section 1876(a)(5);

(2) by striking out "age sixty-five" in section 203(c) and inserting in lieu thereof "retirement age (as defined in section 216(a))"; and

(3) by striking out "age of sixty-five" in section 223(a) and inserting in lieu thereof "retirement age (as defined in section 216(a))".

ADJUSTMENTS IN OASDI BENEFIT FORMULA

SEC. 120. (a) Section 215(a)(1)(A) of the Social Security Act is amended by striking out "90 percent" in clause (i), "32 percent" in clause (ii), and "15 percent" in clause (iii) and inserting in lieu thereof in each instance "the applicable percentage (determined under paragraph (8))".

(b) The first sentence of section 215(a)(7)(B) of such Act (as added by section 113(a) of this Act) is amended by striking out "61 percent" and inserting in lieu thereof "the applicable percentage as determined under paragraph (8)".

(c) Section 215(a) of such Act is further amended by adding at the end thereof (after

the new paragraph added by section 113 of this Act) the following new paragraph:

"(8) The 'applicable percentages' for purposes of clauses (i), (ii), and (iii) of paragraph (1)(A), and the 'applicable percentage' for purposes of the first sentence of paragraph (7)(B), shall be determined as follows:

| | The 'applicable percentage'— | | |
|--------------------------------------|---|--|--|
| | for purposes of clause (i) of paragraph (1)(A) and the first sentence of paragraph (7)(B) is— | for purposes of clause (ii) of paragraph (1)(A) and the first sentence of paragraph (7)(B) is— | for purposes of clause (iii) of paragraph (1)(A) is— |
| any year from 1979 through 1999..... | 90.0 | 32.0 | 15.0 |
| 2000..... | 89.4 | 31.8 | 14.9 |
| 2001..... | 88.8 | 31.6 | 14.8 |
| 2002..... | 88.2 | 31.4 | 14.7 |
| 2003..... | 87.6 | 31.1 | 14.6 |
| 2004..... | 87.0 | 30.9 | 14.5 |
| 2005..... | 86.4 | 30.7 | 14.4 |
| 2006..... | 85.8 | 30.5 | 14.3 |
| 2007 or thereafter... | 85.2 | 30.3 | 14.2 |

PHASEOUT OF EARNINGS LIMITATION FOR BENEFICIARIES WHO HAVE ATTAINED RETIREMENT AGE

SEC. 121. (a) Section 203(f)(8)(D) of the Social Security Act is amended by inserting "(i)" after "(D)" and adding at the end thereof the following new clause:

"(ii) Notwithstanding any other provision of this subsection, the exempt amount applicable to any individual who has attained retirement age, as otherwise determined under this subsection, shall be increased by—

"(I) \$250 for each month in any taxable year ending after 1989 and before 1991;

"(II) \$500 for each month in any taxable year ending after 1990 and before 1992;

"(III) \$750 for each month in any taxable year ending after 1991 and before 1993;

"(IV) \$1,000 for each month in any taxable year ending after 1992 and before 1994; and

"(V) \$1,250 for each month in any taxable year ending after 1993 and before 1995."

(b) Section 203(c)(1) of the Social Security Act is amended by striking out "the age of seventy" and inserting in lieu thereof "retirement age".

(c) The last sentence of section 203(e) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefits if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."

(d) Section 203(d)(1) of such Act is amended by striking out "the age of seventy" and inserting in lieu thereof "retirement age".

(e) Section 203(f)(1) of such Act is amended—

(1) in clause (B), by striking out "the age of seventy" and inserting in lieu thereof "retirement age";

(2) by amending clause (D) to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60," and

(3) by striking out "the applicable exempt amount" each place it appears and insert-

ing in lieu thereof in each instance "the exempt amount".

(f) Section 203(f)(3) of such Act is amended—

(1) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(2) by striking out "age 70" and inserting in lieu thereof "retirement age".

(g) Section 203(f)(4)(B) of such Act is amended by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount".

(h) Section 203(f)(8)(A) of such Act is amended by striking out "exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "exempt amount which is to be applicable".

(i) Section 203(f)(8)(B) of such Act is amended—

(1) by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be";

(2) in clause (i), by striking out "corresponding"; and

(3) in the matter following clause (ii), by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(j) Section 203(f)(8) of such Act is amended by striking out subparagraph (D) thereof.

(k) Section 203(h)(1)(A) of such Act is amended—

(1) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(2) by striking out "age 70" each place it appears and inserting in lieu thereof in each instance "retirement age".

(l) Section 203(j) of such Act is amended—

(1) by striking out "Age Seventy" in the heading thereof and inserting in lieu thereof "Retirement Age"; and

(2) by striking out "seventy years of age" and inserting in lieu thereof "retirement age".

(m) Section 202(w)(2) of such Act (as amended by section 118 of this Act) is further amended by inserting "for months prior to 1984" before "and prior".

(n) The amendments made by this section, other than subsection (a) and subsection (m), shall be effective with respect to taxable years ending after 1994.

INCREASE IN DROPOUT YEARS FOR TIME SPENT IN CHILD CARE

SEC. 122. (a) Section 215(b)(2)(A) of the Social Security Act is amended, in the third sentence thereof—

(1) by striking out "clause (ii)" each place it appears and inserting in lieu thereof in each instance "clause (i) or (ii)"; and

(2) by striking out "a combined total not exceeding 3" and inserting "a combined total not exceeding 7".

(b) The amendments made by this section shall apply only with respect to individuals who first become eligible for benefits under title II of the Social Security Act for months after December 1983.

LIMITATION ON PAYMENTS TO PRISONERS

SEC. 123. (a) Section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Suspension of Benefits for Inmates of Penal Institutions

"(x)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section

223 to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law.

"(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits.

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of any individual who is confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection."

(b) Section 223 of such Act is amended by striking out subsection (f).

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits payable for months beginning on or after the date of the enactment of this Act.

LIMITATIONS ON PAYMENTS TO NONRESIDENT ALIENS

SEC. 124. (a) Section 202(t)(1) of the Social Security Act is amended to read as follows:

"(1)(A) Notwithstanding any other provision of this title (but subject to subparagraphs (B) through (D) of this paragraph), no monthly benefit shall be paid under this section or section 223 for any month to any individual who is not a citizen or national of the United States if such individual is outside the United States.

"(B) For purposes of this paragraph, an individual shall be considered to be outside the United States in any month only if such month occurs—

"(i) after the sixth consecutive calendar month during all of which (as determined by the Secretary on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention) such individual is outside the United States, and

"(ii) prior to the first month thereafter during all of which such individual has been in the United States; but in applying the preceding provisions of this subparagraph an individual who has been outside the United States for any period of 30 consecutive days shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"(C)(i) An individual who is otherwise prevented by subparagraph (A) from receiving benefits under this title shall nevertheless be paid such benefits, as though such subparagraph were inapplicable, until the total amount of such benefits (excluding amounts withheld from such benefits under section 1441 of the Internal Revenue Code of 1954) equals the total amount of the taxes payable under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or the corresponding provisions of prior law) with respect to the wages and self-employment income on which such benefits are based (as determined by the Secretary on the basis of such wages and self-employment income) plus interest (as determined under clause (iii)).

"(ii) In determining the total amount of benefits payable to an individual under clause (i) with respect to the wages and self-employment income of any individual, the Secretary shall take into account all benefits paid before such determination is made on the basis of such wages and self-employment income (wherever paid).

"(iii) For purposes of this subparagraph, interest on taxes payable under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or corresponding provisions of prior law) shall be compounded annually from July 1 of the year in which such taxes were payable only until the last day of the year preceding the year in which the individual on the basis of whose wages and self-employment income benefits are to be paid attains age 62, becomes disabled, or dies, whichever occurs first, at a rate of 3.0 percent for the period after 1936 and before 1951, and, for each year after 1950, at a rate equal to the average of the twelve monthly interest rates determined under section 201 for such year.

"(D) For purposes of this paragraph, the term 'United States' (when used in either a geographical or political sense) means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

(b) Section 202(t)(2) of such Act is repealed.

(c) Section 202(t)(3) of such Act is amended to read as follows:

"(3) Paragraph (1) shall not apply—

"(A) in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Social Security Amendments of 1983, or

"(B) to individuals who are citizens or residents of a country with which the United States has concluded an international social security agreement pursuant to section 233, unless otherwise provided by such agreement."

(d) Section 202(t)(4) of such Act is amended—

(1) by striking out subparagraphs (A) and (B);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C); and

(3) by striking out the semicolon at the end of subparagraph (C) (as so redesignated) and all that follows and inserting in lieu thereof a period.

(e) The heading of section 202(t) of such Act is amended by adding at the end thereof the following: "Prohibition Against Payment of Benefits to Aliens Not Permanent Residents".

(f)(1) The amendments made by the preceding subsections shall apply with respect to any individual who initially becomes eligible for benefits under section 202 or 223 of the Social Security Act after December 31, 1984.

(2) Section 202(t) of the Social Security Act (as in effect on the day before the date of enactment of this Act) shall apply with respect to individuals who are eligible for benefits under section 202 or 223 of such Act before January 1, 1985.

REDUCTION OF COST-OF-LIVING INCREASE IF TRUST FUNDS RATIO IS BELOW 20 PERCENT AND DECLINING

SEC. 125. (a) Section 215(i) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) On or before July 1 of each calendar year after 1983, the Secretary shall deter-

mine whether the estimated OASDI trust fund ratio for the second calendar year following such calendar year will be—

“(i) less than 20.0 percent; and
 “(ii) less than the estimated OASDI trust fund ratio for the first calendar year following the year in which such determination is made.

“(B) If the Secretary finds that the OASDI trust fund ratio for the second calendar year following such calendar year will be less than each of the ratios described in clauses (i) and (ii) of subparagraph (A), the Secretary shall—

“(i) notify the Congress on or before July 1 of such calendar year that, absent a change of circumstances, it will be necessary to reduce the amount of the percentage cost-of-living increase otherwise payable under this subsection with respect to benefits for months after November of such calendar year; and

“(ii) absent a change of circumstances before such cost-of-living increase is determined that will allow the full amount of benefits otherwise payable to be paid in a timely fashion, reduce the amount of such percentage increase (but not below zero) in accordance with subparagraph (C) to the extent necessary to ensure that the OASDI trust fund ratio for the second calendar year following the calendar year in which the determination is made will not fall below the lower of—

“(I) 20.0 percent, or

“(II) the OASDI trust fund ratio for the calendar year following the calendar year in which the determination is made.

“(C) In reducing a cost-of-living percentage increase under subparagraph (B), the Secretary shall first apply such reduction to the percentage increase otherwise payable with respect to monthly benefits payable under this section that are based on a primary insurance amount of \$250 or more for the month preceding such cost-of-living increase; the percentage increase applied to the primary insurance amount used to determine all other monthly benefits shall not be such as to increase such primary insurance amounts above \$250. If further reduction in outgo is required, a reduction in the percentage increase applicable with respect to monthly benefits based on a primary insurance amount of less than \$250 for such preceding month shall be made.

“(D) For purposes of this paragraph, the term ‘OASDI trust fund ratio’ shall mean, with respect to any calendar year, the ratio of—

“(i) the amount estimated by the Secretary to be equal to the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as of the start of business on January 1 of such calendar year, taking into account any cost-of-living increase that otherwise would be made with respect to benefits paid during such year, and any actions possible to be taken under sections 201(l) and 1317(j) (relating to inter-fund borrowing) and 201 (a) and (m) (relating to normalized crediting of social security taxes), to

“(ii) the amount estimated by the Secretary to be the total amount to be paid from such Trust Funds during such calendar year (other than payments of interest on, and repayments of loans from, such Trust Funds, and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfer to such account from any such Trust Fund.

“(E) With respect to any calendar year beginning before January 1988 for which a determination is required to be made under subparagraph (A), the estimated OASDI trust fund ratio for the second calendar year

following such calendar year shall be treated as exceeding the estimated OASDI trust fund ratio for the first calendar year following such calendar year if ratio of the estimated combined balances in the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund for such second following calendar year to the amounts estimated to be paid from all such Trust Funds during such second following calendar year exceeds the ratio of the estimated balances in all such Trust Funds to estimated payments from all such Trust Funds for such first following calendar year.”

PART C—REVENUE PROVISIONS

SEC. 131. TAXATION OF SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to amounts specifically included in gross income) is amended by redesignating section 86 as section 87 and by inserting after section 85 the following new section:

“SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

“(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) includes social security benefits in an amount equal to the lesser of—

“(1) one-half of the social security benefits received during the taxable year, or
 “(2) one-half of the excess described in subsection (b).

“(b) TAXPAYERS TO WHOM SUBSECTION (a) APPLIES.—

“(1) IN GENERAL.—A taxpayer is described in this subsection if—

“(A) the sum of—
 “(i) the adjusted gross income of the taxpayer for the taxable year, plus
 “(ii) one-half of the social security benefits received during the taxable year, exceeds
 “(B) the base amount.

“(2) ADJUSTED GROSS INCOME.—For purposes of this subsection, the adjusted gross income of the taxpayer for the taxable year shall be—

“(A) determined without regard to this section and sections 221, 911, and 931, and
 “(B) increased by the amount of interest of the taxpayer which is exempt from tax for the taxable year.

“(c) BASE AMOUNT.—For purposes of this section, the term ‘base amount’ means—

“(1) except as otherwise provided in this subsection, \$25,000,
 “(2) \$32,000, in the case of a joint return, and

“(3) zero, in the case of a taxpayer who—
 “(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

“(B) does not live apart from his spouse at all times during the taxable year.

“(d) SOCIAL SECURITY BENEFIT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘social security benefit’ means any amount received by the taxpayer by reason of entitlement to—

“(A) a monthly benefit under title II of the Social Security Act (determined without regard to section 203(i) of the Social Security Act), or

“(B) a tier 1 railroad retirement benefit.

“(2) ADJUSTMENT FOR REPAYMENTS DURING YEAR.—

“(A) IN GENERAL.—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the tax-

payer (whether or not such benefit was received during the taxable year).

“(B) DENIAL OF DEDUCTION.—(1) (but for this subparagraph) any portion of the repayments referred to in subparagraph (A) would have been allowable as a deduction for the taxable year under section 165, such portion shall be allowable as a deduction only to the extent it exceeds the social security benefits received by the taxpayer during the taxable year (and not repaid during such taxable year).

“(3) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term ‘tier 1 railroad retirement benefit’ means a monthly benefit under section 31(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974.

“(e) LIMITATION ON AMOUNT INCLUDED WHERE TAXPAYER RECEIVES LUMP-SUM PAYMENT.—

“(1) LIMITATION.—If—

“(A) any portion of a lump-sum payment of social security benefits received during the taxable year is attributable to prior taxable years, and

“(B) the taxpayer makes an election under this subsection for the taxable year, then the amount included in gross income under this section for the taxable year by reason of the receipt of such portion shall not exceed the sum of the increases in gross income under this chapter for prior taxable years which would result solely from taking into account such portion in the taxable years to which it is attributable.

“(2) SPECIAL RULES.—

“(A) YEAR TO WHICH BENEFIT ATTRIBUTABLE.—For purposes of this subsection, a social security benefit is attributable to a taxable year if the generally applicable payment date for such benefit occurred during such taxable year.

“(B) ELECTION.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such election, once made, may be revoked only with the consent of the Secretary.

“(f) TREATMENT AS PENSION OR ANNUITY FOR CERTAIN PURPOSES.—For purposes of—

“(1) section 43(c)(2) (defining earned income),

“(2) section 219(f)(1) (defining compensation),

“(3) section 221(b)(2) (defining earned income), and

“(4) section 911(b)(1) (defining foreign earned income),

any social security benefit shall be treated as an amount received as a pension or annuity.”

(b) INFORMATION REPORTING.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

“SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.

“(a) REQUIREMENT OF REPORTING.—The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

“(1) the—

“(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year, and

“(B) aggregate amount of social security benefits repaid by such individual during such calendar year, and

“(2) the name and address of such individual.

“(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a

return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPROPRIATE FEDERAL OFFICIAL.—The term 'appropriate Federal official' means—

"(A) the Secretary of Health and Human Services in the case of social security benefits described in section 86(d)(1)(A), and

"(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).

"(2) SOCIAL SECURITY BENEFIT.—The term 'social security benefit' has the meaning given to such term by section 86(d)(1)."

(c) TREATMENT OF NONRESIDENT ALIENS.—

(1) AMENDMENT OF SECTION 871(a).—Subsection (a) of section 871 of such Code (relating to tax on income not connected with United States business) is amended by adding at the end thereof the following new paragraph:

"(3) TAXATION OF SOCIAL SECURITY BENEFITS.—For purposes of this section and section 1441—

"(A) one-half of any social security benefit (as defined in section 86(d)) shall be included in gross income, and

"(B) section 86 shall not apply."

(2) DISCLOSURE OF INFORMATION TO SOCIAL SECURITY ADMINISTRATION OR RAILROAD RETIREMENT BOARD.—

(A) IN GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end thereof the following new paragraph:

"(6) SOCIAL SECURITY BENEFITS.—Upon written request, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board for purposes of carrying out its responsibilities under section 1441 with respect to social security benefits (as defined in section 86(d))."

(B) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by inserting "(h)(6)," after "(h)(2)," in the material preceding subparagraph (A) and in subparagraph (F)(ii) thereof.

(d) SOCIAL SECURITY BENEFITS TREATED AS UNITED STATES SOURCED.—Subsection (a) of section 861 of such Code (relating to income from sources within the United States) is amended by adding at the end thereof the following new paragraph:

"(8) SOCIAL SECURITY BENEFITS.—Any social security benefit (as defined in section 86(d))."

(e) TRANSFERS TO TRUST FUNDS.—

(1) IN GENERAL.—There are hereby appropriated to each payor fund amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1954 which is attributable to the application of sections 86 and 871(a)(3) of such Code (as added by this section) to payments from such payor fund.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to any payor fund 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 such paragraph. Any such quarterly payment shall be made on the first day of such quarter and shall take into account social security 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) DEFINITIONS.—For purposes of this subsection—

(A) PAYOR FUND.—The term "payor fund" means any trust fund or account from which payments of social security benefits are made.

(B) SOCIAL SECURITY BENEFITS.—The term "social security benefits" has the meaning given such term by section 86(d)(1) of the Internal Revenue Code of 1954.

(4) REPORTS.—The Secretary of the Treasury shall submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board on—

(A) the transfers made under this subsection during the year, and the methodology used in determining the amount of such transfers and the funds or account to which made, and

(B) the anticipated operation of this subsection during the next 5 years.

(f) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 85 of such Code is amended by striking out "this section," and inserting in lieu thereof "this section, section 86."

(2) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out "85," and inserting in lieu thereof "85, 86."

(3) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 86 and inserting in lieu thereof the following:

"Sec. 86. Social security and tier 1 railroad retirement benefits.

"Sec. 87. Alcohol fuel credit."

(4) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"Sec. 6050F. Returns relating to social security benefits."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

(2) TREATMENT OF CERTAIN LUMP-SUM PAYMENTS RECEIVED AFTER DECEMBER 31, 1983.—The amendments made by this section shall not apply to any portion of a lump-sum payment of social security benefits (as defined in section 86(d) of the Internal Revenue Code of 1954) received after December 31, 1983, if the generally applicable payment date for such portion was before January 1, 1984.

SEC. 132. ACCELERATION OF INCREASES IN FICA TAXES; 1984 EMPLOYEE TAX CREDIT.

(a) ACCELERATION OF INCREASES IN FICA TAXES.—

(1) TAX ON EMPLOYEES.—Subsection (a) of section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (1)

through (7) and inserting in lieu thereof the following:

"In cases of The rate shall be: wages received during:

1984, 1985, 1986, or 1987..... 5.7 percent
1988 or 1989..... 6.06 percent
1990 or thereafter..... 6.2 percent."

(2) EMPLOYER TAX.—Subsection (a) of section 3111 of such Code is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

"In cases of The rate shall be: wages paid during: be:

1984, 1985, 1986, or 1987..... 5.7 percent
1988 or 1989..... 6.06 percent
1990 or thereafter..... 6.2 percent."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid after December 31, 1983.

(b) 1984 EMPLOYEE TAX CREDIT.—

(1) IN GENERAL.—Chapter 25 of such Code is amended by adding at the end thereof the following new section:

"SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EMPLOYEE TAXES AND RAILROAD RETIREMENT TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 3101(a) on wages received during 1984 an amount equal to 1/10 of 1 percent of the wages so received.

"(b) TIME CREDIT ALLOWED.—The credit under subsection (a) shall be taken into account in determining the amount of the tax deducted under section 3102(a).

"(c) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by section 3121(a).

"(d) APPLICATION TO AGREEMENTS UNDER SECTION 218 OF THE SOCIAL SECURITY ACT.—For purposes of determining amounts equivalent to the tax imposed by section 3101(a) with respect to remuneration which—

"(1) is covered by an agreement under section 218 of the Social Security Act, and

"(2) is paid during 1984,

the credit allowed by subsection (a) shall be taken into account. A similar rule shall also apply in the case of an agreement under section 3121(f).

"(e) CREDIT AGAINST RAILROAD RETIREMENT EMPLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.—

"(1) IN GENERAL.—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes an amount equal to 1/10 of 1 percent of such compensation.

"(2) TIME CREDIT ALLOWED.—The credit under paragraph (1) shall be taken into account in determining the amount of the tax deducted under section 3202(a) (or the amount of the tax under section 3211(a)).

"(3) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given to such term by section 3231(e).

"(f) COORDINATION WITH SECTION 6413(c).—For purposes of subsection (c) of section 6413, in determining the amount of the tax imposed by section 3101 or 3201, any credit allowed by this section shall be taken into account."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

"Sec. 3510. Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to remuneration paid during 1984.

(4) **DEPOSITS IN SOCIAL SECURITY TRUST FUNDS.**—For purposes of subsection (h) of section 218 of the Social Security Act (relating to deposits in social security trust funds of amounts received under section 218 agreements), amounts allowed as a credit pursuant to subsection (d) of section 3510 of the Internal Revenue Code of 1954 (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.

(5) **DEPOSITS IN RAILROAD RETIREMENT ACCOUNT.**—For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974, amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1954 shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code.

(6) **STATEMENTS FURNISHED TO EMPLOYEES.**—Any written statement which is required to be furnished to an employee under section 6051(a) with respect to remuneration paid during 1984 shall include—

(A) the total amount which would have been deducted and withheld as a tax under section 3101 if the credit allowable under section 3510 had not been taken into account, and

(B) the amount of the credit allowable under section 3510.

SEC. 133. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT AGAINST SUCH TAXES.

(a) **INCREASE IN RATES.**—Subsections (a) and (b) of section 1401 of the Internal Revenue Code of 1954 (relating to rates of tax on self-employment income) are amended to read as follows:

“(a) **OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.**—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

“In the case of a taxable year—

| Beginning after: | And before: | Percent: |
|------------------------|----------------------|----------|
| December 31, 1983..... | January 1, 1988..... | 11.40 |
| December 31, 1987..... | January 1, 1990..... | 12.12 |
| December 31, 1989..... | ..... | 12.40 |

“(b) **HOSPITAL INSURANCE.**—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

“In the case of a taxable year—

| Beginning after: | And before: | Percent: |
|------------------------|----------------------|----------|
| December 31, 1983..... | January 1, 1985..... | 2.60 |
| December 31, 1984..... | January 1, 1986..... | 2.70 |
| December 31, 1985..... | ..... | 2.90.” |

(b) **CREDIT AGAINST SELF-EMPLOYMENT TAXES.**—Section 1401 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) **CREDIT AGAINST TAXES IMPOSED BY THIS SECTION.**—

“(1) **IN GENERAL.**—There shall be allowed as a credit against the taxes imposed by this section for any taxable year an amount equal to the applicable percentage of the self-employment income of the individual for such taxable year.

“(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

| taxable years beginning in: | The applicable percentage is: |
|-----------------------------|-------------------------------|
| 1984..... | 2.9 |
| 1985..... | 2.5 |
| 1986..... | 2.2 |
| 1987, 1988, or 1989..... | 2.1 |
| 1990 or thereafter..... | 2.3.” |

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

PART D—MISCELLANEOUS FINANCING PROVISIONS

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 141. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1984, and so reported, (L) 1 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (M) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (N) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and (O) 1.30 per centum of the wages (as so defined) paid after December 31, 1999, and so reported.”

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1984, (L) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1988, (M) 1.06 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (N) 1.20 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (O) 1.30 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999.”

INTERFUND BORROWING EXTENSION

SEC. 142. (a)(1) Section 201(l)(1) of the Social Security Act is amended—

(A) by striking out “January 1983” and inserting in lieu thereof “January 1988”; and

(B) by inserting after “or” the second place it appears “, subject to paragraph (5).”

(2) (A) Section 201(l)(2) of such Act is amended—

(i) by striking out “from time to time” and inserting in lieu thereof “on the last day of each month after such loan is made”;

(ii) by striking out “interest” and inserting in lieu thereof “the total interest accrued to such day”; and

(iii) by striking out “the loan were an investment under subsection (d)” and inserting in lieu thereof “such amount had remained in the Depository Account established with respect to such lending Trust Fund under subsection (d) or section 1817(c).”

(B) The amendment made by this paragraph shall apply with respect to months be-

ginning more than thirty days after the date of enactment of this Act.

(3) Section 201(l)(3) of such Act is amended—

(A) by inserting “(A)” after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

“(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Hospital Insurance Trust Fund to the Federal Old Age and Survivors Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee determines that the OASDI trust fund ratio exceeds 15 percent, he shall transfer from the borrowing Trust Fund to the Federal Hospital Insurance Trust Fund an amount that—

“(I) together with any amounts transferred from another borrowing Trust Fund under this paragraph for such year, will reduce the OASDI trust fund ratio to 15 percent; and

“(II) does not exceed the outstanding balance of such loan.

“(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

“(iii) For purposes of this subparagraph, the term ‘OASDI trust fund ratio’ means, with respect to any calendar year, the ratio of—

“(I) the combined balance in the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Fund from the Federal Hospital Insurance Trust Fund, as of the last day of such calendar year, to

“(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the calendar year following such calendar year for all purposes authorized by section 201 (other than payments of interest on, and repayments of, loans from the Federal Hospital Insurance Trust Fund under paragraph (1)), but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account.

“(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.

“(ii) For the period after December 31, 1987, and before January 1, 1990, the Managing Trustee shall transfer each month to the Federal Hospital Insurance Trust Fund from any Trust Fund with any amount outstanding on a loan made from the Federal Hospital Insurance Trust Fund under paragraph (1) an amount equal to one twenty-fourth of the amount owed to the Federal Hospital Insurance Trust Fund by such Trust Fund at the beginning of such period (plus the interest accrued on the outstanding balance of such loan during such month).”

(4) Section 201(l) of such Act is further amended by adding at the end thereof the following new paragraph:

“(5)(A) No amounts may be borrowed from the Federal Hospital Insurance Trust Fund under paragraph (1) during any month if the Hospital Insurance Trust Fund ratio for such month is less than 10 percent.

"(B) For purposes of this paragraph, the term 'Hospital Insurance trust fund ratio' means, with respect to any month, the ratio of—

"(i) the balance in the Federal Hospital Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under this subsection, as of the last day of the second month preceding such month, to

"(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Hospital Insurance Trust Fund during the month for which such ratio is to be determined (other than payments of interest on, or repayments of loans from another Trust Fund under this subsection), and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfer into the Hospital Insurance Trust Fund from that Account."

(b)(1) Section 1817(j)(1) of such Act is amended—

(A) by striking out "January 1983" and inserting in lieu thereof "January 1988"; and (B) by inserting ", subject to paragraph (5), after "may".

(2)(A) Section 1817(j)(2) of such Act is amended—

(i) by striking out "from time to time" and inserting in lieu thereof "on the last day of each month after such loan is made";

(ii) by striking out "interest" and inserting in lieu thereof "the total interest accrued to such day"; and

(iii) by striking out "the loan were an investment under subsection (c)" and inserting in lieu thereof "such amount had remained in the Depository Account established with respect to such lending Trust Fund under section 201(d)".

(B) The amendment made by this paragraph shall apply with respect to months beginning more than 30 days after the date of enactment of this Act.

(3) Section 1817(j)(3) of such Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Old Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Hospital Insurance Trust Fund, the Managing Trustee determines that the Hospital Insurance Trust Fund ratio exceeds 15 percent, he shall transfer from such Trust Fund to the lending trust fund an amount that—

"(I) together with any amounts transferred to another lending trust fund under this paragraph for such year, will reduce Hospital Insurance Trust Fund ratio to 15 percent; and

"(II) does not exceed the outstanding balance of such loan.

"(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

"(iii) For purposes of this subparagraph, the term 'Hospital Insurance Trust Fund ratio' means, with respect to any calendar year, the ratio of—

"(I) the balance in the Federal Hospital Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as of the last day of such calendar year; to

"(II) the amount estimated by the Secretary to be the total amount to be paid from

the Federal Hospital Insurance Trust Fund during the calendar year following such calendar year (other than payments of interest on, and repayments of, loans from the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under paragraph (1)), and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from the Railroad Retirement Account.

"(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989."

"(ii) For the period after December 31, 1987 and before January 1, 1990, the Managing Trustee shall transfer each month from the Federal Hospital Insurance Trust Fund to any Trust Fund that is owed any amount by the Federal Hospital Insurance Trust Fund on a loan made under paragraph (1), an amount equal to 1/24 of the amount owed to such Trust Fund by the Federal Hospital Insurance Trust Fund at the beginning of such period (plus the interest accrued on the outstanding balance of such loan during such month)."

(4) Section 1817(j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5)(A) No amounts may be loaned by the Federal Old Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund under paragraph (1) during any month if the OASDI trust fund ratio for such month is less than 10 percent.

"(B) For purposes of this paragraph, the term 'OASDI trust fund ratio' means, with respect to any month, the ratio of—

"(i) the combined balance in the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Trust Fund from the Federal Hospital Insurance Trust Fund under section 201(f), as of the last day of the second month preceding such month, to

"(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the month for which such ratio is to be determined for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(f)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account."

CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO TRUST FUNDS

SEC. 143. (a) The Secretary of the Treasury shall take such actions as may be necessary to ensure that amounts of checks for benefits under title II of the Social Security Act which have not been presented for payment within a reasonable length of time (not to exceed twelve months) after issuance are credited to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever may be the fund from which the check was issued. Amounts of any such check shall be recharged to the fund from which they were issued if payment is subsequently made on such check.

(b)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors In-

urance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all currently unnegotiated benefit checks. After the amounts appropriated by this subsection have been transferred to the Trust Funds, the provisions of subsection (a) shall be applicable. There are hereby appropriated into such Trust Funds such sums as may be necessary to reimburse such Trust Funds for the amount of currently unnegotiated benefit checks. The first such transfer shall be made within thirty days after the date of the enactment of this Act with respect to all such unnegotiated checks as of such date of enactment.

(2) As used in paragraph (1), the term "currently unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Act, which remain unnegotiated after the twelfth month following the date on which they were issued.

TRANSFER TO TRUST FUNDS FOR BENEFITS ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957

SEC. 144. (a) Section 217(g) of the Social Security Act is amended to read as follows:

"APPROPRIATION TO TRUST FUNDS

"(g)(1) Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amount equal to the excess of—

"(A) the actuarial present value as of such date of enactment of the past and future benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under this title and title XVIII, together with associated administrative costs, resulting from the operation of this section (other than this subsection) and section 210 of this Act as in effect before the enactment of the Social Security Act Amendments of 1950, over

"(B) any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this subsection as in effect immediately before the date of the enactment of the Social Security Amendments of 1983. Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 201(c) and 1817(b). Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

"(2) The Secretary shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Secretary from data which becomes available to him after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this title or title XVIII and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 201(c) or 1817(b). Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury de-

termines necessary to compensate for such revision."

PAYMENTS TO TRUST FUNDS OF AMOUNTS EQUIVALENT TO TAXES ON SERVICE IN THE UNIFORMED SERVICES PERFORMED AFTER 1956

SEC. 145. (a) Section 229(b) of the Social Security Act is amended to read as follows:

"(b) There are authorized to be appropriated to each of the Trust Funds, consisting of the Federal Old-Age and Survivors Insurance Trust, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for transfer on July 1 of each calendar year to such Trust Fund from amounts in the general fund in the Treasury not otherwise appropriated, an amount equal to the total of the additional amounts which would be appropriated to such Trust Fund for the fiscal year ending September 30 of such calendar year under section 201 or 1817 of this Act if the amounts of the additional wages deemed to have been paid for such calendar year by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954. Amounts authorized to be appropriated under this subsection for transfer on July 1 of each calendar year shall be determined on the basis of estimates of the Secretary of the wages deemed to be paid for such calendar year under subsection (a); and proper adjustments shall be made in amounts authorized to be appropriated for subsequent transfer to the extent prior estimates were in excess of or were less than such wages so deemed to be paid."

(b) The amendment made by subsection (a) shall be effective with respect to wages deemed to have been paid for calendar years after 1983.

(c)(1) Within thirty days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the additional amounts which would have been appropriated into the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act, if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1984 had constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

(2)(A) The Secretary of the Treasury shall, within thirty days after the date of the enactment of this Act, transfer into each such Trust Fund, from the general fund in the Treasury, an amount equal to the amount determined with respect to such Trust Fund under paragraph (1), less any amount appropriated into such Trust Fund under the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under paragraph (1) with respect to wages deemed to have been paid for calendar years prior to 1984. There are hereby appropriated into such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

(B) The Secretary shall revise the amount determined under subparagraph (A) within one year after the date of the transfer made under paragraph (1), as warranted by data which may become available to him after the date of the transfer under subparagraph (A) based upon actual benefits paid under

this title and title XVIII. Any amounts determined to be needed for transfer shall be transferred by the Secretary of the Treasury into the appropriate Trust Fund from the general fund in the Treasury, or out of the appropriate Trust Fund into the general fund in the Treasury, as may be appropriate. There are authorized to be appropriated to such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

TRUST FUND INVESTMENT PROCEDURE

SEC. 146. (a) Section 201 of the Social Security Act is amended by striking out subsections (d), (e), and (f) and inserting in lieu thereof the following new subsections:

"(d) There are hereby created on the books of the Treasury of the United States an account to be known as the Old-Age and Survivors Insurance Depository Account and an account to be known as the Disability Insurance Depository Account.

"(e) The Managing Trustee shall deposit that portion of the Federal Old-Age and Survivors Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Old-Age and Survivors Insurance Depository Account and that portion of the Federal Disability Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Disability Insurance Depository Account.

"(f)(1) The Secretary of the Treasury may apply moneys deposited in an account pursuant to subsection (e) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in an account pursuant to subsection (e) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each business day of such month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971 and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in an account pursuant to subsection (e) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund which deposited such moneys, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount."

(b) Section 1817 of such Act is amended by striking out subsections (c), (d), and (e) and

inserting in lieu thereof the following new subsections:

"(c) There is hereby created on the books of the Treasury of the United States an account to be known as the Hospital Insurance Depository Account.

"(d) The Managing Trustee shall deposit that portion of the Federal Hospital Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Hospital Insurance Depository Account.

"(e)(1) The Secretary of the Treasury may apply moneys deposited in the account pursuant to subsection (d) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in the account pursuant to subsection (d) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each business day of such month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in the account pursuant to subsection (d) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount."

(c) Section 1841 of such Act is amended by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following new subsections:

"(c) There is hereby established on the books of the Treasury an account to be known as the Supplementary Medical Insurance Depository Account.

"(d) The Managing Trustee shall deposit that portion of the Federal Supplementary Medical Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Supplementary Medical Insurance Depository Account.

"(e)(1) The Secretary of the Treasury may apply moneys deposited in the account pursuant to subsection (d) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in the account pursuant to subsection (d) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product

obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each business day of such month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in the account pursuant to subsection (d) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount."

(d)(1) No later than the date on which this section takes effect, the Secretary of the Treasury shall redeem at par all outstanding obligations of the United States issued under the Second Liberty Bond Act exclusively for purchase by the Federal Old-Age Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund (hereinafter in this subsection referred to as the "Trust Funds").

(2)(A) The Managing Trustee may sell any marketable obligation of the United States held by the Trust Funds at market price at any time and shall sell (or redeem) all "flower bonds" held by the Trust Funds on the date of enactment of this section at market price no later than the date on which this section takes effect.

(B) For purposes of this paragraph, the term "flower bond" means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

(i) it was owned by such deceased individual at the time of his death,

(ii) it is part of the estate of such deceased individual, and

(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

(3) The proceeds from the redemption and sale of obligations of the United States pursuant to paragraphs (1) and (2) shall be paid to the Trust Fund selling or redeeming such obligations and that portion of such proceeds which is not required to meet current withdrawals from such Trust Fund shall be deposited in the account established with respect to such Trust Fund by subsection (a), (b), or (c) of this Act.

(e) The amendments made by this section shall take effect on the first day of the first

month beginning more than 30 days after the date of enactment of this Act.

ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARDS OF TRUSTEES

SEC. 147. (a) Sections 201(c), 1817(b), and 1841(b) of the Social Security Act are each amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate; and

(2) by adding at the end thereof the following new sentence: "A member of the public serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Funds."

(b) The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

PAYMENT SCHEDULE BY STATE AND LOCAL GOVERNMENTS

SEC. 148. (a) Section 218(e)(1)(A) of the Social Security Act is amended by striking out "within the thirty-day period immediately following the last day of each calendar month" and inserting in lieu thereof "in accordance with the same payment schedule as applies to payment by employers of the taxes imposed under sections 3101 and 3111 of the Internal Revenue Code of 1954".

(b) The amendment made by subsection (a) shall be effective with respect to payments due on or after January 1, 1984.

NORMALIZED CREDITING OF SOCIAL SECURITY TAXES TO TRUST FUNDS

SEC. 149. (a) Section 201(a) of the Social Security Act is amended by striking out "The amounts appropriated" in the last sentence and inserting in lieu thereof "Except as provided in subsection (m), the amounts appropriated".

(b) Section 201 of such Act is further amended by adding at the end thereof the following new subsection:

"(m)(1) The procedures in effect on January 1, 1983, with respect to the transfer of the amounts appropriated by clauses (3) and (4) of subsection (a) and the amounts appropriated by clauses (1) and (2) of subsection (b) shall apply to a calendar month unless the Secretary makes a finding under this paragraph that the OASDI trust fund ratio as of the first day of such calendar month is less than 12 percent.

"(2) If the Secretary makes the finding described in paragraph (1) with respect to a calendar month, the amounts appropriated by clauses (3) and (4) shall be transferred on the first day of such calendar month from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred on the first day of such calendar month from the general fund of the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of subsection (a), to be paid to or deposited into the Treasury during such calendar month.

"(3) Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in clauses (3) and (4) of subsection (a).

"(4) All amounts transferred to either Trust Fund under paragraph (2) shall be treated by the Managing Trustee in the same manner and to the same extent as the other

assets of such Trust Fund; and such Trust Fund shall pay interest to the general fund on the amount so transferred at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the average 91-day Treasury bill rate during such month (payable on the last day of such month).

"(5) For purposes of this subsection, the term 'OASDI trust fund ratio' means, with respect to any month, the ratio of—

"(A) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Trust Fund from the Federal Hospital Insurance Trust Fund under subsection (l), and determined without regard to amounts transferred theretofore under this subsection, as of the last day of the second month preceding such month, to

"(B) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the month for which such ratio is to be determined for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under subsection (l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account."

(c) The amendments made by this section shall apply to calendar months beginning after the date of enactment of this section and before January 1, 1988.

AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS TREATED AS WAGES FOR FICA TAXES

SEC. 150. (a)(1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(v) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (a) (other than paragraph (1)) shall exclude from the term 'wages' any employer contribution—

"(A) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) under a cafeteria plan (as defined in section 125(d)) which includes an arrangement described in subparagraph (A) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this chapter.

"(2) GOVERNMENTAL PLANS.—For purposes of subsection (a)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wages' shall not include any payment to or from a governmental plan (within the meaning of section 414(d)).

"(B) EXCEPTIONS.—The term 'wages' shall include any amount—

"(i) deferred under a plan described in section 457(a) (at the time the services which relate to such payment were performed),

"(ii) deferred under a plan described in subsection (e)(1), (e)(2)(D), or (e)(2)(E) of section 457, or

"(iii) which is treated as wages under subsection (a)(5)(E) by reason of a salary reduction agreement."

(2) Paragraph (5) of section 3121(a) of such Code (defining wages) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) under an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement;"

(3) Subsection (a) of section 3121 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (9),

(C) in paragraph (13)(A)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer," and

(D) by striking out "subparagraph (B)" in the last sentence thereof and inserting in lieu thereof "subparagraph (A)".

(b)(1) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(r) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (b) (other than paragraph (1)) shall exclude from the term 'wages' any employer contribution—

"(A) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) under a cafeteria plan (as defined in section 125(d)) which includes an arrangement described in subparagraph (A) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this chapter.

"(2) GOVERNMENTAL PLANS.—For purposes of subsection (b)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wages' shall not include any payment to or from a Governmental plan (within the meaning of section 414(d)).

"(B) EXCEPTIONS.—The term 'wages' shall include any amount—

"(i) deferred under a plan described in section 457(a) (at the time the services which relate to such payment were performed),

"(ii) deferred under a plan described in subsection (e)(1), (e)(2)(D), or (e)(2)(E) of section 457, or

"(iii) which is treated as wages under subsection (b)(5)(E) by reason of a salary reduction agreement."

(2) Paragraph (5) of section 3306(b) of such Code (defining wages) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) under an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement;"

(3) Subsection (b) of section 3306 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (8), and

(C) in paragraph (10)(A)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,"

(4)(A) Subparagraph (A) of section 3306(b)(2) of such Code, as redesignated by paragraph (3)(A), is amended to read as follows:

"(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term 'wages' only payments which are received under a workman's compensation law), or"

(B) Subsection (b) of section 3306 of such Code (defining wages) is amended by adding at the end thereof the following new flush sentence:

"Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages."

(C) Rules similar to the rules of subsections (d) and (e) of section 3 of the Act entitled "An Act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act" (Public Law 97-123), approved December 29, 1981, shall apply in the administration of section 3306(b)(2)(A) of such Code (as amended by subparagraph (A)).

(c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof (as amended by this Act) the following new paragraphs:

"Nothing in any of the foregoing provisions of this section (other than subsection (a)) shall exclude from the term 'wages' any employer contribution—

"(1) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(2) under a cafeteria plan (as defined in section 125(d)) which includes an arrangement described in paragraph (1) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this chapter.

"For purposes of this section—

"(1) the term 'wages' shall not include any payment to or from a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1954); except that

"(2) the term 'wages' shall include any amount—

"(A) deferred under a plan described in section 457(a) of such Code (at the time the services which relate to such payment were performed),

"(B) deferred under a plan described in subsection (e)(1), (e)(2)(D), or (e)(2)(E) of section 457 of such Code, or

"(C) which is treated as wages under subsection (e)(5) by reason of a salary reduction agreement."

(2) Subsection (e) of section 209 of such Act is amended by adding before the semicolon at the end thereof the following: ", or (5) under an annuity contract described in section 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement;"

(3) Section 209 of such Act is amended—

(A) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subsections (c) and (i), and

(C) in subsection (m)(1)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer,"

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1984.

CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND LODGING

SEC. 151. (a)(1) Subsection (a) of section 3121 of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (17), by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119."

(2) Section 209 of the Social Security Act is amended by striking out "or" at the end of subsection (p), by striking out the period at the end of subsection (q) and inserting in lieu thereof "; or", and by inserting after subsection (q) the following new subsection:

"(r) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1954."

(b)(1) Subsection (a) of section 3121 of such Code is amended by inserting after paragraph (19) (as added by subsection (a) of this section) the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter."

(2) Section 209 of the Social Security Act is amended by inserting immediately after subsection (r) (as added by subsection (a) of this section) the following new sentence:

"Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1954 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this title."

(c) Subsection (b) of section 3306 of the Internal Revenue Code of 1954 (defining wages) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or",

(3) by adding immediately after paragraph (13) the following new paragraph:

"(14) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able

to exclude such items from income under section 119.", and

(4) by adding at the end thereof the following new flush sentence:

"Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter."

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS

SEC. 152. (a) Subparagraph (D) of section 3121(a)(5) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(b) Subsection (e) of section 209 of the Social Security Act, as amended by this Act, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "; or (6) under a simplified employee pension (as defined in section 408(k) of the Internal Revenue Code of 1954) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment";

(c) Subparagraph (D) of section 3306(b)(5) of the Internal Revenue Code of 1954 is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

TITLE II—SUPPLEMENTAL SECURITY INCOME

INCREASE IN BENEFIT STANDARD

SEC. 201. (a) Section 1617 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Effective July 1, 1983—

"(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611, as previously increased under this section, shall be increased by \$240 (and the dollar amount in effect under subsection (a)(1)(A) of Public Law 93-66, as previously so increased, shall be increased by \$120); and

"(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as previously increased under this section, shall be increased by \$360."

(b) Section 1617(b) of such Act is amended by striking out "this section" and inserting in lieu thereof "subsection (a) of (his section)".

ADJUSTMENT IN FEDERAL SSI PASS-THROUGH PROVISIONS

SEC. 202. Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

(d)(1) For any particular month after March 1983, a State shall be deemed to have met the requirements of paragraph (4) of subsection (a) if—

"(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable under section 1611(b) (to such recipients), for that particular month, is not less than—

"(B) the combined level of its supplementary payments (to recipients of the type in-

cluded) and the amounts payable under section 1611(b) (to such recipients), for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefits increases under this title) which have occurred after March 1983 and before that particular month.

"(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Act Amendments of 1983 had not been enacted."

NOTIFICATION REGARDING SSI

SEC. 203. Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act, who may be eligible for supplemental security income benefits under title XVI of such Act, of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplemental medical insurance.

TITLE III—MEDICARE

MEDICARE PAYMENTS FOR INPATIENT HOSPITAL SERVICES ON THE BASIS OF PROSPECTIVE RATES

SEC. 301. (a)(1) Section 1886(a)(4) of the Social Security Act is amended by adding at the end the following new sentence: "Such term does not include costs of approved educational activities, or, with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986, capital-related costs, as defined by the Secretary."

(2) Subsection (a)(1) of section 1886 of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) Subparagraph (A) shall not apply to cost reporting periods beginning on or after October 1, 1985."

(3) It is the intent of Congress that, in considering the implementation of a system for including capital-related costs under a prospectively determined payment rate for inpatient hospital services, costs related to capital projects initiated on or after the effective date of the implementation of such a system, may or may not be distinguished and treated differently from costs of projects initiated before such date.

(b) Section 1886(b) of such Act is amended—

(1) by striking out "Notwithstanding sections 1814(b), but subject to the provisions of sections" in paragraph (1) and inserting in lieu thereof "Notwithstanding section 1814(b) but subject to the provisions of section";

(2) by inserting "(other than a subsection (d) hospital, as defined in subsection (d)(1)(B))" in the matter before subparagraph (A) of paragraph (1) after "of a hospital";

(3) by inserting, in the matter in paragraph (1) following subparagraph (B), "(other than on the basis of a DRG prospective payment rate determined under subsection (d))" after "payable under this title";

(4) by repealing paragraph (2);

(5) by inserting "and subsection (d) and except as provided in subsection (e)" in paragraph (3)(B) after "subparagraph (A)";

(6) by inserting "or fiscal year" after "cost reporting period" each place it appears in paragraph (3)(B);

(7) by inserting "before the beginning of the period or year" in paragraph (3)(B) after "estimated by the Secretary";

(8) by striking out "exceeds" in paragraph (3)(B) and inserting in lieu thereof "will exceed"; and

(9) by amending paragraph (6), effective with respect to cost reporting periods beginning on or after October 1, 1982, to read as follows:

"(6) In the case of any hospital which becomes subject to the taxes under section 3111 of the Internal Revenue Code for 1954 for part or all of a cost reporting period, and was not subject to such taxes for the 12-month cost-reporting period referred to in subsection (b)(3)(A)(i), the Secretary shall provide for an adjustment by increasing the base year amount referred to in subsection (b)(3)(A)(i) for such hospital applicable to such cost reporting period by the amount of such taxes paid or accrued by such hospital for such cost reporting period."

(c)(1) Subsection (c)(1) of such section is amended—

(A) by striking out "and" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(D) The Secretary determines that the system will not preclude an eligible organization (as defined in section 1876(b)) from negotiating directly with hospitals with respect to the organization's rate of payment for inpatient hospital services.

The Secretary cannot deny the application of a State under this subsection on the ground that the State's hospital reimbursement control system is based on a payment methodology other than on the basis of a diagnosis-related group or on the ground that the amount of payments made under this title under such system must be less than the amount of payments which would otherwise have been made under this title not using such system. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period, the State has the option of applying such test (for inpatient hospital services under part A) on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining aggregate payment amounts below a national average percentage increase in total payments under part A for inpatient hospital services, the Secretary cannot deny the application of a State under this subsection on the ground that the State's rate of increase in such payments for such services must be less than such national average rate of increase."

(2) Subsection (c)(3) of such section is amended—

(A) by striking out "requirement of paragraph (1)(A)" and inserting in lieu thereof "requirements of subparagraphs (A) and (D) of paragraph (1) and, if applicable, the requirements of paragraph (5)", and

(B) by inserting "(or, if applicable, in paragraph (5))" in subparagraph (B) after "paragraph (1)".

(3) Subsection (c) of such section is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system, and

"(B) with respect to that system a waiver of certain requirements of title XVIII of the Social Security Act has been approved on or before (and which is in effect as of) the date of the enactment of the Social Security Act Amendments of 1983, pursuant to section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972.

With respect to a State system described in this paragraph, the Secretary shall judge the effectiveness of such system on the basis of its rate of increase or inflation in inpatient hospital payments for individuals under this title, as compared to the national rate of increase or inflation for such payments, with the State retaining the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during the three cost reporting periods beginning on or after October 1, 1983, after which such test shall no longer apply, and such hospitals shall be treated in the same manner as under other waivers.

"(5) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system;

"(B) the Secretary determines that the system—

"(i) is operated directly by the State or by an entity designated pursuant to State law,

"(ii) provides for payment of hospitals covered under the system under a methodology (which sets forth exceptions and adjustments, as well as any method for changes in the methodology) by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period, and

"(iii) hospitals covered under the system will make such reports (in lieu of cost and other reports, identified by the Secretary, otherwise required under this title) as the Secretary may require in order to properly monitor assurances provided under this subsection;

"(C) the State has provided the Secretary with satisfactory assurances that operation of the system will not result in any change in hospital admission practices which result in—

"(i) a significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services,

"(ii) a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services,

"(iii) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

"(iv) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services;

"(D) any change by the State in the system which has the effect of materially reducing payments to hospitals can only take effect upon 60 days notice to the Secretary and to the hospitals the payment to which is likely to be materially affected by the change; and

"(E) the State has provided the Secretary with satisfactory assurances that in the de-

velopment of the system the State has consulted with local governmental officials concerning the impact of the system on public hospitals.

The Secretary shall respond to requests of States under this paragraph within 60 days of the date the request is submitted to the Secretary.

"(6) If the Secretary determines that the assurances described in paragraph (1)(C) have not been met with respect to any 36-month period, the Secretary may reduce payments under this title to hospitals under the system in an amount equal to the amount by which the payments under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title not using such system."

(d) Subsection (d) of such section, as added by section 110 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

(1) by striking out "section 1814(b)" in paragraph (2)(A) and inserting in lieu thereof "subsection (b)", and

(2) by redesignating the subsection as subsection (j) and transferring and inserting such subsection at the end of section 1814 of the Social Security Act under the following heading:

"Elimination of Lesser-of-Cost-or-Charges Provision".

(e) Such section 1886 is further amended by adding at the end the following new subsections:

"(d)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a subsection (d) hospital (as defined in subparagraph (B)) for inpatient hospital discharges in a cost reporting period or in a fiscal year—

"(i) beginning on or after October 1, 1983, and before October 1, 1986, is equal to the sum of—

"(I) the target percentage (as defined in subparagraph (C)) of the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(A)) for the period, and

"(II) the DRG percentage (as defined in subparagraph (C)) of the applicable combined adjusted DRG prospective payment rate determined under subparagraph (D) for such discharges; or

"(ii) beginning on or after October 1, 1986, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.

"(B) As used in this section, the term 'subsection (d) hospital' means a hospital located in one of the fifty States or the District of Columbia other than—

"(i) a psychiatric hospital (as defined in section 1861(f)),

"(ii) a rehabilitation hospital (as defined by the Secretary),

"(iii) a hospital whose inpatients are predominantly individuals under 18 years of age, or

"(iv) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days;

and, in accordance with regulations of the Secretary, does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary). The exclusion of any category of hospitals or units under this subparagraph shall become inapplicable at such time as the Secretary determines that adequate data of clinical and statistical significance is available such that the Secretary

may include such category in the payment system established under this subsection.

"(C) For purposes of this subsection, for cost reporting periods beginning, or discharges occurring—

"(i) on or after October 1, 1983, and before October 1, 1984, the 'target percentage' is 75 percent and the 'DRG percentage' is 25 percent;

"(ii) on or after October 1, 1984, and before October 1, 1985, the 'target percentage' is 50 percent and the 'DRG percentage' is 50 percent; and

"(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 25 percent and the 'DRG percentage' is 75 percent.

"(D) For purposes of subparagraph (A)(i)(II), the 'applicable combined adjusted DRG prospective payment rate' for cost reporting periods beginning, or discharges occurring—

"(i) on or after October 1, 1983, and before October 1, 1984, is a combined rate consisting of 25 percent of the national DRG prospective payment rate, and 75 percent of the regional DRG prospective payment rate, determined under paragraph (2) for such discharges;

"(ii) on or after October 1, 1984, and before October 1, 1985, is a combined rate consisting of 50 percent of the national DRG prospective payment rate, and 50 percent of the regional DRG prospective payment rate, determined under paragraph (3) for such discharges;

"(iii) on or after October 1, 1985, and before October 1, 1986, is a combined rate consisting of 75 percent of the national DRG prospective payment rate, and 25 percent of the regional DRG prospective payment rate, determined under paragraph (3); and

"(iv) on or after October 1, 1986, is a rate equal to the national DRG prospective payment rate determined under paragraph (3).

"(2) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional adjusted DRG prospective payment rate for such discharges in each such region, for which payment may be made under part A of this title. Each such rate shall also be determined for hospitals located in urban or rural areas within the United States and within each such region. Such determinations shall be made as follows:

"(A) DETERMINING ALLOWABLE INDIVIDUAL HOSPITAL COSTS FOR BASE PERIOD.—The Secretary shall determine the allowable operating costs per discharge of inpatient hospital services for the hospital for the most recent cost reporting period for which data are available.

"(B) UPDATING FOR FISCAL YEAR 1984.—The Secretary shall update each amount determined under subparagraph (A) for fiscal year 1984 by—

"(i) updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under such subparagraph and fiscal year 1983, and

"(ii) projecting for fiscal year 1984 by the applicable percentage increase (as defined in subsection (b)(3)(B)) for fiscal year 1984.

"(C) STANDARDIZING AMOUNTS.—The Secretary shall standardize the amount updated under subparagraph (B) for each hospital by—

"(i) excluding an estimate of indirect medical education costs.

"(ii) adjusting for variations among hospitals by area and region in the average hospital wage level, and

"(iii) adjusting for variations in case mix among hospitals.

"(D) COMPUTING URBAN AND RURAL AVERAGES.—The Secretary shall compute an average of the standardized amounts determined under subparagraph (C) for the United States and for each region—

"(i) for all subsection (d) hospitals located in an urban area, and

"(ii) for all subsection (d) hospitals located in a rural area.

For purposes of this subsection, the term 'region' means one of the four census regions established by the Bureau of the Census, established by the Secretary; the term 'urban area' means an area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under subsection (a) by regulation; and the term 'rural area' means any area outside such an area or similar area.

"(E) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (D) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment rates which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(F) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

"(G) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS IN THE UNITED STATES AND IN EACH REGION.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a DRG prospective payment rate which is equal—

"(i) for hospitals located in an urban area in the United States, and for hospitals located in an urban area in each region, to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in an urban area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(ii) for hospitals located in a rural area in the United States, and for hospitals located in a rural area in each region, to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in a rural area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(H) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (G) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national or regional average hospital wage level as appropriate.

"(3) The Secretary shall determine an adjusted DRG prospective payment rate, for

each inpatient hospital discharge in a fiscal year after fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital for which payment may be made under part A of this title, as follows:

"(A) UPDATING PREVIOUS STANDARDIZED AMOUNTS.—The Secretary shall compute an average standardized amount for hospitals located in an urban area within the United States and, for fiscal year 1985, for hospitals located in an urban area within each region, and for hospitals located in a rural area within the United States, and for fiscal year 1985, for hospitals located in a rural area within each region, and equal to the respective average standardized amount computed for the previous fiscal year under paragraph (2)(D) or under this subparagraph, increased by the applicable percentage increase under subsection (b)(3)(B) for that particular fiscal year.

"(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(C) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

"(D) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a DRG prospective payment rate for the fiscal year which is equal—

"(i) for hospitals located in an urban area in the United States and (if applicable) for hospitals located in an urban area in each region, to the product of—

"(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in an urban area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(ii) for hospitals located in a rural area in the United States and (if applicable) for hospitals located in a rural area in each region (and, if applicable, in a census division), to the product of—

"(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in a rural area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(E) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (D) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national or regional average hospital wage level as appropriate.

"(4)(A) The Secretary shall establish a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

"(B) For each such diagnosis-related group the Secretary shall assign an appropriate weighting factor which reflects the relative hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

"(C) The Secretary shall adjust the classifications and weighting factors established under subparagraphs (A) and (B), at least every five years, to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

"(D) The Commission (established under subsection (e)(2)) shall consult with and make recommendations to the Secretary with respect to adjustments to be made under subparagraph (C), based upon its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The Commission shall report to the Congress with respect to its evaluation of any adjustments made by the Secretary under subparagraph (C).

"(5)(A)(i) The Secretary shall provide for an additional payment for a subsection (d) hospital for any discharge in a diagnosis-related group, the length of stay of which exceeds the mean length of stay for discharges within that group by a fixed number of days, or exceeds such mean length of stay by some fixed number of standard deviations, whichever is the lesser.

"(ii) For cases which are not included in clause (i), a hospital may request additional payments in any case where changes, adjusted to cost, exceed a fixed multiple of the DRG rate, or exceed such other fixed dollar amount, whichever is greater.

"(iii) The amount of such additional payment under clauses (i) and (ii) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i) or (ii).

"(iv) The total amount of the additional payments made under this subparagraph for discharges in a fiscal year may not be less than 5 percent nor more than 6 percent of the total payments made based on DRG prospective payment rates for discharges in that year, and the DRG rates shall be reduced to compensate for any payments under this subparagraph in excess of such 6 percent.

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except that in the computation under this subparagraph the Secretary shall use an educational adjustment factor equal to twice the factor provided under such regulations.

"(C)(i) The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title.

"(ii) With respect to a hospital which is a 'sole community hospital', payment under paragraph (1)(A)(i) for any cost reporting period or fiscal year beginning on or after October 1, 1983, shall be determined using the target percentage and DRG percentage applicable for the fiscal year beginning on October 1, 1983, and in no case shall total payments to such a hospital under this title for any cost reporting period beginning on

or after October 1, 1983, and before October 1, 1986, be less than such payments to such hospital for the preceding cost reporting period. For purposes of this subparagraph, the term 'sole community hospital' means a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographical area who are entitled to benefits under part A.

"(iii) The Secretary may provide for such adjustments to the payment amounts as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

"(D)(i) The Secretary shall estimate the amount of reimbursement made for services described in section 1862(a)(14) with respect to which payment was made under part B in the base reporting periods referred to in paragraph (2)(A) and with respect to which payment is no longer being made.

"(ii) The Secretary shall provide for an adjustment to the payment for subsection (d) hospitals in each fiscal year so as appropriately to reflect the net amount described in clause (i).

"(E) This paragraph shall apply only to subsection (d) hospitals that receive payments in amounts computed under this subsection.

"(6) The Secretary shall provide for publication in the Federal Register, on or before the September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the adjusted DRG prospective payment rates under this subsection, including any adjustments required under subsection (e)(1)(B).

"(7) There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the determination of the requirement, or the proportional amount, of any adjustment effected pursuant to subsection (e)(1), and

"(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof under paragraph (4).

"(e)(1)(A) For cost reporting periods of hospitals beginning in fiscal year 1984 or fiscal year 1985, the Secretary shall provide for such proportional adjustment in the applicable percentage increase (otherwise applicable to the periods under subsection (b)(3)(B)) as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(I) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals, are not greater or less than—

"(ii) the target percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983;

except that the adjustment made under this subparagraph shall apply only to subsection (d) hospitals and shall not apply for purposes of making computations under subsection (d)(2)(B)(ii) or subsection (d)(3)(A).

"(B) For discharges occurring in fiscal year 1984 or fiscal year 1985, the Secretary shall provide under subsections (d)(2)(F) and (d)(3)(C) for such equal proportional adjustment in each of the average standard-

ized amounts otherwise computed for that fiscal year as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(II) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals, are not greater or less than—

"(ii) the DRG percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983.

"(2) The Secretary shall provide for appointment of a Commission of independent experts, selected by the Office of Technology Assessment (hereinafter in this subsection referred to as the 'Commission') to review the applicable percentage increase factor described in subsection (b)(3)(B) and make recommendations to the Secretary on the appropriate percentage increase which should be effected for hospital inpatient discharges under subsections (b) and (d) for fiscal years beginning with fiscal year 1985. In making its recommendations, the Commission shall take into account changes in the hospital market-basket described in subsection (b)(3)(B), hospital productivity, technological and scientific advances, the quality of health care provided in hospitals (including the quality and skill level of professional nursing required to maintain quality care), and long-term cost-effectiveness in the provision of inpatient hospital services.

"(3) The Commission, not later than the April 1 before the beginning of each fiscal year (beginning with fiscal year 1985), shall report its recommendations to the Secretary on an appropriate increase factor which should be used (instead of the applicable percentage increase described in subsection (b)(3)(B)) for inpatient hospital services for discharges in that fiscal year.

"(4) Taking into consideration the recommendations of the Commission, the Secretary shall determine for each fiscal year (beginning with fiscal year 1986) the percentage increase which will apply for purposes of this section as the applicable percentage increase (otherwise described in subsection (b)(3)(B)) for discharges in that fiscal year, and which will assure adequate compensation for the efficient and effective delivery of medically appropriate and necessary care of high quality.

"(5) The Secretary shall cause to have published in the Federal Register, not later than—

"(A) the June 1 before each fiscal year (beginning with fiscal year 1985), the Secretary's proposed determination under paragraph (4) for that fiscal year, and

"(B) the September 1 before such fiscal year, the Secretary's final determination under such paragraph for that year.

The Secretary shall include in the publication referred to in subparagraph (A) for a fiscal year the report of the Commission's recommendations submitted under paragraph (3) for that fiscal year.

"(6)(A) The Commission shall consist of fifteen individuals selected and appointed by the Director of the Congressional Office of Technology Assessment (hereafter in this part referred to as the 'Director' and the 'Office', respectively). Such appointments shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members of the Commission shall be appointed no later than April 1, 1984, for a term of three years, except that the Director may

provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than seven members shall expire in any one year. Members of the Commission shall be eligible for reappointment for no more than two consecutive terms.

"(B) The membership of the Commission shall provide expertise and experience in the provision and financing of health care, including but not limited to physicians and registered professional nurses, employers, and third party payors, and individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research. The Director shall seek nominations from a wide range of groups, including but not limited to—

"(i) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals;

"(ii) national organizations representing hospitals, including teaching hospitals; and

"(iii) national organizations representing the business community, health benefit programs, labor, and the elderly.

"(C) The Commission may employ such personnel (not to exceed 50) as may be necessary to carry out its duties. Subject to approval by the Director, the Commission shall appoint one of the members of its staff as Executive Director. The Commission is authorized to seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies. Such assistance may include the provision of detailees, office space, and related services, with or without reimbursement, as agreed upon by the Commission and the head of the appropriate department or agency.

"(D) While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and his regular place of business, a member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by the Chairman of the Commission.

"(E) The Executive Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(F) The Executive Director shall, in accordance with such policies as the Commission may prescribe, appoint and fix the rates of compensation of such personnel as may be necessary to carry out the provisions of this part. Such rates of compensation may not exceed the level specified in subparagraph (E).

"(G) The Commission shall have the authority to—

"(i) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission, with any competent personnel or organization, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(ii) make advance, progress, and other payments which relate to the work of the Commission without regard to the provisions of section 3324 of title 31, United States Code;

"(iii) accept services of voluntary and uncompensated personnel that are necessary for the conduct of the work of the Commission and provide transportation and subsistence as authorized by section 5703 of

title 5, United States Code, for persons serving without compensation;

"(iv) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds that is necessary for, or results from, the exercise of authority granted by this part (without regard to the first section of the Act of March 3, 1877 (19 Stat. 370, chapter 106; 40 U.S.C. 34)); and

"(v) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(H) In order to identify medically appropriate patterns of health resources use in accordance with paragraph (2)(A), the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient-care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. In order to assess the safety, efficiency, and cost-effectiveness of new and existing medical and surgical procedures, the Commission shall, in coordination to the extent possible with the Secretary, collect and assess factual information, giving special attention to the needs of updating existing DRG's, establishing new DRG's, and making recommendations on relative DRG weights to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the Commission shall—

"(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this part; and

"(ii) carry out, or award grants or contracts for, original research where existing information is inadequate for the development of useful and valid guidelines by the Commission.

"(I) The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies. The Commission shall maintain the confidentiality of all confidential information it receives.

"(J) There shall be established a Federal Liaison Committee to the Commission (hereafter in this part referred to as the 'Committee'). The Committee shall—

"(1) arrange for the acquisition of information in accordance with subparagraph (I) and assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies; and

"(2) advise the Commission with respect to the activities of Federal agencies that relate to the duties of the Commission or to particular medical procedures and services under study, or being considered for study, by the Commission.

The Federal Liaison Committee shall consist of delegates of these Federal agencies which can, in the judgment of the Commission, play a significant role in assisting the Commission. The Administrator of the Health Care Financing Administration shall serve as the Chairman of the Committee. Members of the Committee shall serve without additional compensation. The Committee shall meet at the call of the Chairman of the Committee, or at the call of the Chairman of the Commission, but not less than six times a year.

"(K)(i) The Office shall report to the Congress, from time to time, on the functioning

and progress of the Commission and on the status of the assessment of medical procedures and services by the Commission. Such reports shall be annual for the first three years of the Commission's operation and biannual thereafter, and shall be delivered to the Congress by March 15 of each reporting year.

"(ii) The Office shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

"(iii) In order to carry out its duties under this part, the Office is authorized to expend reasonable and necessary funds as mutually agreed upon by the Office and the Commission. The Office shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission. The Office shall carry out such duties subject to approval of the Technology Assessment Board, as prescribed by sections 3(d) (2) and (3) of the Technology Assessment Act of 1972 (2 U.S.C. 472(d) (2) and (3)).

"(L)(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.

"(ii) Eighty-five percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 15 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund."

(f) Section 1862(a)(1) of the Social Security Act is amended—

(1) by striking out "(B) or (C)" and inserting in lieu thereof "(B), (C), or (D)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof a comma and "and"; and

(4) by adding at the end thereof the following new subparagraph:

"(D) in the case of clinical care items and services provided with the concurrence of the Secretary and with respect to research and experimentation conducted by, or under contract with, the Prospective Payment Assessment Commission or the Secretary, which are not reasonable and necessary to carry out the purposes of section 1886(d)(6);".

CONFORMING AMENDMENTS

SEC. 302. (a) Sections 1814(g) and 1835(e) of the Social Security Act are each amended by inserting "(or would be if section 1886 did not apply)" after "section 1861(v)(1)(D)".

(b) Section 1814(h)(2) of such Act is amended by striking out "the reasonable costs for such services" and inserting in lieu thereof "the amount that would be payable for such services under subsection (b) and section 1886".

(c)(1) The matter in section 1861(v)(1)(G)(i) of such Act following subclause (III) is amended by striking out "on the basis of the reasonable cost of" and inserting in lieu thereof "the amount otherwise payable under part A with respect to".

(2) Section 1861(v)(2)(A) of such Act is amended by striking out "an amount equal to the reasonable cost of" and inserting in lieu thereof "the amount that would be taken into account with respect to".

(3) Section 1861(v)(2)(B) of such Act is amended by striking out "the equivalent of the reasonable cost of".

(4) Section 1861(v)(3) of such Act is amended by striking out "the reasonable cost of such bed and board furnished in semiprivate accommodations (determined pursuant to paragraph (1))" and inserting in lieu thereof "the amount otherwise payable under this title for such bed and board furnished in semiprivate accommodations".

(d) Section 1862(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(14) which are other than physicians' services (as defined in regulations) and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the hospital."

(e)(1) Section 1866(a)(1) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E), and

(C) by adding at the end the following new subparagraph:

"(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the accuracy of diagnostic information on such hospital's bills, the completeness and adequacy of care provided, the appropriateness of admissions, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(5), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, but shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a budget approved by the Secretary),

"(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f), and

"(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under section 1886(d), to have all items and services (other than physicians' services as defined in regulations) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital."

(2) The matter in section 1866(a)(2)(B)(ii) of such Act preceding subclause (I) is amended by inserting "and except with respect to inpatient hospital costs with respect to which amounts are payable under section 1886(d)" after "(except with respect to emergency services)".

(f) Section 1876(g) of such Act is amended by adding at the end the following:

"(4) A risk-sharing contract under this subsection may, at the option of an eligible organization, provide that the Secretary—

"(A) will reimburse hospitals for payment amounts determined in accordance with section 1886, as applicable, of inpatient hospital services furnished to individuals enrolled with such organization pursuant to subsection (d), and

"(B) will deduct the amount of such reimbursement for payment which would otherwise be made to such organization."

(g)(1) Section 1878(a) of such Act is amended—

(A) by inserting "and (except as provided in subsection (g)(2)) any hospital which receives payments in amounts computed under section 1886(d) and which has submitted such reports within such time as the Secretary may require in order to make payment under such section may obtain a hearing with respect to such payment by the Board" after "subsection (h)" in the matter before paragraph (1),

(B) by inserting "(i)" after "(A)" in paragraph (1)(A),

(C) by inserting "or" at the end of paragraph (1)(A) and by adding after such paragraph the following new clause:

"(ii) is dissatisfied with a final determination of the Secretary as to the amount of the payment under section 1886(d)," and

(D) by striking out "(1)(A)" in paragraph (3) and inserting in lieu thereof "(1)(A)(i), or with respect to appeals under paragraph (1)(A)(ii), 180 days after notice of the Secretary's final determination,"

(2)(A) The last sentence of section 1878(f)(1) of the Social Security Act is amended by inserting "(or, in an action brought jointly by several providers, the judicial district in which the greatest number of such providers are located) after "the judicial district in which the provider is located".

(B) Section 1878(f)(1) of such Act is further amended by adding at the end thereof the following new sentence: "Any appeal to the Board or action for judicial review by providers which are under common ownership or control must be brought by such providers as a group with respect to any matter involving an issue common to such providers."

(3) Section 1878(g) of such Act is amended by inserting "(1)" after "(g)" and by adding at the end the following new paragraph:

"(2) The determinations and other decisions described in section 1886(d)(7) shall not be reviewed by the Board or by any court pursuant to an action brought under subsection (f) or otherwise."

(4) The third sentence of section 1878(h) of such Act is amended striking out "cost reimbursement" and inserting in lieu thereof "payment of providers of services".

(h) The first sentence of section 1881(b)(2)(A) of such Act is amended by inserting "or section 1886 (if applicable)" after "section 1861(v)".

(i) Section 1887(a)(1)(B) of such Act is amended by inserting "or on the bases described in section 1886" after "on a reasonable cost basis".

(j) The Secretary may, for any cost reporting period beginning prior to October 1, 1986, waive the requirements of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Security Act in the case of a hospital which has followed a practice of allowing direct billing under part B of title XVIII of such Act for services (other than physician services) so extensively, that immediate compliance with those requirements would threaten the stability of patient care. Any such waiver shall provide that such billing may continue to be made under part B but that the payments to such hospital under part A of such title shall be reduced by the amount of the billings for such services under part B. If such a waiver is granted, at the end of

the waiver period the Secretary may provide for such methods of payments under part A as is appropriate, given the organizational structure of the institution.

REPORTS, EXPERIMENTS, AND DEMONSTRATION PROJECTS

SEC. 303. (a)(1) The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall study and report to the Congress within 18 months after the date of the enactment of this Act on the method by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included within the prospective payment amounts computed under section 1886(d) of the Social Security Act.

(2)(A) The Secretary shall study and report annually to the Congress at the end of each year (beginning with 1984 and ending with 1987) on the impact, of the payment methodology under section 1886(d) of the Social Security Act during the previous year, classes of hospitals, beneficiaries, and other payors for inpatient hospital services, and other providers.

(B) During fiscal year 1984, the Secretary shall begin the collection of data necessary to compute the amount of physician charges attributable, by diagnosis-related groups, to physicians' services furnished to inpatients of hospitals whose discharges are classified within those groups. The Secretary shall include, in a report to Congress in 1985, legislative recommendations on the advisability and feasibility of providing for determining the amount of the payments for physicians' services furnished to hospital inpatients based on the DRG classification of the discharges of those inpatients.

(C) In the annual report to Congress under subparagraph (A) for 1985, the Secretary shall include the results of studies on—

(i) the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates under paragraph (3) of section 1886(d) of the Social Security Act;

(ii) whether and the method under which hospitals, not paid based on amounts determined under such section, can be paid for inpatient hospital services on a prospective basis as under such section;

(iii) the application of severity of illness, intensity of care, or other modifications to the diagnosis-related groups, and the advisability and feasibility of providing for such modifications; and

(iv) the feasibility and desirability of applying the payment methodology under such section to payment by all payors for inpatient hospital services.

(3) Prior to April 1, 1985, the Secretary shall complete a study and make legislative recommendations to the Congress with respect to an equitable method of reimbursing sole community hospitals which takes into account their unique vulnerability to substantial variations in occupancy. In addition, the Secretary shall examine ways to coordinate an information transfer between parts A and B, particularly with respect to those cases where a denial of coverage is made under part A, and no adjustment is made in the reimbursement to the admitting physician, or physicians. The Secretary also reports on the appropriate treatment of uncompensated care costs, and adjustments that might be appropriate for large teaching hospitals located in rural areas. The Secretary shall also on the advisability of having hospitals make available information on the cost of care to patients financed by both public programs and private payors.

(4) The Secretary shall complete a study and make recommendations to the Congress, before April 1, 1984, with respect to whether

hospitals located outside of the fifty States and the District of Columbia should be included under a prospective payment system.

(b)(1) Except as provided in paragraph (2), the amendments made by this title shall not affect the authority of the Secretary to develop, carry out, or continue experiments and demonstration projects.

(2) The Secretary shall provide that, upon the request of a State which has a demonstration project, for payment of hospitals under title XVIII of the Social Security Act approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972, which (A) is in effect as of March 1, 1983, and (B) was entered into after August 1982, the terms of the demonstration agreement shall be modified so that the percentage by which such demonstration project is required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in medicare hospital costs shall be decreased by one-half of one percentage point per contract year, beginning with the contract year beginning in 1983.

(c) The Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, within 30 days after the date of enactment of this Act—

(1) the risk-sharing application of On Lok Senior Health Services (according to terms and conditions as specified by the Secretary), dated July 2, 1982, for waivers, pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, of certain requirements of title XVIII of the Social Security Act over a period of 36 months in order to carry out a long-term care demonstration project, and

(2) the application of the Department of Health Services, State of California, dated November 1, 1982, pursuant to section 1115 of the Social Security Act, for the waiver of certain requirements of title XIX of such Act over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

(d) The Secretary shall continue demonstrations with hospitals in areas with critical shortages of skilled nursing facilities to study the feasibility of providing alternative systems of care or methods of payment.

EFFECTIVE DATES

SEC. 304. (a)(1) Except as provided in paragraph (2), the amendments made by the preceding provisions of this title apply to items and services furnished by or under arrangements with a hospital beginning with its first cost reporting period that begins on or after October 1, 1983. A change in a hospital's cost reporting period that has been made after November 1982 shall be recognized for purposes of this section only if the Secretary finds good cause for that change.

(2) Section 1866(a)(1)(F) of the Social Security Act (as added by section 302(f)(1)(C) of this title), section 1862(a)(14) (as added by section 302(e)(3) of this title) and sections 1886(a)(1) (G) and (H) of such Act (as added by section 302(f)(1)(C) of this title) take effect on October 1, 1983.

(b) The Secretary shall make an appropriate reduction in the payment amount under section 1886(d) of the Social Security Act (as amended by this title) for any discharge, if the admission has occurred before a hospital's first cost reporting period that begins after September 1983, to take into account amounts payable under title XVIII of that Act (as in effect before the date of the enact-

ment of this Act) for items and services furnished before that period.

(c)(1) The Secretary shall cause to be published in the Federal Register a notice of the interim final DRG prospective payment rates established under subsection (d) of section 1886 of the Social Security Act (as amended by this title) no later than September 1, 1983, and allow for a period of public comment thereon. The DRG prospective payment rates shall become effective on October 1, 1983, without the necessity for consideration of comments received, but the Secretary shall, by notice published in the Federal Register, affirm or modify the amounts by December 31, 1983, after considering those comments.

(2) A modification under paragraph (1) that reduces a DRG prospective payment rate shall apply only to discharges occurring after 30 days after the date the notice of the modification is published in the Federal Register.

(3) Rules to implement subsection (d) of section 1886 of the Social Security Act (as so amended) shall, and exceptions, adjustments, or additional payment amounts under paragraph (5) of such subsection may, be established in accordance with the procedure described in this subsection.

DELAY IN PROVISION RELATING TO HOSPITAL-BASED SKILLED NURSING FACILITIES

SEC. 305. (a) Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

(b) The Secretary of Health and Human Services shall, prior to December 31, 1983, complete a study and report to the Congress, with respect to the effect which the implementation of section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 would have on hospital-based skilled nursing facilities, given the differences (if any) in the patient populations served by such facilities and by community-based skilled nursing facilities.

SHIFT IN PART B PREMIUM TO COINCIDE WITH COST-OF-LIVING INCREASE

SEC. 306. (a) Section 1839 of the Social Security Act is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a)(1) The Secretary shall, during October of 1983 and of each year thereafter, determine the monthly actuarial rate for enrollees who have attained retirement age (as defined in section 216(a)) which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees who have attained retirement age will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The monthly premium of each individual enrolled under this part for each month after December 1983 shall, except as provided in subsections (b) and (c), be the amount determined under paragraph (3).

"(3) The Secretary shall, during October of 1983 and of each year thereafter, determine and promulgate the monthly premium applicable for individuals enrolled under this part for the succeeding calendar year. The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the smaller of—

"(A) the monthly actuarial rate for enrollees who have attained retirement age, determined according to paragraph (1) of this subsection, for that calendar year, or

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of \$900, that applied to individuals who became eligible for and entitled to old-age insurance benefits for December of the year preceding the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following December.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees who have attained retirement age as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

"(4) The Secretary shall also, during October of 1983 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees who have not attained retirement age which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to disabled enrollees who have not attained retirement age will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin."

(2) Subsections (d), (e), (f), and (g) of section 1839 of such Act are redesignated as subsections (b), (c), (d), and (e), respectively.

(3) (A) Section 1839(b) of such Act (as so redesignated) is amended by striking out "subsection (b), (c), or (g)" and inserting in lieu thereof "subsection (a) or (e)".

(B) Section 1839(d) of such Act (as so redesignated) is amended by striking out "purposes of subsection (c)" and inserting in lieu thereof "purposes of subsection (b)".

(C) Section 1839(e) of such Act (as so redesignated) is amended by striking out "subsection (c)" and "subsection (c)(1)" and by inserting in lieu thereof "subsection (a)" and "subsection (a)(1)", respectively.

(D) Section 1818(c) of such Act is amended by striking out "subsection (c) of section 1839" and inserting in lieu thereof "subsection (a) of section 1839".

(E) Section 1843(d)(1) of such Act is amended by striking out "without any increase under subsection (c) thereof" and inserting in lieu thereof "without any increase under subsection (b) thereof".

(F) Section 1844(a)(1)(A)(i) of such Act is amended—

(i) by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(G) Section 1844(a)(1)(B)(i) of such Act is amended—

(i) by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(H) Section 1876(a)(5) of such Act is amended—

(i) in subparagraph (A)(ii), by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) in subparagraph (B)(ii), by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)".

(4) The amendments made by this subsection shall apply with respect to premiums payable for January 1984 and each month thereafter.

(5) The monthly premium amount under section 1839 of the Social Security Act for the months of July through December of 1983 shall be equal to the monthly premium amount as determined under such section (as in effect prior to the amendments made by this section) for June 1983.

SHIFT IN VOLUNTARY PART A PREMIUM TO COINCIDE WITH COST-OF-LIVING INCREASES

SEC. 307. (a) Section 1818(d)(2) of the Social Security Act is amended—

(1) by striking out "during the last calendar quarter of each year, beginning in 1973," in the first sentence and inserting in lieu thereof "during the next to last calendar quarter of each year";

(2) by striking out "the 12-month period commencing July 1 of the next year" in the first sentence and inserting in lieu thereof "the following calendar year"; and

(3) by striking out "for such next year" in the second sentence and inserting in lieu thereof "for that following calendar year".

(b) The amendments made by this section shall apply to premiums for months beginning with January 1984, and for months after June 1983 and before January 1984, the monthly premium under part A of title XVIII of the Social Security Act for individuals enrolled under each respective part shall be the monthly premium under that part for the month of June 1983.

TITLE IV—UNEMPLOYMENT COMPENSATION PROVISIONS

PART A—FEDERAL SUPPLEMENTAL COMPENSATION

EXTENSION OF PROGRAM

SEC. 401. (a) Paragraph (2) of section 602(f) of the Federal Supplemental Compensation Act of 1982 is amended by striking out "March 31, 1983" and inserting in lieu thereof "September 30, 1983".

(b) Section 605(2) of such Act is amended by striking out "April 1, 1983" and inserting in lieu thereof "October 1, 1983".

NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE

SEC. 402. (a) Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2)(A) In the case of any account from which Federal supplemental compensation was first payable to an individual for a week beginning after March 31, 1983, the amount established in such account shall be equal to the lesser of—

"(i) 65 per centum of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

"(ii) the applicable limit determined under the following table times his average weekly benefit amount for his benefit year,

| In the case of weeks during a: | The applicable limit is: |
|--------------------------------|--------------------------|
| 6-percent period..... | 14 |
| 5-percent period..... | 12 |
| 4-percent period..... | 10 |
| Low-unemployment period..... | 8 |

"(B) Notwithstanding the provisions of clause (ii) of subparagraph (A), the applicable limit under such clause shall not be lower than 4 less than the number of weeks applicable to such State under this paragraph as in effect for the week beginning March 27, 1983, to the amendments made by the Social Security Amendments of 1983.

"(C) In the case of any account from which Federal supplemental compensation was payable to an individual for a week beginning before April 1, 1983, the amount established in such account shall be equal to the lesser of the subparagraph (A) entitlement or the sum of—

"(i) the subparagraph (A) entitlement reduced (but not below zero) by the aggregate amount of Federal supplemental compensation paid to such individual for weeks beginning before April 1, 1983, plus

"(ii) such individual's additional entitlement.

"(D) For purposes of subparagraph (C) and this subparagraph—

"(i) The term 'subparagraph (A) entitlement' means the amount which would have been established in the account if subparagraph (A) had applied to such account.

"(ii) The term 'additional entitlement' means the applicable limit determined under the following table times the individual's average weekly benefit amount for his benefit year.

| In the case of weeks during a: | The applicable limit is: |
|--------------------------------|--------------------------|
| 6-percent period..... | 8 |
| 5-percent period..... | 6 |
| 4-percent period..... | 4 |
| Low-employment period..... | 4 |

"(D) Except as provided in subparagraph (C)(i), for purposes of determining the amount of Federal supplemental compensation payable for weeks beginning after March 31, 1983, from an account described in subparagraph (C), no reduction in such account shall be made by reason of any Federal supplemental compensation paid to the individual for weeks beginning before April 1, 1983.

"(3)(A) For purposes of this subsection, the terms '6-percent period', '5-percent period', '4-percent period', and 'low-unemployment period' mean, with respect to any State, the period which—

"(i) begins with the 3d week after the 1st week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls in the applicable range, and

"(ii) ends with the 3d week after the 1st week in which the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks does not fall within the applicable range.

"(B) For purposes of subparagraph (A), the applicable range is as follows:

| In the case of a: | The applicable range is: |
|------------------------|---|
| 6-percent period..... | A rate equal to or exceeding 6 percent. |
| 5-percent period..... | A rate equal to or exceeding 5 percent but less than 6 percent. |
| 4-percent period..... | A rate equal to or exceeding 4 percent but less than 5 percent. |
| Low-employment period. | A rate less than 4 percent. |

"(C) No 6-percent period, 5-percent period, or 4-percent period, as the case may be, shall last for a period of less than 4 weeks unless the State enters a period with a higher percentage designation.

"(D) For purposes of this subsection—

"(i) The rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

"(ii) The amount of an individual's average weekly benefit amount shall be determined in the same manner as determined for purposes of section 202(b)(1)(C) of such Act."

(b)(1) Section 602(f)(2) of such Act is amended by inserting before the period at the end thereof the following: "; except that in the case of any individual who received such compensation for the week preceding the last week beginning after such date, such compensation shall be payable to such individual for weeks beginning after such date, but the total amount of such compensation payable for such weeks shall be limited to 50 percent of the total amount which would otherwise be payable for such weeks".

(2) Section 605(2) of such Act is amended by inserting before the semicolon the following: "(except as otherwise provided in section 602(f)(2))".

(c)(1) Section 602(b)(1) of such Act is amended by striking out "and" at the end of subparagraph (B), adding "and" at the end of subparagraph (C), and inserting after subparagraph (C) the following:

"(D) had at least 26 weeks of full-time insured employment, during his base period or the equivalent in insured wages during his base period (as determined using a methodology equivalent to that used under section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970);"

(2) The amendment made by paragraph (1) shall apply only to individuals who first became eligible for Federal supplemental compensation for weeks beginning on or after April 1, 1983.

(d) Paragraph (3) of section 602(d) of the Federal Supplemental Compensation Act of 1982 (as amended by section 544(d) of the Highway Revenue Act of 1982) is amended by striking out "subsection (e)(2)(A)(ii)" and inserting in lieu thereof "subparagraph (A)(ii) or (C)(ii)(II) of subsection (e)(2)".

EFFECTIVE DATE

Sec. 403. (a) The amendments made by this part shall apply to weeks beginning after March 31, 1983.

(b) In the case of any eligible individual—

(1) to whom any Federal supplemental compensation was payable for any week beginning before April 1, 1983, and

(2) who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) before the first week beginning after March 31, 1983, such individual's eligibility for additional weeks of compensation by reason of the amendments made by this part shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and before April 1, 1983 (and the period after such exhaustion and before April 1, 1983, shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Federal Supplemental Compensation Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State

with which he has in effect an agreement under section 602 of the Federal Supplemental Compensation Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this part. Notwithstanding any other provision of law, if any State fails or refuses, within the 3-week period beginning on the date the Secretary of Labor proposed such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such 3-week period.

PART B—PROVISIONS RELATING TO INTEREST AND CREDIT REDUCTIONS
DEFERRAL OF INTEREST

Sec. 411. (a) Section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) With respect to interest due under this section for any year after December 31, 1982, and before January 1, 1986, a State may pay 80 percent of such interest in four annual installments of at least 20 percent beginning with the year after the year in which it is otherwise due, if such State meets the criteria of subparagraph (B). Interest shall accrue on such deferred interest in the same manner as under paragraph (3)(C).

"(B) To meet the criteria of this subparagraph a State must—

"(i) have taken no action since October 1, 1982, which would reduce its net unemployment tax effort or the net solvency of its unemployment system (as determined for purposes of section 3302(f) of the Internal Revenue Code of 1954); and

"(ii) have taken an action (as certified by the Secretary of Labor) after October 1, 1982, which will increase revenues and decrease benefits under the State's unemployment compensation system (hereinafter referred to as a 'solvency effort') by a combined total of the applicable percentage (as compared to such revenues and benefits as they would have been in effect without such State action).

In the case of the first year for which there is a deferral (over a 4-year period) of the interest otherwise payable for such year, the applicable percentage shall be 30 percent. In the case of the second such year, the applicable percentage shall be 40 percent. In the case of the third such year, the applicable percentage shall be 50 percent.

"(C)(i) The base year is the first year for which deferral under this provision is granted. The Secretary of Labor shall estimate the unemployment rate for the base year. To determine whether a State meets the requirements of subparagraph (B)(ii), the Secretary of Labor shall determine the percentage by which the benefits and taxes in the base year with the application of the action referred to in subparagraph (B)(ii) are lower or greater, as the case may be, than such benefits and taxes would have been without the application of such action. In making this determination, the Secretary shall deem the application of the action referred to in subparagraph (B)(ii) to have been effective for the base year to the same extent as such action is effective for the year following the base year. Once a deferral is approved a State must continue to maintain its solvency effort. Failure to do so shall result in the State being required to make immediate payment of all deferred interest.

"(ii) Increases in the taxable wage base from \$6,000 to \$7,000 or increases after 1984 in the maximum tax rate to 5.4 percent shall

not be counted for purposes of meeting the requirement of subparagraph (B).

"(D) In the case of a State which produces a solvency effort of 50 percent, 80 percent, and 90 percent rather than the 30 percent, 40 percent, 50 percent required under subparagraph (B), the deferred interest shall be computed at an interest rate which is 1 percentage point less than the otherwise applicable interest rate."

(b) Section 1202(b)(7) of such Act is amended by striking out ", and before January 1, 1988".

CAP ON CREDIT REDUCTION

SEC. 412. (a)(1) Section 3302(f) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(8) PARTIAL LIMITATION.—

"(A) In the case of a State which would meet the requirements of this subsection for a taxable year prior to 1987 but for its failure to meet one of the requirements contained in subparagraph (C) or (D) of paragraph (2), the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be reduced by 0.1 percentage point.

"(B) In the case of a State described in subparagraph (A) which also meets the requirements of section 1202(b)(8)(B) with respect to such taxable year, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be further reduced by an additional 0.1 percentage point."

(2) The amendment made by paragraph (1) shall apply with respect to taxable year 1983 and taxable years thereafter.

(b) Section 3302(f)(1) of such Code is amended by striking out "beginning before January 1, 1988,".

AVERAGE EMPLOYER CONTRIBUTION RATE

SEC. 413. (a) Section 3302(d)(4)(B) of the Internal Revenue Code of 1954 is amended by striking out "the total of the remuneration subject to contributions under the State unemployment compensation law" and inserting in lieu thereof "the total of the wages attributable to such State subject to taxation under this chapter".

(b) Sections 3302(c)(2)(B)(i) and 3302(c)(4) of such Code are each amended by striking out "2.7" and inserting in lieu thereof "2.7 multiplied by the ratio of the wage base under this chapter divided by the estimated average annual wage in covered employment for the calendar year in which the determination is to be made".

(c) The amendments made by this section shall be effective for taxable year 1984 and taxable years thereafter.

DATE FOR PAYMENT OF INTEREST

SEC. 414. Section 1202(b)(3)(A) of the Social Security Act is amended by striking out "not later than" and inserting in lieu thereof "prior to".

RECOUPMENT OF INTEREST

SEC. 415. Section 3302 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(h) RECOUPMENT OF OVERDUE INTEREST.—
 "(1) In addition to any other reduction required under this section, if any accrued interest under section 1202(b) of the Social Security Act has not been paid by a State within one year after the date such payment

is otherwise required to be paid, then the total credits (after applying any other provisions of this section) otherwise allowable under this section for the following taxable year, in the case of a taxpayer subject to the unemployment compensation law of such State, shall be reduced by an amount equal to 0.1 percent of the amount of the wages paid by such taxpayer during such taxable year which are attributable to such State.

"(2) Any increase in the amount of tax paid by reason of paragraph (1) shall be first applied as a payment of such overdue interest, and any remainder shall be applied as a repayment of principal under section 1202(b) of the Social Security Act."

PART C—MISCELLANEOUS PROVISIONS

TREATMENT OF EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

SEC. 421. (a)(1) Section 3306(a)(6)(A) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new clause:

"(v) with respect to services to which section 3309(a)(1) applies, if such services are provided to or on behalf of an educational institution, compensation shall be denied in the same manner as if such services were performed directly for an educational institution, and"

(2) Clauses (ii)(I), (iii), and (iv) of such section are each amended by striking out "may be denied" and inserting in lieu thereof "shall be denied".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after April 1, 1984.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to comply with the amendment made by this section, the amendment made by this section shall apply in the case of compensation paid for weeks which begin on or after April 1, 1984, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

SEC. 422. (a) Clause (ii) of paragraph (3)(A) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(ii) during which he fails to actively engage in seeking work, unless such individual is not actively engaged in seeking work because such individual is, as determined in accordance with State law—

"(I) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty (as such term may be defined by the Secretary of Labor), or

"(II) hospitalized for treatment of an emergency or a life-threatening condition (as such term may be defined by such Secretary),

if such exemptions in clauses (I) and (II) apply to recipients of regular benefits, and the State chooses to apply such exemptions for recipients of extended benefits; or"

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

Mr. DOLE. Mr. President, today, we begin consideration of H.R. 1900, "The Social Security Act Amendments of 1983," as proposed to be amended by

the Finance Committee. S. 1 was favorably reported by the Finance Committee on Thursday evening, March 10, by a vote of 19 to 1. The committee bill implements the consensus recommendations of the National Commission on Social Security Reform, and also includes provisions dealing with prospective payments under the medicare program, supplemental unemployment benefits, and unemployment compensation loan reform. Representing the culmination of many months of negotiation, this may be the single most important piece of legislation we consider in the 98th Congress. I urge my colleagues to support the bill.

SOCIAL SECURITY

Titles I and II of the committee amendment would implement the consensus recommendations of the National Commission on Social Security Reform. Each of the recommendations of the National Commission were approved by the committee and, I might add, only those areas that required refinement—such as the taxing of benefits—were modified in any significant way. Also, the committee had to deal with two areas in which the Commission was unable to reach consensus: the long-range, financing deficit and a "fail-safe" mechanism. In total, the social security financing package reduces the short-range deficit in the Old-Age, Survivors and Disability Insurance programs (OASDI) by \$165 billion. For the long-range, the committee bill eliminates the entire long-range deficit in OASDI, and actually generates a small surplus.

MAJOR PROVISIONS

The recommendations of the National Commission, as embodied in the committee amendment, will require concessions from all of the parties who have a stake in social security—current and future beneficiaries, taxpayers, and Government employees who do not now contribute to the system. While no one Member is happy with every specific recommendation, the important fact is that consensus was reached on how to save the system.

COVERAGE

First, the bill would expand coverage. Newly hired Federal employees, the President, Vice President, Members of Congress, the Social Security Commissioner, and employees of non-profit organizations would, beginning in 1984, be covered by social security on a mandatory basis. State and local governments would no longer be granted the privilege of opting out of the system. To deal with the problem that will exist as long as coverage is not universal, windfalls will be eliminated for people who earn disproportionately large benefits because of long periods in noncovered employment. To moderate the impact of this provision, the committee bill would phase in the windfall provision and provide additional guarantees for

people with long periods of covered employment.

I might note that that is the one minor change in the House-passed bill—to phase in that particular provision.

COLA

Second, on the benefit side, the annual cost-of-living adjustment of social security benefits and SSI payments would be delayed by 6 months, from July to January. To protect the needy elderly during the transition to the new payment schedule, the maximum payment under the SSI program would be increased by \$20 per month (\$30 for couples). This would allow the income of all SSI recipients to rise by \$20 a month beginning in July even though his or her COLA is delayed.

REVENUE PROVISIONS

Also, for beneficiaries with high incomes, half of social security benefits would be included in taxable income. The "notch" resulting under the Commission recommendation was eliminated by specifying that half of social security benefits be added to the individual's adjusted gross income and his income from tax-exempt obligations to determine whether any of his benefits will be subject to taxation. Counting adjusted gross income, tax-exempt interest, and half of social security benefits in this manner, the thresholds in the committee bill are then \$25,000 for an individual and \$32,000 for a couple. The lesser of one-half of social security benefits or one-half of income above the thresholds would be subject to income taxes. In no case would an individual's benefits be taxed if his income was below \$20,000 (or if a couple's adjusted gross income was below \$25,000).

In addition, part of the payroll tax increases now scheduled by law would be accelerated, as recommended by the National Commission. The 1985 increase in the OASDI rate would take place in 1984, and part of the 1990 increase would take place in 1988. A direct credit against FICA tax would exactly offset the increase in the employee's tax in 1984 so that the acceleration in the rate increase originally set for 1985 will increase trust fund receipts without increasing an employee's tax liability.

For the self-employed, the OASDI tax rates on self-employed income would be increased so as to equalize his or her contribution to the social security trust funds with the combined contribution paid by workers and their employers. The tax on the self-employed—now about 1.5 times the employee's OASDI tax and the same as the employee's HI tax—would be made equal to the combined employee-employer rates. To offset partially the increased tax burden this provision imposes on the self-employed, the committee bill would provide a credit against self-employment taxes equal to 2.9 percent of self-employment income subject to self-employment tax in 1984, 2.5 percent in 1985, 2.2 percent

in 1986, 2.1 percent in 1987 through 1989, and 2.3 percent in 1990 and thereafter.

STABILIZER

To help stabilize the financial condition of social security, this bill includes the recommendation of the National Commission to trigger a new method of indexing benefits if reserves are critically low. Beginning in 1988, if reserves fall below 20 percent of annual outgo, the annual COLA would be based on the lower of the increase in wages or prices. As reserves begin to accumulate again, a "catch-up" provision would repay beneficiaries for any prior reduction in their benefit increases. This would help prevent insolvency when prices grow more rapidly than wages, as they have in the last 5 years.

EQUITY PROVISIONS

Also included in the bill are provisions which would increase outlays somewhat, but they improve the equity of the system considerably for women and for the elderly who continue to work. As recommended by the National Commission, benefit adequacy is improved for widows and widowers and for disabled widows and widowers. Eligibility requirements are eased for divorced widows and widowers, and for divorced disabled widows and widowers. For the elderly who continue to work and who do not now receive an actuarially fair increase in benefits when they delay retirement, the delayed retirement credit would be increased from 3 percent to 8 percent a year.

Along these same lines, two additional provisions were added by the Finance Committee. First, people who leave the work force to care for a child under 3 will be allowed to drop up to 2 extra years of earnings in the computation of their earnings history. This change would help acknowledge the economic contribution of spouses in the home by eliminating part of the financial penalty they now suffer when they are out of the work force. Second, the bill would gradually phase out the retirement earnings test for people 65 and older. This is a broadly supported change that would remove a strong disincentive for the elderly who wish to continue working beyond 65.

ACCOUNTING CHANGES

Two accounting changes recommended by the Commission are included in the bill that would improve the treatment of the social security trust funds. First, the trust funds would be reimbursed for all forgone taxes and interest on account of gratuitous wage credits provided to people with military service. Presently, the trust funds are not reimbursed until the additional benefits are paid. Second, the trust funds would be credited with the value of all checks which have remained unnegotiated for 1 year or longer. Presently, such checks remain a drain on the trust funds even if they are never cashed.

ADDITIONAL PROVISIONS RECOMMENDED BY THE NATIONAL COMMISSION

In addition to these provisions, which constitute the bipartisan consensus, this bill contains three other recommendations made by the National Commission. These were approved unanimously in November. First, trust fund investment procedures would be revised so as to improve the level of public understanding.

I might say I see the distinguished Senator from Mississippi in the Chamber. It was through his efforts and the efforts of the distinguished Senator from Wisconsin that this provision was added and agreed to by the National Commission. We will be discussing that more in length later and will notify the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. DOLE. We appreciate the Senator calling that to our attention last year.

In the future, any excess reserves would be invested on a month-to-month basis at a rate equal to the average interest rate paid on long-term Government bonds. Second, two public members would be added to the Social Security Board of Trustees. Presently, the Board is composed of the Secretaries of Treasury, Labor, and Health and Human Services.

I guess that was a recommendation that the Commission felt should have been adopted, and we have adopted it.

Third, salary reductions made under salary-reduction plans qualifying under section 401(k) of the Internal Revenue Code would, as recommended by the National Commission, be included in taxable wages for purposes of OASDHI, as would certain other forms of noncash compensation at the time the employee elects to forego current cash for a noncash benefit.

In particular, under the committee bill, amounts deferred under a qualified "cash or deferred" plan or a tax-sheltered annuity by reason of a salary reduction agreement would be includible in the FICA wage base. Similarly, amounts used to fund fringe benefits under a cafeteria plan would be included in the wage base if the employee had an option under the plan to defer income pursuant to a cash or deferred plan. Amounts deferred under an eligible State deferred compensation plan would be included in the FICA wage base in the year the related services were performed. Other nonqualified deferred compensation would be included in the FICA wage base when it becomes available to the employee. These changes should prevent future decreases in OASDHI tax income and benefit credits that might otherwise occur from increased use of deferred compensation arrangements.

I must say we think that is a rather significant provision for the future.

FAIL-SAFE PROVISIONS

The National Commission unanimously recommended that the social

security financing package include a "fail-safe" provision—some mechanism for insuring that benefits continue to be paid even under adverse economic conditions. No specific formula was recommended, however. The options were: Some form of triggered COLA reductions, tax increases, general revenue borrowing, or some combination of these.

The committee bill incorporates the first option, that of triggered COLA reductions.

And the record should indicate this was a provision offered in the Committee by the distinguished Senator from Louisiana (Mr. LONG).

Under this provision, offered in committee by Senator LONG, the Secretary of Health and Human Services would be required—for any year after 1984 that reserves are projected to be less than 20 percent of outgo and falling—to announce by the preceding July 1 the amount of the COLA that could be provided without further depleting trust fund reserves. Should Congress then fail to respond by providing the additional financing necessary to keep reserves from falling, the lower COLA would then go into effect in January.

That is a real fail-safe provision, but it does give Congress 6 months within which to act so we would have time if we wanted to find some other way to do it without any COLA reduction. That could be done.

People with benefits above \$250 monthly would be affected first. In order for this fail-safe to go into effect, trusts funds would have to be both critically low—20 percent of annual outgo or less—and reserves would have to be falling. In other words, it would have to be falling from the 20 percent downward.

To further bolster the trust funds in the event of adverse economic circumstances, the bill includes interfund borrowing between the three social security trust funds. So as not to allow deficits in any one of the trust funds to bankrupt another, the committee included strict requirements for interest payments and repayment of principal and interest—beginning no later than 1988.

This was a particular concern of the committee and particular concern of Senators DURENBERGER and BAUCUS as I recall as well as others who were concerned about the OSI funds.

Also, when trust funds are unable to pay at least 1½ months of benefits, the Secretary of Treasury would be required to transfer to the OASDI trust funds on the first day of the month the full amount of payroll tax revenues expected to be collected during the month. This is a little provision called normalization.

Normalizing tax transfers would provide income to the trust funds at the start of the month—when benefit expenditures are heavily concentrated. Once again, interest would be charged on the excess sums so transferred.

Together, these three provisions—the COLA fail-safe, interfund borrowing, and normalized tax transfers—should provide the safety valve necessary to insure the continued solvency of social security (OASDI) during the 1980's.

I really believe that with those additions and with the change made in the Finance Committee, the changes in those three areas—I guess if we did not change the normalization, we changed the other two areas somewhat—that we have provided a real fail-safe and it should protect all those who participate in short term.

We move from the short term to the long term.

LONG RANGE

To close the long-range deficit in OASDI, the committee bill would lower the long-term cost of the program through a combination approach. First, the bill would raise the age at which full retirement benefits are payable from 65 to 66, by 1 month a year, between 2000-2012. Early retirement benefits would continue to be payable at 62. This provision would reduce the OASDI deficit by 0.4 percent of taxable payroll. Second, the bill would gradually reduce the level of present law benefits payable to people who retire after the turn of the century by about 5 percent. In other words, people would come on to the rolls at a benefit level about 5 percent lower than now projected. This, of course, would still be at a level much higher than today. This change would reduce the deficit by another 0.43 percent of taxable payroll. In conjunction with the rest of the bill, these two changes would completely eliminate the OASDI deficit projected by the Social Security Board of Trustees.

PROMPT ACTION ESSENTIAL

In my view, this is a good bill in the sense that it represents a fair compromise between all of the parties that have a stake in social security. While some of us may have wished to go further, particularly with regard to short-range financing, we did the best we could recognizing that bipartisan consensus was essential. Opening social security up again to the partisan political bickering of 1981 would have served no one's interests.

Before us we have a bill that incorporates a set of recommendations offered by the National Commission that is supported by a broad group including Representative CLAUDE PEPPER; Lane Kirkland, president of the AFL-CIO; and Save Our Security, on the one hand; and Robert Beck, president of Prudential; and the Business Roundtable, on the other hand; as well as by President Reagan and House Speaker O'NEILL. A bill very similar to the one passed by the committee was approved last week in the House of Representatives by a vote of 282 to 148.

The American people—the 36 million people receiving benefits as well as the 116 million working people who

support the system—deserve the speedy consideration of this bipartisan package of recommendations. Confidence in the long-term viability of social security can be restored only by enacting measures that help put the system on a sound financial footing and do so without imposing an unrealistic tax burden on present and future workers.

MEDICARE

Title III of the committee amendment provides for a major change in the way Medicare pays for hospital services, a change which the Senator from Kansas wishes to point out, was initiated by this body last year.

As you will recall, the Tax Equity and Fiscal Responsibility Act of 1982 contained a provision directing the Secretary of Health and Human Services to develop, in consultation with the Finance Committee and the Committee on Ways and Means, proposals for the reimbursement of hospitals under Medicare on a prospective basis. The Department's report was submitted in late 1982. Hearings were held by the Finance Committee's health subcommittee on February 2 and 17, 1983. Witnesses present at the hearings represented the hospital industry, provider groups, the insurance industry, consumers, and representatives of the business community.

Mr. President, a great many issues were raised during these hearings, many of which we tried to address in the drafting of this legislation. Clearly, there are those problems we were unable to solve, but I am hopeful that over time, once the system is in place, we will continue to make changes as necessary.

The provisions contained in this bill are by no means perfect. Any time you attempt to devise a new system, problems occur which you were either unaware of, or unable to resolve at the outset. This system is no different. However, this Senator believes ample flexibility has been provided, giving the Secretary the opportunity to adjust the system, and in some cases directing the Secretary to make certain changes when possible. For example, on the issue of severity of illness, we know that certain institutions, many of which are teaching hospitals, care for patients that are far sicker than the average patient and consume a greater number of resources. A DRG payment may not be sufficient in these cases. To help adjust for this concern, the provision agreed to by the Finance Committee contains two adjustments for teaching institutions. The first recognizes the direct costs of teaching—salaries, blackboards—and passes these costs through. The second adjustment recognizes the indirect costs of teaching and doubles the current adjustment for these costs. This will certainly help to recognize some of the unusual costs faced by these institutions.

In addition to these two adjustments, we have also provided an institution the opportunity to apply to the Secretary for additional payments where the length of stay for a particular case is unusually long, or the cost unusually high as compared to the DRG rate. The House bill only provides for special treatment for long lengths of stay.

Our bill also contains a provision requiring that the Secretary make adjustments or exceptions as he deems appropriate to take into account the special circumstances of hospitals caring for a large number of low-income patients. Sole community providers are given special treatment, as are psychiatric hospitals, childrens hospitals, and rehabilitation hospitals.

I understand the distinguished Senator from Texas will offer an amendment to assist those institutions that serve as regional or national referral centers, an amendment we are certainly willing to accept.

By summarizing these exceptions and adjustments the Senator from Kansas wants to make it clear that every attempt has been made to identify and resolve those legitimate concerns raised by institutions across the country.

As I said at the outset, this is a new program, and we are not sure of all the answers. These provisions give us a chance to test out some answers to some specific problems, while getting the system into place.

INDUSTRY SUPPORT

The hospital industry has made it clear that they want to move ahead with this system. They do not like the current system of controls any more than we do. They want a system that finally puts some incentives for efficiency into place. They are, of course, concerned that we treat hospitals equitably, but also believe that our recommendations go a long way toward resolving some of these concerns.

MAJOR PROVISIONS OF THE PROSPECTIVE PROPOSAL

DIAGNOSTIC-RELATED GROUPS AND RATES

Under the committee amendment, the Secretary is required to determine prospectively a payment amount for each Medicare hospital discharge. DRG rates would be established for urban and rural areas both nationally and in each of four census regions.

These rates would be increased for fiscal year 1984 and fiscal year 1985 by the marketbasket plus 1 percentage point. Adjustments for future years would be decided upon by the Secretary, based in part upon recommendations made by an independent commission.

Changes in the relative weights of the DRG's would be made at least every 5 years to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources. The independent commission mentioned earlier will also assist the Secretary in making these changes.

OUTLIERS

Another major provision is the one that deals with outliers, the unusually costly cases or those with particularly long lengths of stay. As noted earlier, our proposal is more generous in dealing with these costs.

EXCLUSION OF CAPITAL-RELATED EXPENSES AND MEDICAL EDUCATION EXPENSES

In the case of capital costs and direct education costs, we will continue to reimburse hospitals as we do under current law until October 1, 1986, after which time capital costs will no longer be "passed through."

In the case of indirect medical expenses the proposal doubles the current teaching adjustment.

EFFECTIVE DATE/TRANSITION

The proposal would be in effect for individual hospital accounting years beginning on or after October 1, 1983. The bill also provides for a 3-year transition from the current system to a full national DRG system. During the transition the hospitals would be paid a mixed rate based on their historical costs, a national DRG rate and a regional DRG rate. This transition provides ample opportunity to the hospitals to adjust to the new system.

EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS

As noted earlier in my comments, certain hospitals are excluded from the prospective system and adjustments and exceptions are provided for others to accommodate certain concerns, such as unusual patient case-loads or geographic location.

PEER REVIEW

The proposal includes a requirement that hospitals contract with a professional review organization selected by the Secretary under title XI of the Social Security Act. It will be particularly important that a monitoring system be in place in conjunction with a payment program that pays an established rate per diagnosis. We will want to continue to insure that appropriate and necessary services are provided.

STATE COST CONTROL PROGRAMS

The States will continue to be able to design and implement State payment systems. In fact, the language contained in the proposal strengthens the case of States applying for Medicare waivers as long as they meet the requirements established by the statute.

We continue to be interested in examining the State systems, believing that there are a great many ways one might go about addressing the problem of rising hospital costs, and that the Federal Government might still have a great deal to learn.

ADMINISTRATIVE AND JUDICIAL REVIEW

The committee amendment continues to provide the opportunity for institutions to seek administrative and judicial review in all cases except those that relate to the establishment of diagnosis-related groups, of the methodology for the classification of

discharges within such groups, and of the appropriate weighting factors.

STUDIES AND REPORTS

Mr. President, the last major provision of title III deals with studies and reports. The committee has asked that the Secretary complete a number of studies on issues of concern to us in establishing this new prospective system.

Of particular note are the studies and reports dealing with the severity of illness, intensity of care, or other such modifications to the diagnosis related groups. These issues are critical to our efforts to insure that institutions receive a DRG payment that is reasonably sensitive to the care being provided to patients.

COMMISSION

There is one other aspect of title III that bears noting. This is the creation of a Commission of experts to assist the Secretary in making adjustments to the DRG's and in examining those changes in the health care industry that have a bearing on health care delivery and the cost of care.

The Commission will help us look at such important issues as variations in treatment practices, resource usage, and medically appropriate patterns of care. Because this Commission would be made up of a mix of experts, for example, nurses, physicians, employers, and hospital administrators, they will be able to explore a number of diverse issues, such as the role of nutrition in the treatment of a patient and its impact on the overall use of services.

Changes in technology will be particularly important for us to track. We certainly do not want to discourage the kind of innovation we have come to expect from the health care industry. The introduction of a new treatment modality or a new piece of equipment can have enormous implications for a particular DRG and its so-called weight. We want to make sure that changes in the DRG's really follow changes in the industry.

NEED FOR ACTION

Like the other aspects of S. 1, this title should be given every consideration by my colleagues. It is clearly time to move away from the old inefficient cost based reimbursement system, to one that puts some incentives in place. These provisions do exactly that.

UNEMPLOYMENT COMPENSATION PROVISIONS

The Finance Committee included four provisions in S. 1 dealing with the unemployment insurance system. The first provision would provide a 6-month extension of the Federal supplemental compensation (FSC) program currently scheduled to expire on March 31, 1983. Two provisions deal with coverage and eligibility issues, and the final provision provides some relief from the interest and loan requirements of current law. The House-passed bill, H.R. 1900, includes only the extension of FSC.

The Finance Committee provision extends the Federal supplemental compensation (FSC) program for 6 months, from April 1, 1983, through September 30, 1983. The basic tier of benefits has been redesigned to reflect more accurately current unemployment conditions. The proposal has three new and important features:

First, extra weeks of FSC benefits are provided to claimants who have exhausted the initial FSC entitlement prior to April 1, 1983. These benefits are again geared to the level of distress in each State.

Second, claimants who have not used their full initial entitlement are permitted to continue to receive FSC benefits after April 1, 1983.

Third, those individuals who may have FSC entitlement remaining on September 30, 1983, when this program will expire, will not have their benefits immediately cease. Instead, the proposal allows a "phase out" of benefits whereby the claimant would receive half of the remaining weeks of his entitlement. To me, this is attractive because it allows the individual who becomes eligible for FSC late in the program's life to receive some benefit from it.

In order to afford this "phase out" feature, it is necessary to scale back somewhat the level of benefits available. The current FSC program provides 16 weeks of benefits in States with the highest insured unemployment rates (IUR). This proposal would allow 14, the same level provided in the House-passed bill. In my opinion, this is justified not only on cost grounds, but also because there does appear to be a downward trend in unemployment which is projected to continue, although slowly, through the spring and summer. Should this not be the case, I certainly expect that the Congress will be in session this summer and alterations can be made, if necessary.

Additionally, we have included an increase in the number of weeks of work required to qualify for FSC benefits—from 20 to 26 weeks. This requirement would be applied on a prospective basis only, that is, for people who first begin receiving FSC after April 1. It seems reasonable to me that a work force attachment beyond 20 weeks should be required for the receipt of benefits of as many as 53 weeks in some States.

CBO estimates the fiscal year 1983 cost of this proposal at \$2.1 billion. There would also be a cost in fiscal year 1984 of \$120 million. This is in addition to the \$2.5 billion fiscal year 1982 and fiscal year 1983 cost of the current FSC program. It is a substantial expenditure of Federal dollars and demonstrates a real commitment to aiding our Nation's unemployed. We may not be able to go further.

The second provision approved by the Finance Committee would correct a serious situation which was brought to the attention of the committee by one of our Members, Senator BRADLEY, and by a number of our House col-

leagues. This provision would permit a State to treat FSC claimants serving on jury duty and those who are hospitalized in the same manner as such claimants are treated under the regular State programs. A number of cases were documented in which FSC claimants were terminated from benefits for failing to meet the "able to work" and "available for work" requirements under Federal law. These claimants were serving on jury duty or, in some cases, had been suddenly hospitalized. The committee recognized that such occurrences are generally beyond the control of the individual. Therefore, the Bradley amendment was adopted to allow States the flexibility to deal with such cases as they do in their own State programs.

The third provision would require States to deny unemployment benefits to school employees and certain employees who perform services for educational institutions. This denial of benefits would apply during periods between academic years or terms. The denial would take place only if there was reasonable assurance of returning to work in the next academic year or term. This amendment equalizes the treatment of these employees with the treatment now accorded to professional employees working in instructional, research, and principal administrative capacities.

Finally, the Finance Committee adopted a measure which provides limited relief for States which are borrowing from the Federal Treasury to meet benefits payments. This is a responsible provision which is deserving of the support of the full Senate. The committee developed a plan which will allow a State to spread the interest it owes over a 5-year period. The State can also qualify for a reduction of 1 percentage point in the interest rate charged on borrowing. Additionally, a State which does not qualify for the full cap on the loss of the Federal unemployment tax (FUTA) credit may, under the committee provision, qualify for a partial cap.

Some action on the State's part for this relief is, of course, necessary. The Finance Committee proposal requires States to make progress toward solvency of 30 percent the first year, 40 percent the second year, and 50 percent the third year. If the State makes an effort to reach solvency which increases those percentages to 50, 80, and 90, the interest rate will be reduced by 1 percent.

Even this limited relief will have a Federal budget impact. The loss of interest paid to the Federal Government could total \$319 million in fiscal year 1983 from the deferral alone. The reduced interest rate would only increase the revenue impact. The availability of the partial cap on the offset credit loss would also have a negative impact on the Federal deficit of some \$250 million. However, the Finance Committee recognized the fact that the current recession has been deeper and more prolonged than we expected in the summer of 1981 when the inter-

est and cap provisions were enacted as part of the Omnibus Budget Reconciliation Act. Therefore, the committee was willing to make some temporary changes in the current law in order to allow States extra time to enact the necessary State law changes to bring their programs closer to solvency.

I urge my colleagues to support these modifications in the interest and loan provisions. I believe that the Finance Committee proposal treats in a fair manner those States which must continue to borrow. I believe that the Finance Committee provision also protects the interests of those States who have operated solvent programs over the years, borrowing when necessary but repaying on time and making the required State law changes to insure solvency. The interests of those States and their taxpayers deserve our attention.

CONCLUDING REMARKS

The social security financing package, as well as the medicare and unemployment compensation provisions, represents the end-result of intensive negotiations between a bipartisan group of interested parties.

I urge my colleagues to support this important and comprehensive bill.

I ask unanimous consent to have printed in the RECORD a detailed description of each of the social security provisions along with cost estimates provided by the Office of the Actuary, SSA, and the Congressional Budget Office, and also a detailed description of the Finance Committee amendments dealing with the unemployed insurance program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACTUARIAL COST ANALYSIS OF S. 1, AS AMENDED BY THE FINANCE COMMITTEE, PREPARED BY THE OFFICE OF THE ACTUARY OF THE SOCIAL SECURITY ADMINISTRATION, AND ACTUARIAL COST ANALYSIS OF THE BILL PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

DEPARTMENT OF HEALTH AND HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION,

March 11, 1983.

Preliminary estimate of the impact of S. 1 as reported by the Senate Finance Committee on the long-range financial status of the OASDI system

Mr. HARRY C. BALLANTYNE,
Chief Actuary

The attached table includes preliminary long-range estimates for S. 1 as reported by the Senate Finance Committee based on the 1983 trustees Report Alternative II-B assumptions. Enactment of this bill will result in a long-range actuarial surplus of 0.08 percent of taxable payroll for OASDI combined. Estimates for individual provisions are shown in the table generally only for those provisions with significant long-range impact on OASDI. However, the impact on OASDI of all provisions of S. 1 as reported is included in the totals.

The estimates assume that the allocation to the DI trust fund will be similar to the allocation in H.R. 1900 as reported by the Ways and Means Committee, except that after 1999 the rate would increase from 0.60 to 0.65 each.

FRANCISCO R. BAYO,
Deputy Chief Actuary.

Attachment.

TABLE 1.—ESTIMATED CHANGES IN OASDI TAX INCOME OR BENEFIT OUTGO UNDER S. 1 AS REPORTED BY THE SENATE FINANCE COMMITTEE, BASED ON 1983 ALTERNATIVE II-B ASSUMPTIONS

(In billions)

| Provision | Calendar year | | | | | | | Total 1983-89 |
|---|---------------|-------|-------|-------|-------|--------|--------|---------------|
| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Increase tax rate on covered wages and salaries | | \$8.6 | \$0.3 | | | \$14.5 | \$16.0 | \$39.4 |
| Increase tax rate on covered self-employment earnings | | 1.1 | 1.1 | \$3.0 | \$3.2 | 3.7 | 4.4 | 18.5 |
| Cover President, Vice President, and Members of Congress | (1) | (1) | (1) | (1) | (1) | (1) | (1) | (1) |
| Cover new Federal employees | 2 | 7 | 1.2 | 1.8 | 2.4 | 3.1 | 3.1 | 9.3 |
| Cover all nonprofit employees | 1.3 | 1.5 | 1.8 | 2.1 | 2.6 | 3.1 | 3.1 | 12.5 |
| Total for new coverage | | 1.5 | 2.2 | 3.0 | 3.9 | 5.0 | 6.1 | 21.8 |
| Prohibit State and local government terminations | | 1 | 2 | 4 | 6 | 8 | 11 | 32 |
| Accelerate collection of State and local taxes | | 1.4 | 1 | 1 | 1 | 3 | 2 | 22 |
| Provide general fund transfers for military service credits and unnegotiated checks | \$19.2 | -4 | 6 | 3 | -3 | -3 | -3 | 17.2 |
| Delay benefit increases 6 mo | 3.2 | 5.2 | 5.4 | 5.5 | 6.2 | 6.7 | 7.3 | 39.4 |
| Tax 1/2 of benefits for high income beneficiaries | | 2.6 | 3.2 | 3.9 | 4.7 | 5.6 | 6.7 | 26.6 |
| Continue benefits on remarriage | | (2) | (2) | (2) | (2) | (2) | (2) | (2) |
| Modify indexing of deferred survivors' benefits | | (2) | (2) | (2) | (2) | (2) | (2) | (2) |
| Raise disabled widow(er)'s benefits to 71.5 percent of PIA | | -2 | -2 | -2 | -2 | -3 | -3 | -14 |
| Pay divorced spouses whether or not worker has retired | | (2) | (2) | (2) | (2) | (2) | (2) | (2) |
| Replace 90-percent factor in benefit formula with variable percentage, for individuals receiving pensions from covered employment | | (2) | (2) | (2) | (2) | 1 | 1 | 3 |
| Raise delayed retirement credit, beginning in 1990 | | (2) | -1 | -1 | -2 | -4 | -5 | -13 |
| Provide up to 2 child-care drop out years | | (2) | (2) | (2) | (2) | (2) | (2) | (2) |
| All other miscellaneous and technical changes | | | | | | | | -1 |
| Total for all changes | 22.3 | 19.9 | 13.0 | 15.1 | 17.9 | 35.6 | 40.8 | 165.5 |

¹ Net additional taxes of less than \$50,000,000.

² Additional benefits of less than \$50,000,000.

³ Reduction in benefits of less than \$50,000,000.

Note.—Estimates shown for each provision include the effects of interaction with all preceding provisions. Totals do not always equal the sum of components due to rounding. Positive figures represent additional income or reductions in benefits. Negative figures represent reductions in income or increases in benefits.

PRELIMINARY ESTIMATED LONG-RANGE OASDI COST EFFECT OF S. 1 AS REPORTED BY THE SENATE FINANCE COMMITTEE

| Provision | Effect as percent of payroll | | |
|--|------------------------------|-------|-------|
| | OASI | DI | OASDI |
| Present law: | | | |
| Average cost rate | 13.04 | 1.34 | 14.38 |
| Average tax rate | 10.13 | 2.17 | 12.29 |
| Actuarial balance | -2.92 | +0.83 | -2.09 |
| Changes relating to both long-range and short-range financing: | | | |
| Cover new Federal employees | +0.26 | +0.02 | +0.28 |
| Cover all nonprofit employees | +0.09 | +0.01 | +0.10 |
| Prohibit State and local termination | +0.06 | +0.00 | +0.06 |
| Delay benefit increases 6 mo | +0.28 | +0.03 | +0.30 |
| Stabilize trust fund ratio | | | |
| Eliminate "windfall" benefits | +0.05 | +0.00 | +0.05 |
| Raise delayed retirement credits | -0.10 | | -0.10 |
| Tax 1/2 of benefits | +0.57 | +0.05 | +0.62 |
| Accelerate tax rate increase | +0.03 | | +0.03 |
| Increase tax rate on self-employment | +0.17 | +0.02 | +0.19 |
| Change DI rate allocation | +0.90 | -0.90 | |
| Continue benefits on remarriage | -0.00 | -0.00 | -0.00 |
| Pay divorced spouse of nonretired | -0.01 | -0.00 | -0.01 |
| Modify indexing of survivor's benefits | -0.05 | | -0.05 |
| Raise disabled widow's benefits | -0.01 | | -0.01 |
| Modify military credits financing | +0.01 | +0.00 | +0.01 |
| Credit unegotiated checks | +0.00 | +0.00 | +0.00 |
| Tax certain salary reduction plans | +0.03 | +0.00 | +0.03 |
| Limit benefits to nonresident aliens | +0.01 | +0.00 | +0.01 |
| Eliminate benefits to incarcerated felons | +0.00 | +0.00 | +0.00 |
| Subtotal for the effect of the above provisions ² | +2.22 | -0.78 | +1.44 |
| Remaining deficit after the above provisions | -0.70 | +0.05 | -0.65 |
| Additional changes relating primarily to long-range financing: | | | |
| Modify benefit formula after this century | +0.39 | +0.04 | +0.43 |
| Raise normal retirement age to 66 | +0.48 | -0.08 | +0.40 |
| Eliminate earnings test at age 65 | -0.05 | | -0.05 |
| Add up to 2 child care dropout years | -0.03 | -0.00 | -0.04 |
| Total effect of all of the provisions ⁴ | +2.99 | -0.82 | +2.17 |

PRELIMINARY ESTIMATED LONG-RANGE OASDI COST EFFECT OF S. 1 AS REPORTED BY THE SENATE FINANCE COMMITTEE—Continued

| Provision | Effect as percent of payroll | | |
|-----------------------|------------------------------|-------|-------|
| | OASI | DI | OASDI |
| After committee bill: | | | |
| Actuarial balance | +0.07 | +0.01 | +0.08 |
| Average income | 11.61 | 1.31 | 12.92 |
| Average cost rate | 11.54 | 1.30 | 12.84 |

¹ The values for each of these individual provisions represent the effect over present law and do not take into account interaction with other provisions.

² The values in the subtotal take into account the estimated interactions among the provisions.

³ The values for each of these provisions take into account interaction with the provisions included in the subtotal.

⁴ The values for the total effect of S. 1 take into account interactions among all of the provisions of the bill.

Note.—The above estimates are based on the 1983 Trustees Report Alternative II-B assumptions. Individual estimates may not add to totals due to rounding and/or interaction among proposals.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 11, 1983.

Hon. ROBERT J. DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1, the Social Security Act Amendments of 1983, as ordered reported by the Senate Committee on Finance on March 10, 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

One. Bill No.: S. 1.

Two. Bill title: Social Security Act Amendments of 1983

Three. Bill status: As ordered reported by the Senate Committee on Finance on March 10, 1983.

Four. Bill purpose: To amend the Social Security Act to assure the solvency of the Social Security trust funds; to accelerate presently scheduled payroll tax increases; to tax 50 percent of certain individuals' benefits; to increase the self-employment tax; to delay the payment of cost-of-living adjustments; to reform the Medicare reimbursement of hospitals; to extend the federal supplemental compensation program; and for other purposes.

Five. Estimated cost to the Federal Government: The following table shows the estimated costs of this bill to the Federal Government.

Because no draft language has been received, CBO cannot estimate certain provisions in this bill at this time. These provisions relate to the Unemployment Insurance and SSI programs. The cost estimate for the remaining provisions present the best estimates based on current information.

TABLE 1.—ESTIMATED BUDGET AUTHORITY, OUTLAY, AND REVENUE IMPACTS OF S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983

(By fiscal year, in millions of dollars)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|------------------|--------|--------|--------|--------|--------|--------|
| Spending: | | | | | | |
| Function 550: | | | | | | |
| Budget authority | 3,459 | 1,001 | 1,985 | 2,283 | 2,665 | 2,987 |
| Outlays | 105 | 93 | 33 | 131 | 135 | 140 |
| Function 600: | | | | | | |
| Budget authority | 22,235 | 14,084 | 14,713 | 14,503 | 16,673 | 30,457 |
| Outlays | 341 | -3,067 | -3,447 | -3,626 | -3,764 | -4,150 |

TABLE 1.—ESTIMATED BUDGET AUTHORITY, OUTLAY, AND REVENUE IMPACTS OF S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983—Continued

(By fiscal year, in millions of dollars)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|---------------------------------------|--------|--------|---------|---------|---------|---------|
| Function 700: | | | | | | |
| Budget authority..... | 0 | -89 | -58 | -58 | -60 | -63 |
| Outlays..... | -25 | -54 | -58 | -58 | -60 | -63 |
| Total spending: | | | | | | |
| Budget authority..... | 25,675 | 14,996 | 16,640 | 16,728 | 19,278 | 33,381 |
| Outlays..... | 421 | -3,028 | -3,538 | -3,815 | -3,959 | -4,343 |
| Revenues..... | 0 | 6,466 | 7,579 | 7,453 | 8,889 | 19,825 |
| Change in unified budget deficit..... | 421 | -9,494 | -11,117 | -11,268 | -12,848 | -24,168 |

The spending effects of this bill fall within budget functions 550, 600 and 700. The budget authority is the net result of higher interest income on higher trust fund balances for the Old Age Survivors Insurance (OASI), the Disability Insurance (DI) and Hospital Insurance (HI) programs, transfers to the trust funds from the general fund of the U.S. Treasury, and required additional budget authority for the Supplemental Security Income (SSI), Supplementary Medical Insurance (SMI), Food

Stamps, Veteran's Pensions and Medicaid programs.

Basis of estimate

This bill generally incorporates the January, 1983 recommendations of the National Commission on Social Security Reform. It also incorporates provisions affecting the Medicare, Supplemental Security Income and Unemployment Insurance Programs. Table 2, shows the costs, savings and revenue impacts of this bill to the federal government.

One major purpose of this bill is to ensure the continued payment of all Social Security benefits. The impact of some of the provisions in the bill on the financial status of the Social Security trust funds differs from their impact on the federal budget. Many provisions transfer funds within the government, which has no impact on budget outlays or receipts. In addition, the savings to and income into the trust funds generate additional interest income or budget authority. This income also does not affect the unified budget deficit. The impact of the bill on the trust funds therefore is shown separately in Table 3.

TABLE 2.—ESTIMATED OUTLAY AND REVENUE CHANGES TO THE UNIFIED FEDERAL BUDGET RESULTING FROM S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983

(By fiscal year, in millions of dollars)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|--|------------------|------------------|------------------|------------------|------------------|------------------|
| Outlay changes: | | | | | | |
| Delay COLA 6 mo.: | | | | | | |
| OASDI..... | -1,704 | -3,793 | -4,228 | -4,473 | -4,706 | -5,181 |
| SSI..... | -100 | -130 | -170 | -170 | -175 | -210 |
| Veterans' pensions..... | -25 | -54 | -58 | -58 | -60 | -63 |
| Offset: Food stamps..... | 0 | 37 | 46 | 51 | 53 | 53 |
| Medicare premium delay: | | | | | | |
| SMI..... | 114 | 63 | -90 | -201 | -206 | -211 |
| HI..... | 1 | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Offset: Medicaid..... | -9 | -5 | 7 | 15 | 16 | 16 |
| Increase SSI benefits: | | | | | | |
| SSI..... | 250 | 750 | 845 | 840 | 875 | 935 |
| Offsets: | | | | | | |
| Food stamps..... | -40 | -165 | -170 | -170 | -175 | -175 |
| Medicaid..... | 0 | 35 | 50 | 55 | 55 | 55 |
| Extend FSC program for 6 mo. ² : | | | | | | |
| Unemployment compensation..... | 2,070 | 120 | 0 | 0 | 0 | 0 |
| Offsets to food stamps and AFDC..... | -135 | -8 | 0 | 0 | 0 | 0 |
| Prospective payment system..... | 0 | 0 | 0 | (³) | (³) | (³) |
| State waiver change..... | 0 | (⁴) | (^{4}) | (^{4}) | (^{4}) | (^{4}) |
| Miscellaneous outlay impacts: | | | | | | |
| OASDI..... | 0 | 122 | 230 | 296 | 364 | 438 |
| SSI and AFDC..... | (^{5}) | (^{5}) | (^{5}) | (^{5}) | (^{5}) | (⁵) |
| Total outlays changes..... | 421 | -3,028 | -3,538 | -3,815 | -3,959 | -4,343 |
| Revenue changes: | | | | | | |
| FICA increase: | | | | | | |
| OASDI..... | 0 | 6,361 | 2,349 | 0 | 0 | 10,272 |
| Railroad retirement..... | 0 | 45 | 0 | 0 | 0 | 61 |
| 1984 FICA tax credit..... | 0 | -3,240 | -985 | 0 | 0 | 0 |
| Other FICA tax offsets..... | 0 | -795 | -147 | 0 | 0 | -1,284 |
| SECA tax increase..... | 0 | 1,408 | 4,304 | 4,382 | 4,747 | 5,199 |
| SECA tax credit..... | 0 | -893 | -2,645 | -2,481 | -2,397 | -2,447 |
| Cover nonprofit employees..... | 0 | 1,118 | 1,697 | 1,955 | 2,297 | 2,853 |
| Nonprofit worker's income tax offsets..... | 0 | -141 | -212 | -244 | -287 | -357 |
| Cover new Federal workers..... | 0 | 61 | 185 | 315 | 455 | 636 |
| State speedup..... | 0 | 1,600 | 200 | 136 | 104 | 200 |
| Tax 50 percent of benefits: | | | | | | |
| OASDI..... | 0 | 780 | 2,769 | 3,316 | 3,885 | 4,594 |
| Railroad retirement..... | 0 | 20 | 64 | 74 | 85 | 98 |
| Increased tax revenues from FSC extension ² | 0 | 142 | 0 | 0 | 0 | 0 |
| Total revenue changes..... | 0 | 6,466 | 7,579 | 7,453 | 8,889 | 19,825 |
| Total impact on unified budget deficit..... | 421 | -9,494 | -11,117 | -11,268 | -12,848 | -24,168 |

¹ Less than \$500,000.

² This bill contains no estimates relating to unemployment trust fund loan reform.

³ The budgetary impact cannot be estimated because the bill would allow the Secretary of Health and Human Services, as advised by a panel of experts, nearly unlimited discretion in setting payment rates for inpatient hospital services. Those rates could be set such that medicare outlays in the aggregate would increase or decrease.

⁴ The cost of this provision cannot be estimated because it depends on the actions of State hospital rate-setting commissions in Massachusetts and New York.

⁵ SSI costs do not include costs of the provision requiring notices to be sent to social security beneficiaries informing them about SSI. See the text for details.

Source: CBD estimates based on February 1983 economic assumptions.

TABLE 3.—ESTIMATED CHANGES IN OASI, DI AND HI TRUST FUND OUTLAYS AND INCOME RESULTING FROM S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983¹

(By fiscal years, in millions of dollars)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|----------------------------|--------|--------|--------|--------|--------|--------|
| Trust fund outlay changes: | | | | | | |
| 6-mo. COLA delay: | | | | | | |
| OASI..... | -1,519 | -3,394 | -3,805 | -4,049 | -4,272 | -4,712 |
| DI..... | -185 | -399 | -423 | -424 | -434 | -469 |

TABLE 3.—ESTIMATED CHANGES IN OASI, DI AND HI TRUST FUND OUTLAYS AND INCOME RESULTING FROM S. 1, THE SOCIAL SECURITY ACT AMENDMENTS OF 1983¹—Continued

(By fiscal years, in millions of dollars)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|--------|--------|--------|--------|--------|--------|
| Miscellaneous provisions: OASI | 0 | 122 | 230 | 286 | 362 | 438 |
| Total outlay changes: | | | | | | |
| OASI | -1,519 | -3,272 | -3,575 | -3,753 | -3,908 | -4,274 |
| DI | -185 | -399 | -423 | -424 | -434 | -469 |
| Total | -1,704 | -3,671 | -3,998 | -4,177 | -4,342 | -4,743 |
| Trust fund income changes: | | | | | | |
| Tax 50 percent of benefits: OASI ² | 0 | 780 | 2,769 | 3,316 | 3,885 | 4,594 |
| FICA tax speedup: | | | | | | |
| OASI | 0 | 5,476 | 1,974 | 0 | 0 | 8,631 |
| DI | 0 | 966 | 403 | 0 | 0 | 1,764 |
| SECA tax increase: | | | | | | |
| OASI | 0 | 856 | 2,525 | 2,447 | 2,608 | 2,912 |
| DI | 0 | 175 | 517 | 501 | 534 | 597 |
| HI | 0 | 377 | 1,262 | 1,434 | 1,605 | 1,670 |
| Cover newly hired Federal workers: | | | | | | |
| OASI | 0 | 104 | 314 | 536 | 774 | 1,081 |
| DI | 0 | 18 | 56 | 94 | 136 | 191 |
| Cover nonprofit organizations: | | | | | | |
| OASI | 0 | 712 | 1,083 | 1,226 | 1,427 | 1,763 |
| DI | 0 | 189 | 288 | 332 | 390 | 485 |
| HI | 0 | 216 | 326 | 397 | 480 | 605 |
| Military transfer credits: | | | | | | |
| OASI | 16,800 | -380 | -385 | -210 | -220 | -210 |
| DI | 2,300 | -60 | -60 | -35 | -35 | -35 |
| HI | 3,290 | -70 | -70 | -60 | -60 | -60 |
| Uncashed checks: | | | | | | |
| OASI | 680 | 43 | 43 | 43 | 43 | 43 |
| DI | 120 | 7 | 7 | 7 | 7 | 7 |
| HI | 0 | 1,600 | 200 | 136 | 104 | 200 |
| State speedup: OASDHI | | | | | | |
| OASDI | 19,900 | 10,487 | 9,734 | 8,393 | 9,653 | 22,023 |
| HI | 3,290 | 523 | 1,518 | 1,771 | 2,025 | 2,215 |
| Total | 23,190 | 11,010 | 11,252 | 10,164 | 11,678 | 24,238 |
| Total outlay and income infusions to trust funds: | | | | | | |
| OASDI | 21,604 | 14,158 | 13,732 | 12,570 | 13,995 | 26,761 |
| OASDHI | 14,894 | 14,681 | 15,250 | 14,341 | 16,020 | 28,981 |
| Estimated interest income: | | | | | | |
| OASDI | 290 | 2,948 | 4,428 | 5,559 | 6,442 | 7,770 |
| OASDHI | 335 | 3,333 | 4,928 | 6,202 | 7,217 | 8,682 |
| Total annual increase in trust funds: | | | | | | |
| OASDI | 21,894 | 17,106 | 18,160 | 18,129 | 20,437 | 34,531 |
| OASDHI | 25,229 | 18,014 | 20,178 | 20,543 | 23,237 | 37,663 |

¹ Assumes no reallocation between OASI and DI trust funds.

² Assumes all revenues allocated to OASI trust fund.

Source: CBO estimates based on February 1983 economic assumptions.

A section by section description for the basis of the estimates for the provisions in this bill having major cost impact is given below. These estimates were prepared from a draft of the bill before Committee amendments were added and from mark-up documents. No bill as amended has been received.

PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

Cover new Federal employees

This provision extends Social Security coverage to all new permanent federal civilian employees as of January 1, 1984. The proposal is expected to cover about 150,000 new permanent federal entrants per year through 1988. The proposal raises \$61 million in unified budget revenues in fiscal year 1984 and \$1.7 billion in revenues from fiscal year 1984 through 1988.

This provision assumes no change in the current Civil Service Retirement system for those federal workers newly covered by Social Security. No impact of any Civil Service change is given in this estimate.

The estimate is based on CBO's current economic and federal employment assumptions.

Cover workers in nonprofit organizations

The provision requires mandatory coverage of all employees of nonprofit institutions and organizations. Approximately 20 percent of employees of nonprofit organizations and institutions are not currently covered by Social Security. Covering the last 20 percent of nonprofit employees raises \$1 billion in fiscal year 1984 and \$8.7 billion in fiscal years 1984 through 1988.

The extension of mandatory coverage to all non-profit employees result in an income tax offset against the increase in OASDHI revenues. The offset equals 25 percent of the employer contribution and reduces income tax revenues. Income tax revenues are estimated to fall because it is assumed that non-profit employers pass the entire payroll tax increase onto their employees in the form of lower wages and salaries.

The estimate was based on CBO's economic assumptions using the Social Security Administration's short-term revenue forecasting model.

Termination of State and local coverage

Currently, state and local governments can terminate Social Security coverage upon giving two years notice of their intention to withdraw, and then doing so. This provision would prohibit any such withdrawals, effective with the bill's enactment.

CBO's current law revenue estimates do not assume reductions in trust fund income that could result from withdrawals of certain state and local governments. Thus, there would be no revenue gain to the CBO baseline estimates from prohibiting such withdrawals.

Delay payment of annual cost-of-living adjustment from July to January of each year

This section delays the payment of future cost-of-living adjustments (COLA's) for Social Security for six months, from July to January of each year. In addition, the provision changes the base period from which the COLA is calculated.

The COLA is measured by the growth in the Consumer Price Index (CPI) from the

first calendar quarter of the previous year to the first quarter of the current year. Whenever the increase is greater than three percent, an adjustment to the benefits paid each July is made. The July, 1983 COLA will be paid in January, 1984 under this provision, and will be based on the current law indexing period. Subsequent adjustments will be based on the CPI growth from the third quarter of one year to the next. The table below shows the CBO COLA assumptions under current law and under this provision.

ASSUMED PERCENTAGE INCREASE IN SOCIAL SECURITY BENEFITS UNDER CURRENT LAWS AND UNDER S. 1

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|------------------|------|------|------|------|------|------|
| Current law—July | 4.1 | 4.6 | 4.5 | 4.2 | 4.0 | 3.8 |
| Proposed—January | 0.0 | 4.1 | 4.6 | 4.4 | 4.1 | 3.8 |

This bill also guarantees that a January, 1984 COLA will be given, even if the rate of inflation is so low that the adjustment is less than three percent. Since CBO's current economic assumptions have this COLA adjustment at 4.1 percent in 1984, this clause has no cost effect.

The change in the COLA base of payment is expected to save \$24 billion in Social Security benefits over the period, and an additional \$1.3 billion in SSI and other benefits directly linked to this COLA. These COLA changes would increase food costs by \$240 million over the period as incomes of food stamp recipients decline.

Taxation of 50 percent of social security and railroad retirement benefits for individuals with incomes above \$25,000 and married couples above \$32,000

This provision includes in taxpayers' adjusted gross income (AGI) half of Old Age, Survivors and Disability Insurance (OASDI) benefits when those benefits plus AGI exceeds a threshold amount. For the purpose of taxing half of OASDI benefits, the interest from tax free bonds is added to AGI. The threshold is \$25,000 for single returns, \$32,000 for joint returns, and zero for married couples filing separately. This limit would be calculated including an individual's or couple's tax exempt income, although this income would not count towards determining one's marginal tax rates. The amount of benefits included in AGI would be the lesser of either 50 percent of benefits or the one-half of the balance of the taxpayers' summed income over the threshold.

The provision raises \$800 million in fiscal year 1984 and \$15.3 billion from fiscal year 1984 through 1988. The revenue effects are derived from the Joint Committee on Taxation estimates based on the Social Security Trustees' II-B assumptions, with benefit amounts lowered to take account of the CBO's lower inflation (and therefore cost-of-living adjustment) projections.

Increase social security payroll tax (FICA) and 1984 tax credit

The provision accelerates the OASDI payroll tax (FICA) increases for employees and employers. The payroll tax increase to 5.7 percent from 5.4 percent on January 1, 1984 instead of January 1, 1985. Another tax rate speedup increases the rate to 6.06 percent from 5.7 percent on January 1, 1988 and January 1, 1989. This increase was scheduled to take effect in 1990. The proposal also includes a payroll tax credit of 0.3 percent of employee FICA contribution for 1984.

The FICA tax acceleration results in an income tax offset equal to 25 percent of the employer payroll tax contribution. The offset lowers income tax receipts because employers are assumed to pass back onto employees the full payroll tax increase in the form of lower wages and salaries.

The provision is estimated to raise OASDI unified budget revenues \$6.4 billion in fiscal year 1984 and \$19.0 billion from fiscal year 1984 through fiscal year 1988. The income tax offset equals \$2.2 billion from fiscal years 1984 through 1988. The revenue loss due to the payroll tax credit results in a \$4.2 billion loss by fiscal year 1985.

The estimates are based upon CBO's latest economic assumption using the Social Security Administration's short-term revenue forecasting model.

Increase self-employed tax rate

The provision raises the self-employed payroll tax rate (SECA) to a level equal to the combined employer-employee contribution rate (including the FICA tax acceleration). In 1984 the SECA OASDI rate increases 3.35 percent and the HI rate increases 1.3 percent for a SECA rate of 14 percent. Further, the provision includes a payroll tax credit equal to 2.9 percent of total SECA contributions in 1984 and 2.5 percent in 1985, 2.2 percent in 1986, and 2.1 percent in 1987 and 1988.

The proposal raises, \$1,408 million in SECA revenues in fiscal year 1984 and \$20 billion from fiscal year 1984 through 1988. The income tax loss due to the self-employed payroll tax credit equals \$893 million in fiscal year 1984 and \$10.9 billion from fiscal year 1984 through fiscal year 1988.

Reallocation of OASI and DI tax rates

This provision has no net cost to the federal government. It realigns the payroll tax portions allocated to the OASI and DI trust funds so as to keep the two funds' balances at approximately the same percentage of outlays at the start of each year.

Benefits to certain widows, divorced and disabled women

These provisions would (1) allow the continuation of benefits to surviving, divorced or disabled spouses who remarry; (2) change the indexing procedure for benefits for those receiving deferred survivor benefits; (3) allow divorced spouses to draw benefits regardless of whether the former spouse is receiving benefits; and (4) increase benefits for disabled widows and widowers.

Together, these provisions would cost less than \$200 million per year once fully effective in fiscal year 1985. The largest cost in this group of provisions would allow disabled widows or widowers ages 50 to 59 to receive benefits at an amount equal to which non-disabled widows or widowers over age 59 currently receive. This provision is estimated to cost \$90 million in fiscal year 1984, \$125 million in 1985 and an estimated \$600 million over the five year period. Based on Social Security Administration data, approximately 200,000 recipients would receive \$50 or 20 percent in added benefits per month under this provision.

In addition, a provision in this bill to allow women with children additional years of zero earnings in the calculation of their benefits.

Reimbursement to OASDI trust funds for military wage credits and unearned OASDI checks

These provisions will credit the three Social Security trust funds with \$23.8 billion as part of a transfer in 1983 from the general fund of the Treasury. A total of \$22.4 billion of this transfer represents the present value of estimated benefits arising from Social Security credits granted to military personnel for service prior to 1957, and the amount of taxes on these credits between 1956 and 1983. The remaining transfer is for the estimated amounts of uncashed Social Security checks for past years. Checks uncashed for longer than six months will also be credited back to the trust funds in future years.

These estimates were provided by the Social Security Administration. Although they add large amounts to the trust funds, the provisions do not have any cost impact to the federal government as a whole. There are offsetting interfund transfers within the federal unified budget.

State payment speedup

This provision will require state and local governments to transfer their payroll tax collections to the Treasury under the same rules as private sector employers. Currently, state payments are made on the 30th day of each month. The provision requires that states transmit payroll tax collections to the federal government soon after their employees are paid. Therefore, the Treasury would receive state FICA collections more frequently. Thus, the transfer to the Treasury would be hastened, adding to trust fund revenues by \$1.6 billion in fiscal year 1984 and \$2.2 billion over the period.

This estimate was prepared by the Social Security Administration.

LONG-TERM FINANCING

This section of the bill reduces initial benefit levels beginning in the year 2000. There are no effects resulting from these provisions in the 1983 to 1988 period. In addition, the retirement age will be gradually

raised from 65 to 66 beginning in the year 2000.

MISCELLANEOUS PROVISIONS

These provisions are aimed mostly at work incentives for the elderly, and at insuring the financial soundness of the trust funds. The provisions would eliminate the retirement test for workers over the age of 65 beginning in 1990. This test reduces retirement benefits by \$1 for each \$2 in earnings over a given amount (\$6,600 in 1983). A delayed retirement credit of 8 percent would also be phased in. This credit would increase from 3 percent the added benefit amount paid to a retiree for each year a worker decides to retire after age 65.

Another section of the bill would require Congress to act if the balances in the trust funds fall below 20 percent of a year's outlays. If Congress does not, and interfund borrowing (also provided for in the bill) does not achieve this result in each fund, then the cost-of-living adjustments would be altered until the funds recover. The cost-of-living adjustment would be reduced first for those with higher benefits, but those with lower benefits would also ultimately be reduced, if necessary. This cost estimate does not assume any further cost-of-living adjustment reduction beyond the six month delay discussed above.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

This title of the bill raises SSI benefits and makes other minor changes in SSI and AFDC. Together these changes are estimated to add \$728 million to federal outlays in fiscal year 1985.

Beginning July 1, 1983, SSI benefits would be increased by \$20 a month for individuals living in their own household and by \$30 a month for couples. These increased benefits would more than offset the effect on SSI recipients of the COLA delay. The largest part of the added cost comes from the benefit increase for current SSI beneficiaries. In addition, CBO estimates that about 125,000 persons would become new beneficiaries of SSI. Most would be newly eligible for SSI as a result of the increased income limits. For these persons, CBO has assumed a participation rate of 25 percent (that is, of all the newly eligible, 25 percent would actually participate in SSI). Some of the other new beneficiaries would be persons previously eligible who would now choose to participate as a result of the increased benefit levels. There are also an estimated 65,000 persons who were receiving SSI state supplements only who would now become eligible for a small federal SSI payment.

Partially offsetting the costs in SSI from these benefit increases is a savings in the food stamp program as incomes of SSI beneficiaries rise. There are also added costs in Medicaid for those new SSI beneficiaries who also become newly eligible for Medicaid.

This title would also enable temporary residents of emergency public shelters to receive SSI for three months in any twelve-month period. This provision is estimated to cost \$1 million in fiscal year 1983 and \$3 million a year thereafter. In addition, Title IV would disregard in the determination of benefits any in-kind assistance based on need received by SSI and AFDC beneficiaries. This provision, which is effective only through September 30, 1984, is estimated to cost less than \$500,000 a year in SSI and \$1 million in 1983 and \$2 million in 1984 in AFDC.

The bill also apparently includes a provision that would require the Social Security Administration to send notices to Social Security beneficiaries informing them of their potential eligibility for SSI and urging them

to contact a local office if they think they would be eligible. No language is available for this provision and the extent of the notices could vary considerably. Hence, there is no cost estimate for the provision. However, costs under even a fairly limited provision could be significant, perhaps around \$50 million. Not only would there be added administrative costs but it would be reasonable to assume that around 5 percent of those receiving a notice who are eligible for SSI would apply for SSI benefits.

UNEMPLOYMENT COMPENSATION PROVISIONS

Federal supplemental compensation

This section of the bill would extend for six months the federal supplemental compensation program (FSC) now scheduled to terminate March 31, 1983. It would provide up to 14 weeks of additional unemployment compensation benefits for individuals exhausting regular or extended unemployment compensation benefits for individuals exhausting regular or extended unemployment benefits after March 31, the maximum number of weeks provided varying with a state's insured unemployment rate (IUR). In addition, it would provide those persons who have exhausted their FSC entitlement before March 31 with up to 8 additional weeks of benefits, the maximum number of weeks again varying with a state's IUR. Also, it would allow those persons who have benefit entitlements remaining on September 30, 1983 to receive up to one-half the balance of those entitlements.

The estimate of the fiscal impact of this section of the bill is based upon estimates of the states' IURs and weeks compensated, and the determination of whether a state will be paying extended benefits which underlies the CBO baseline. It is assumed that the national seasonally adjusted IUR will be 4.4 percent for both quarters of the extension. Furthermore, it is assumed that 45 percent of those claimants in the current law FSC program would exhaust and collect added weeks of benefits during the extension. This point estimate is based upon the experience of exhaustees of the federal supplemental benefits program of 1975 to 1978.

CBO estimates that any FSC extension results in a reduction in AFDC and Food Stamp outlays as individuals who exhaust unemployment benefits and would otherwise draw benefits from these means-tested programs continue to draw jobless payments. It is estimated that the extension through September 1983 will cause AFDC and food stamp expenditures to drop by \$142 million. In addition, CBO estimated that the six-month FSC extension will cause income tax revenues to increase in fiscal year 1984 by \$142 million.

Loan reform

This bill contains a provision relating to limiting the federal tax credit reduction and to paying interest on federal unemployment compensation loans to states. CBO has provided no estimates of the fiscal impact of these provisions.

MEDICARE HOSPITAL INSURANCE PROVISIONS

Conforming changes in medicare premiums

The bill would postpone from July 1 to January 1 of the following year increases in Medicare premiums. Current premium amounts would apply during the interim. Future premiums (and the general revenue contribution to SMI) would be calculated on the basis of estimated incurred costs for the calendar year during which the premium would apply. Consonant with the changes made by TEFRA a year ago, SMI premiums would be set at 25 percent of cost per aged enrollee in calendar years 1984 and 1985, but would be limited in subsequent years by

the cost-of-living increase in social security benefits in the previous January.

The estimated costs of this provision are the difference between projections of income from premiums under current law and under the amendment. Premium income under the amendment is the product of monthly enrollment projections and monthly premium amounts computed on the basis of projected incurred costs by calendar year.

General. The bill would provide for reimbursing most hospitals for inpatient services provided to Medicare enrollees on the basis of payment amounts, varying by diagnosis, fixed in advance of the period in which they would apply. The provision would be effective with hospital cost-reporting periods beginning on or after October 1, 1983. With the exceptions discussed below, for the first two cost-reporting periods affected, the payment rates would be set to assure that total Medicare payments for inpatient hospital services in affected hospitals would be neither greater nor less than under current law. If implemented faithfully, the provision would have no budgetary impact in fiscal years 1984 and 1985. In subsequent fiscal years, however, the Secretary of Health and Human Services, advised by a panel of experts, would have nearly unlimited discretion in setting payment rates. Given that discretion, CBO is unable to determine whether the prospective payment provision would result in federal costs or savings after fiscal year 1985.

The proposed mandatory Social Security coverage of employees of non-profit organizations could raise labor costs for some hospitals. Under the bill, Medicare's share of any such costs would be additional costs to the Medicare program. CBO is unable to estimate those costs at this time.

Change in State Waiver Requirement. The bill would phase out the requirement that the rate of increase in Medicare hospital costs in states currently reimbursing hospitals under demonstration agreements entered into after August 1982 be less than the national rate of increase in those costs. The provision would affect only Massachusetts and New York, both of which operate hospital rate-setting programs that have for several years held their hospital cost increases well below the national average. If those states were to continue to be as successful as they have been, the provision would have no budgetary impact. On the other hand, the provision would allow larger cost increases than current law. If Medicare hospital costs were to rise one percentage point faster under the provision, federal spending would increase by about \$50 million in 1984.

ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS

A number of the provisions of this bill would affect budgets of state and local governments. Their estimated net impact on categories of state and local expenditures is shown in the table below.

TABLE 4.—ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|-------------------------------|------|-------|------|------|------|------|
| Payroll costs..... | | 291 | 159 | | | 446 |
| Speedup of FICA deposits..... | | 800 | 105 | 73 | 57 | 105 |
| SSI State supplements..... | 35 | 120 | 130 | 125 | 125 | 130 |
| Medicaid..... | -8 | 26 | 49 | 60 | 60 | 60 |
| AFDC..... | -29 | | 1 | | | |
| General assistance..... | -13 | | | | | |
| Total..... | -15 | 1,236 | 443 | 258 | 242 | 741 |

Note.—Basis of estimate: The acceleration of FICA rate increases would add to State and local government payroll costs. Currently, about 70 percent of

total State and local government employment is covered by social security. State and local governments would have added payroll tax contributions of \$291 million in fiscal year 1984 and \$696 million over the entire 1984-88 period. The CBO estimate does not include a future cost to States who would no longer be able to withdraw from the social security system under this legislation.

The provision speeding up FICA deposits would require state and local governments to forward their FICA deposits about one month earlier. In the first fiscal year following enactment, states would show higher budgetary outlays for their (the employers') share of the FICA deposits which is one-half of the total savings shown for the federal government. In addition, state and local governments would lose small amounts of interest they would otherwise have earned on the balances over a one month period.

The changes in SSI would increase state and local government costs. Virtually all states supplement federal SSI benefits. The \$20 benefit increase would raise state costs unless states were to lower their state supplement benefit levels. Typically, lowering of benefit levels requires action by state legislatures. The CBO cost estimate assumes that current state supplement levels remain in effect. Consequently, it represents a maximum cost to state and local governments.

The CBO cost estimate for the \$20 benefit increase incorporates added costs to states and localities for current state supplement only beneficiaries, for new state supplement beneficiaries as a result of the new federal beneficiaries (about one-third of federal SSI beneficiaries receive state supplements), and for new state supplement only beneficiaries who are newly eligible. Costs of this provision are estimated to total \$124 million in fiscal year 1985.

In addition to the effect of the \$20 benefit increase, SSI state supplement costs would be increased by the COLA delays in SSI and OASDI. When COLAs are made, state supplement costs decline slightly because for state supplement only beneficiaries OASDI increases are larger than SSI increases. The costs of the COLA delays are estimated to total about \$6 million a year.

The CBO cost estimate does not include any cost effect of the altered "pass-through" requirements of section 402. Current law requires states to pass through to SSI beneficiaries federal benefit increases unless state payment levels are above their December 1976 levels or unless aggregate state SSI supplement expenditures in the 12 months following a federal payment level increase exceed aggregate state expenditures in the 12 months prior to the federal change. This provision would require states to pass through the dollar amount of the COLA that would have occurred in July 1983 under current law and also all future federal benefit increases, even if state payment levels are above the December 1976 levels. Hence, in future years the provision would limit the flexibility of states to reduce supplement levels when federal SSI benefits increase, raising costs for some states. However, for other states—those with payment levels equal to their December 1976 levels—this provision would result in potential savings because they could pass through the July 1983 cost-of-living adjustment amount (roughly \$11) rather than the full \$20 benefit increase.

Expenditures of state and local governments would also rise because of higher Medicaid costs occasioned by the SSI benefit increase and the Medicare premium delay discussed earlier. The state and local government financing share of Medicaid averages about 46 percent.

The increased federal supplemental compensation benefits for the unemployed

would lower state and local government expenditures in two ways. First, AFDC outlays would decline in fiscal year 1983. The state share of such outlays averages 46 percent. Second, outlays for state and local general assistance (GA) programs would also decline. GA programs are fully funded by state and local governments and are means-tested, typically serving those ineligible for AFDC and SSI. There are no reliable statistics on which to base an estimate of savings in GA. However, a rough estimate of the estimated effect in Michigan provided by Michigan analysts was used to estimate national effects. Michigan accounts for about 15 percent of GA expenditures nationwide.

Estimate comparison: None.
 Previous CBO estimate: None.
 Estimate prepared by Stephen Chalkind, Malcolm Curtis, Richard Hendrix, John Navratil, Janice Peskin, Roger Hitchner, Kathleen Shepherd, James Nason.
 Estimate approved by C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

[Side-by-side comparison of present law and proposed changes in S. 1, as amended by the Finance Committee.]

TITLE I OF THE BILL

A. PROVISIONS RELATED TO OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

Coverage of newly hired federal employees (Section 101 of the Bill)

Present law

Approximately 91 percent of the Nation's workers are covered by social security. Federal civilian employees are the only major group excluded from coverage under the social security (OASDI) system. Those excluded (93 percent, or about 2.6 million out of 2.8 million employees) are generally covered by a Federal staff retirement system, engaged in temporary employment, or are members of Congress. (Beginning in 1983, nearly all Federal employees are covered under Medicare.)

Committee amendment

The Committee amendment would, effective January 1, 1984, extend social security coverage to all Federal civilian employees hired after 1983 (unless their break in Federal service has been one year or less), and to all current members of Congress, the President, Vice President, the Social Security Commissioner, and to current Congressional staff not already covered under a Federal staff retirement system.

This amendment is similar to the recommendation of the National Commission on Social Security Reform to extend coverage to all Federal employees hired after 1983.

The Committee amendment also states that "Nothing in this Act shall reduce the accrued entitlement to future benefits under the Federal retirement system of current and retired Federal employees and their families."

Effective date.—January 1, 1984.

REVENUE GAIN

(in billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|---|-------|-------|-------|-------|-------|-------|---------|
| Short-range..... | \$0.2 | \$0.7 | \$1.7 | \$1.8 | \$2.4 | \$3.1 | \$9.3 |
| Long-range: 0.23 percent of taxable payroll | | | | | | | |

Coverage of nonprofit employees (Section 102 of the Bill)

Present law

Work performed for a nonprofit tax-exempt organization (specified in section 501(c)(3) of the Internal Revenue Code of

1954) is excluded for social security coverage unless the organization files a certificate with the Internal Revenue Service waiving its exemption from social security taxes. Nonprofit organizations may terminate coverage upon giving 2 years advance notice, providing coverage has been in effect for 8 years or more. Once coverage has been terminated, the organization cannot again cover its employees. About 4.3 million employees of nonprofit organizations (about 80 percent) are covered.

Committee amendment

The Committee amendment would extend social security coverage on a mandatory basis to all employees of nonprofit organizations.

This amendment is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—January 1, 1984.

OASDI REVENUE GAIN

(in billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|--|-------|-------|-------|-------|-------|-------|---------|
| Short-range..... | \$1.3 | \$1.5 | \$1.8 | \$2.1 | \$2.6 | \$3.1 | \$12.5 |
| Long-range: .10 percent of taxable payroll | | | | | | | |

Prohibit withdrawal of State and local employees (Section 103 of the Bill)

Present law

Employees of State and local governments may be covered under social security at the option of the State and in agreement with the Secretary of Health and Human Services. Coverage may be terminated if the State gives 2 years written notice of such intent, provided that the State or local group has been covered for at least 5 years. Once coverage is terminated, the group can never again be covered under social security.

Committee Amendment

The Committee amendment would prohibit State and local governments from terminating coverage for their employees. Pending terminations would be invalid, effective on enactment. In addition, the amendment would provide an opportunity for State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

This amendment is similar to the recommendations of National Commission on Social Security Reform.

Effective date.—On enactment.

OASDI REVENUE GAIN

(in billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|--|-------|-------|-------|-------|-------|-------|---------|
| Short-range..... | \$0.1 | \$0.2 | \$0.4 | \$0.6 | \$0.8 | \$1.1 | \$3.2 |
| Long-range: .06 percent of taxable payroll | | | | | | | |

Exclusion from social coverage for services performed by members of certain religious sects (sec. 104 of the bill and sec. 3121 of the Code)

Present law

In general, social security (FICA) tax is imposed on every individual who receives wages with respect to employment. In addition, social security tax is imposed on employers who pay wages with respect to employment. There is no exemption, under present law, for employers or employees who are members of religious sects that

oppose the social security system. However, present law does provide an exemption from self-employment tax (SECA) for members of religious sects that are conscientiously opposed to the acceptance of private or public insurance and which make provision for the care of their dependent members.

Reason for change

The committee believes that employers and employees who are members of the Amish sect, or other religious sects that oppose participation in the social security system, should be treated the same as self-employed members of those sects. That is neither Amish employers nor Amish employees should be required to pay social security taxes. This provision is necessary because, due to economic conditions, many Amish members cannot afford their own farms, but, rather, must work for other Amish farmers.

Explanation of provision

The provision will exempt from social security tax wages paid by individuals who are exempt from self-employment taxes because of their religious beliefs to individuals who are members of religious sects that conscientiously oppose the acceptance of private or public insurance and which make provisions for the care of their dependent members. This exemption applies both to the employer and employee portion of social security tax.

The exemption applies only in the case of religious sects that have been in existence at all times since December 31, 1950.

Effective date

The provision applies to remuneration paid after December 31, 1983.

Delay cost-of-living adjustment to a calendar year basis (Section 111 of the Bill)

Present law

The automatic cost-of-living adjustment (COLA) of social security benefits is applicable to June benefits (payable early in July). The amount of the increase is equal to percentage by which the Consumer Price Index (for Urban Wage Earners and Clerical Workers, CPI-W) for the first quarter of the calendar year has increased over the CPI for the first quarter of the previous calendar year. No COLA is paid unless the increase in the CPI is at least 3 percent. By law, cost-of-living adjustments in the SSI program are made at the same time, and in the same amount as the social security cost-of-living adjustment.

Committee amendment

The Committee amendment would shift the automatic cost-of-living adjustment of social security benefits to a calendar year basis. Beginning in 1983, the COLA for OASDI benefits would be applied to the December benefit, which is payable at the beginning of January. For 1983, the COLA would be calculated as under current law (i.e., the change in the CPI for the first quarter of 1983 over the CPI for the first quarter of 1982). Beginning with the COLA for 1984, the adjustment would be computed by comparing the increase in the CPI for the third quarter of a year over the CPI for the third quarter of the previous year. This would ensure that the lag between the end of the period over which the COLA is measured and the time the COLA is actually applied to benefits remains 3 months. This is the same proposal recommended by the National Commission on Social Security Reform.

In addition, the Committee amendment would, for 1983 only, provide the COLA even if it is less than 3 percent. The SMI

(Supplemental Medical Insurance) premium increase would also be shifted to a calendar year basis.

Under the Committee amendment, the SSI COLA would also be shifted to a calendar year basis and would be measured in the same way as for OASDI purposes.

Effective date. For cost-of-living adjustment otherwise payable in July 1983 checks.

OASDI SAVINGS

(In billions, calendar years)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|--|-------|-------|-------|-------|-------|-------|-------|---------|
| Short range..... | \$3.2 | \$5.2 | \$5.4 | \$5.5 | \$6.2 | \$6.7 | \$7.3 | \$39.4 |
| Long range: 30 percent of taxable payroll. | | | | | | | | |

SSJ COSTS (CBO ESTIMATES)

(In millions, fiscal years)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|------------|--------|--------|--------|--------|--------|--------|
| Costs..... | -\$100 | -\$130 | -\$170 | -\$170 | -\$175 | -\$210 |

Eliminate "windfall" benefits

(Section 112 of the Bill)

Present law

Social security benefits for workers with low average earnings are a relatively high proportion (up to 90 percent) of their average earnings under social security. No distinction is currently made between persons who have a lifetime of low earnings and those who have low average earnings only because they worked few years in covered employment (possibly at high wages) and many years in employment not covered by social security. Both groups receive the heavily weighted social security benefit intended for the first group. The heavily weighted benefit paid to the second group is often referred to as a "windfall".

The present law benefit formula for persons who reach age 62 or who become disabled before age 62 in 1983 is: 90 percent of the first \$254 of average indexed monthly earnings in covered employment (AIME), plus 32 percent of AIME over \$254 and up to \$1,528, plus 15 percent of AIME in excess of \$1,528.

Committee amendment

The Committee amendment would reduce (but not eliminate) social security benefits for retired and disabled workers who first become eligible for a pension based on non-covered employment after 1983. For such workers who do not have a long record of substantial work under social security, the heavily weighted 90 percent factor in the benefit formula would be replaced by a factor of 32 percent, phased in over a five year period as follows:

| Year of first eligibility under OASDI: | Benefit factor | Percent |
|--|----------------|---------|
| 1984..... | 78.4 | |
| 1985..... | 66.8 | |
| 1986..... | 55.2 | |
| 1987..... | 43.6 | |
| 1988 and after..... | 32.0 | |

To moderate the impact of this provision on people with small pensions from non-covered employment, social security benefits could in no case be reduced by more than one-third of the portion of the worker's pension based on service which was non-covered employment. The offset would not apply to persons with pensions based on one year or less of non-covered employment.

In addition, the Committee amendment exempts from any reduction under this pro-

vision those individuals who have a long history of substantial work under the social security program. People who have thirty or more years of covered employment in which they paid social security taxes on at least 25 percent of the maximum taxable earnings would have their benefits computed under the regular provisions without any reduction under the windfall provision. People with less than 30 but more than 24 years of substantial social security employment would have the windfall reduction applied on a phased in basis under which the first factor in the benefit formula would be reduced by 10 percentage points for each year below thirty years of covered employment. This would not reduce benefits by more than the regular windfall provision however. (A year of substantial employment is a year in which covered earnings were at least 25 percent of the wage base. For years after 1977, the base used would be the 1977 base with adjustments for increased earnings after that date.)

Survivor benefits would not be affected by this provision.

The National Commission on Social Security Reform recommended modifying the social security benefit formula so as to eliminate windfall benefits received by workers who in the future receive social security as well as pensions from non-covered employment. (No specific formula was recommended.)

Effective date.—January 1, 1984, for retired or disabled workers who first become eligible for a non-covered pension after 1983.

OASDI SAVINGS

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|---|------------------|------------------|------------------|------------------|-------|-------|---------|
| Short range..... | (¹) | (¹) | (¹) | (¹) | \$0.1 | \$0.1 | \$0.3 |
| Long range: .05 percent of taxable payroll. | | | | | | | |

¹ Less than \$50 million.

Benefits for divorced or disabled widowers or widows who remarry
(Section 113 of the Bill)

Present law

Current law permits the continuation of benefits for widows and widowers who remarry after 60, the age of first eligibility for benefits. If the widower marries after age 60, he or she receives the benefits to which he or she is entitled as a wage earner, widower or spouse, whichever is larger. However, benefits for disabled widower(s) and disabled surviving divorced spouses (payable from age 50 to 60) and for surviving divorced spouses (payable at age 60) are terminated if the individual remarries.

Committee amendment

The Committee amendment would provide that benefits continue to be paid to certain beneficiaries upon remarriage if that marriage takes place after the age of first eligibility. Benefits would be payable to: disabled widow(er)s and disabled surviving divorced spouses who remarry after age 50, and surviving divorced spouses who remarry after 60. No change would be made in the current dual entitlement provision of the law which allows only the highest benefit to which an individual is eligible to be drawn. This is comparable to the present law treatment of widows and widowers.

This amendment is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—For benefits payable for months after December 1983.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|-------------------------|------------------|------------------|------------------|------------------|------------------|------------------|---------|
| Short range..... | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | —\$0.1 |
| Long range: negligible. | | | | | | | |

¹ Less than \$50 million.

Changes in indexing for deferred survivor benefits

(Section 114 of the Bill)

Present law

Survivor benefits (for widows, widowers, and surviving children) are based on the deceased worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.

Should the worker die long before the spouse is eligible for benefits, the benefit to which the widowed spouse ultimately becomes eligible (in old-age or at disability) is based on outdated wages. Thus, women who become widowed at a relatively young age, but do not become eligible for benefits for many years, are deprived of their husband's unrealized earnings as well as the economy-wide wage increases that may have occurred since the death of their husbands.

Committee amendment

The Committee amendment would provide that deferred widow and widower benefits would continue to be based on earnings indexed to wages as under present law, however, this wage indexing would continue after the death of the worker. This is the same as the recommendation of the National Commission on Social Security Reform. In addition, the Committee amendment would specify that such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow's benefits, whichever is earlier. In no case would benefits be lower than under present law.

Effective date.—For persons becoming eligible for survivors benefits after December 31, 1984.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|---|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Short range..... | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Long range: - .05 percent of taxable payroll. | | | | | | | |

¹ Less than \$50 million.

Independent eligibility for divorced spouses
(Section 115 of the Bill)

Present law

A divorced spouse, eligible for benefits at age 62, may not begin to draw social security benefits until the worker begins to draw benefits. For some divorced women, this means that they may have to wait several years beyond their own retirement age (either because their ex-spouse delays retirement or otherwise fails to apply for benefits) before they can begin to draw benefits.

Committee amendment

The Committee amendment would allow divorced spouses (who have been divorced for a significant period) to draw benefits at

age 62 if the former spouse has claimed these benefits or has had them suspended because of substantial employment. This is the same as the recommendation of the National Commission on Social Security Reform. In addition, the Committee amendment would specify that the proposal would only apply to spouses who have been divorced for at least two years.

Effective date.—For benefits payable for months after December 1983.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|------------------|------|------|------|------|------|------|----------------------------------|
| Short range..... | (1) | (1) | (1) | (1) | (1) | (1) | -\$0.1 |
| Long range..... | | | | | | | -.01 percent of taxable payroll. |

¹ Less than \$50 million.

Increase benefits for disabled widows and widowers

(Section 116 of the Bill)

Present law

Social Security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the worker's primary insurance amount) at age 65, and at reduced rates at ages 60-64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits also payable at reduced rates to disabled widows and widowers aged 50-59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).

Committee amendment

The Committee amendment would increase benefits for disabled widow(er)s age 50-59 to 71.5 percent of the primary insurance amount, the amount to which widow(er)s are entitled at age 60. The proposal would be applicable to new beneficiaries and to those on the rolls on the effective date of the provision. This is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—For benefits payable for months after December 1983.

OASDI COST

(In billions, calendar year)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1984-89 |
|------------------|--------|--------|--------|--------|--------|--------|----------------------------------|
| Short range..... | -\$0.2 | -\$0.2 | -\$0.2 | -\$0.2 | -\$0.3 | -\$0.3 | -\$1.4 |
| Long range..... | | | | | | | -.01 percent of taxable payroll. |

Adjustment of cost-of-living increase when trust fund ratio falls below 20 percent

(Section 117 of the Bill)

Present law

The automatic cost-of-living adjustment (COLA) in social security benefits is applicable to the June benefit, which is payable at the beginning of July, and is based on the increase in the Consumer Price Index. When increases in prices outrun increases in wages, income to the trust funds falls behind outgo, and cash flow problems may result. There is no mechanism under current law to adjust trust fund outlays and revenues to take account of such adverse economic fluctuations.

Committee amendment

The Committee amendment would modify the cost-of-living adjustment formula during periods when trust fund reserves are low in order to help stabilize reserves. Specifically, if the OASDI trust fund ratio (reserves as a percentage of outgo) as of the beginning of a year is less than 20 percent,

the adjustment of OASDI benefits would be based on the lower of the increase in the CPI or average wages. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" benefit payments would be made during the following year, but only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32 percent. Catch-up payments would supplement monthly benefits otherwise payable to make up for any COLA losses that result from basing the adjustment on wages rather than prices. This would not apply to the COLA for the Supplemental Security Income (SSI) program. This is the same as the recommendation of the National Commission on Social Security Reform.

Effective date.—This provision would first be applicable in 1988.

Cost/savings.—This proposal is estimated to have no impact on the trust funds under 1983 Trustees II-B assumptions.

Increase delayed retirement credit

(Section 118 of the Bill)

Present law

A worker who delays retirement beyond age 65 (i.e., does not actually receive social security benefits) is eligible for a delayed retirement credit (DRC). The worker's benefit is increased for each month after age 65 and prior to age 72 for which benefits are not paid, either because of earnings or because the worker does not claim benefits, for workers eligible for benefits after 1978, the DRC is equal to 3 percent per year (one-quarter of 1 percent per month).

Committee amendment

The Committee amendment would gradually increase, between 1990 and 2010, the delayed retirement credit to 8 percent per year, as recommended by the National Commission on Social Security Reform. (The amount of credit would relate to year of attainment of age 65.) Beginning in 1990 the DRC would be increased by 1/4 percent each subsequent year until reaching 8 percent in 2010.

OASDI cost.—0.10 percent of taxable payroll.

Increase in retirement age

(Section 119 of the Bill)

Present law

Unreduced retirement benefits are available to workers, spouses, and widows and widowers at age 65. Actuarially reduced benefits are available at age 62 for workers and spouses and at age 60 for widows and widowers.

Committee amendment

The Committee amendment would gradually raise the age at which full social security benefits are payable from 65 to 66, beginning with those who attain age 62 in 2000. Under this provision, the normal retirement age would be increased one month per year, reaching 66 for those attaining 62 in the year 2012 or later. Early-retirement benefits would continue to be available beginning at age 62 for workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors would be larger. The minimum age for eligibility for medicare benefits would continue to be tied to the age at which unreduced retirement benefits are first available.

The majority of the members of the National Commission on Social Security Reform made this recommendation. In addition, they recommended indexing the retirement age 40 changes in longevity, beginning in 2012.

Effective date.—For people attaining 62 in 2000.

OASDI savings: 0.40 percent of taxable payroll.

Long-range benefit change

(Section 120 of the Bill)

Present law

In computing social security benefits, a worker's earnings under social security are averaged and a benefit formula is applied to those average indexed monthly earnings (AIME) to arrive at the initial basic benefit amount called the primary insurance amount (PIA). The PIA is the amount a worker is eligible to receive at 65. Dependents' and survivors' benefits are based on the worker's PIA.

The formula for a worker who becomes eligible for benefits in 1983 is: 90 percent of the first \$254 of AIME, plus 32 percent of the AIME from \$254 through \$1,528, plus 15 percent of the AIME over \$1,528.

The two dollar figures in the formula, \$254 and \$1,528, are raised (indexed) each year to reflect increases in average wages in the economy. Thus, a new formula is created each year for the new group of workers becoming eligible for benefits in that year.

This system was adopted by the 1977 Social Security Amendments. The annual adjustment of the dollar amounts in the benefit formula, the bend points, by the full amount of the increase in average wages leads to higher initial benefits over time and to replacement rates—the percentage of a worker's prior earnings that are replaced by his social security benefit—that remain at approximately the same level.

Committee amendment

For people first becoming eligible for benefits in 2000, the Committee amendment would reduce initial benefit levels by 5.3 percent by decreasing the percentage factors in the benefit formula by two-thirds of one percent each year for 8 years. This would have the effect of reducing the ultimate replacement rate by 5 percent.

Effective date.—For people first becoming eligible for retirement or disability in 2000.

OASDI savings: 0.43 percent of taxable payroll.

Elimination of retirement earnings test

(Section 121 of the Bill)

Present law

Social security beneficiaries under age 70 who work and have earnings are subject to a one dollar reduction in benefits for every two dollars of earnings, when their earnings exceed certain exempt amounts. For 1983, the annual exempt amount is \$6,600 for people age 65 and older.

Committee amendment

The Committee amendment would gradually phase out, between 1990 and 1994, the retirement earnings test for people 65 and older. The exempt amount of earnings would be increased by \$3,000 in 1990 and in each of the next four years, with the earnings test (for people 65 and older) completely eliminated in 1995.

Effective date.—The provision would be phased in between 1990 and 1994.

OASDI cost.—This amendment is estimated to cost 0.05 percent of taxable payroll in the long-range.

Child-care drop out years

(Section 122 of the Bill)

Present law

In computing a worker's covered earnings history under social security (upon which his and his family's benefits are based), up to five years in which earnings are lowest are dropped.

Committee amendment

The Committee amendment would allow up to two additional years to be dropped for persons who leave the workforce to care for a child under 3 in the home. To qualify for a child-care drop year, the worker can have no earnings at all during the year.

Effective date.—For persons first eligible for benefits after 1983.

OASDI COST

(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|------------------|------------------|--------|--------|--------|--------|---------------|
| Short-range..... | (¹) | —\$0.1 | —\$0.1 | —\$0.2 | —\$0.4 | —\$0.5 —\$1.3 |
| Long range: | | | | | | |
| .04 percent | | | | | | |
| of taxable | | | | | | |
| payroll. | | | | | | |

¹ Less than \$50 million.

Prisoners benefits
(Section 123 of the Bill)

Present law

Persons imprisoned for the conviction of a felony may not receive student benefits (which are being phased out anyway), and are not eligible for disability benefits unless they are participating in a court-approved rehabilitation program. (Dependents benefits are not affected.) Also, impairments resulting from the commission of a crime cannot be the basis for disability benefits and impairments occurring during imprisonment cannot be the basis for disability benefits during the period of imprisonment.

Presently, benefits may continue to be paid to incarcerated felons who are either retired workers, widow or widower beneficiaries, spouses of retired or disabled workers, and to those DI beneficiaries in a court-approved rehabilitation program.

Committee amendment

The Committee amendment would expand present law to eliminate all benefits to felons during their period of incarceration. Benefits of dependents and survivors of incarcerated felons would not be affected.

Effective date.—Applicable to benefits paid for the month after enactment.

OASDI Cost: Negligible.

Eliminate benefits to aliens
(Section 124 of the Bill)

Present law

There are no citizenship or residence requirements for receiving social security cash benefits (OASDI). Any alien in the U.S.—whether legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he has engaged in covered employment and otherwise meets the eligibility requirements. Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker.

About \$1 billion is being paid annually to the 314,000 beneficiaries who reside abroad. About 70% of these beneficiaries are aliens.

Committee amendment

The Committee amendment provides that, in the future, benefits would be eliminated to alien workers, their dependents and survivors who reside abroad. No benefits would be paid to alien dependents of alien workers who were acquired (through marriage, birth or adoption) while outside the United States. However, benefits would be paid under the following conditions:

(1) the worker is the citizen of a country with which the United States has a treaty or totalization agreement which provides for reciprocity of social security coverage; and

(2) benefits would continue until total benefits paid to the wage earner and dependents equal taxes paid by the wage earner.

Effective dates.—This amendment would apply to new eligibles on or after January 1, 1985.

OASDI SAVINGS

(Dollars in billions, calendar years)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|---------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Short range..... | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Long range: | | | | | | | | |
| .01 percent of taxable payroll. | | | | | | | | |

¹ Savings of less than \$50 million.

Fail-safe provision
(Section 125 of the Bill)

Present law

Presently, there are no "fail-safe" provisions in the social security system that ensure benefit payments can be met on an ongoing basis in the face of adverse economic conditions. (The Board of Trustees is required to report immediately to the Congress if any of the trust funds is "unduly small".)

Committee amendment

Under the Committee amendment, the Secretary of Health and Human Services would be required to make an annual evaluation of the projected balances in the cash benefits trust funds, taking into account future cost-of-living increases. If the cash benefits (OASDI) fund reserves are projected to decline from the start of the next year to the start of the following year and to then be less than 20 percent of a year's benefits, the Secretary would be required to notify the Congress and if no action is taken, to scale back the COLA to the extent necessary to prevent a decline which would leave the reserves below that level.

Insofar as possible, the limitation on the COLA would be applied to people whose benefits are based on a primary benefit level of more than \$250 per month. The determination as to whether a limitation on the cost-of-living increase was necessary would be made only after taking into account all other statutory provisions for assuring adequate funds. The Secretary would have to notify Congress by July 1 of each year in which he finds that action to limit the next cost-of-living increase would be required under this provision. Since cost-of-living increases will be reflected in the January checks, this would give Congress several months in which to provide additional funding or to address the problem in any other manner the Congress might find to be appropriate.

The Committee views this provision as a last resort which would come into play only after all other authorities for maintaining trust fund solvency had been exercised. Thus, for example, other provisions in this legislation for such procedures as interfund borrowing and normalization of tax transfers would be invoked before this provision would be operative to the extent that such procedures are authorized by law. Under current projections such measures should be sufficient to keep fund balances from declining to dangerous levels. If however, unexpected adverse situations should develop, this provision would assure that sufficient reserves were maintained so that regular, timely payment of monthly benefit checks would not be placed in jeopardy.

This provision would implement the recommendation of the National Commission on Social Security Reform that this social security financing legislation include provision for a "fail-safe" mechanism.

Effective date.—Determinations beginning July 1, 1984.

OASDI Cost Impact: This provision is not expected to be utilized under the 1983 Trustees intermediate (II-B) assumptions.

PART C—REVENUE PROVISIONS

A. Taxation of social security and railroad retirement benefits (sec. 181 of the bill, new Code secs. 86 and 6050, and Code secs. 861, 871, 1441, and 6103)

Present law

Under present law, social security benefits are excluded from the gross income of the recipient. Their exclusion is based upon a series of administrative rulings issued by the Internal Revenue Service in 1938 and 1941 (see I.T. 3194, 1938-1 C.B. 114, 3229, 1938-2 C.B. 136, and I.T. 3447, 1941-1 C.B. 191). Railroad retirement benefits are excluded from gross income under the Railroad Retirement Act.

In general, the gross amount of fixed or determinable annual or periodic income (which is not effectively connected with a U.S. trade or business) received by a nonresident alien from U.S. sources is subject to a 30-percent tax (Code sec. 871); this tax is collected by withholding (sec. 1441). A pension for services performed in the United States would be U.S.-source income and the gross amount of a U.S.-source pension is subject to the 30-percent withholding or a lower rate if so provided by treaty. The U.S. Model Income Tax Treaty, as well as a number of actual tax treaties to which the United States is a party, provides reciprocally that pensions received by a resident of one country from sources in the other country are taxable only by the country of residence. However, the United States has reserved the right to tax social security benefits in the U.S. Model Income Tax Treaty and a number of actual tax treaties.

Reasons for change

The Committee believes that the present policy of excluding all social security benefits from a recipient's gross income is inappropriate. The committee believes, further, that social security benefits are in the nature of benefits received under other retirement systems, which are subject to taxation to the extent they exceed a worker's after-tax contributions and that taxing a portion of social security benefits will improve tax equity by treating more nearly equally all forms of retirement and other income that are designed to replace lost wages (for example, unemployment compensation and sick pay). Furthermore, by taxing social security benefits and appropriating these revenues to the appropriate trust funds, the financial solvency of the social security trust funds will be strengthened.

Because Tier 1 benefits provided under the Railroad Retirement Act are largely equivalent to social security benefits, the committee believes that corresponding changes also should be made in the tax treatment of these benefits. That is, a portion of railroad retirement benefits also should be subject to income taxation.

By taxing only a portion of social security and railroad retirement benefits (that is, up to one-half of benefits in excess of a certain base amount), the Committee's bill assures that lower-income individuals, many of whom rely upon their benefits to afford basic necessities, will not be taxed on their benefits. The maximum proportion of benefits taxed is one-half in recognition of the fact that social security benefits are partially financed by after-tax employee contributions. The bill's method for taxing benefits assures that only those taxpayers who have

substantial taxable income from other sources will be taxed on a portion of the benefits they receive.

Taxation of social security and railroad retirement benefits

Under the committee's bill, a portion of social security benefits will be included in the gross income of recipients whose adjusted gross income exceeds certain levels. (This provision is not intended to change the tax treatment of social security benefits paid by foreign governments; these benefits have been held by Treasury to be fully includable in gross income (Rev. Rul. 62-1979, 1962-2, C.B. 20)). The bill defines a "social security benefit" as any amount received by the taxpayer by reason of entitlement to either (1) a monthly benefit under title II of the Social Security Act (Federal Old-Age, Survivors, and Disability Insurance Benefits (OASDI)), or (2) Tier 1 benefit under the Railroad Retirement Act of 1974. A Tier 1 benefit generally is a monthly benefit equal to what an individual would receive if the formula for computing social security benefits were applied to the individual's history of covered wages under both the social security and railroad retirement systems.

Social Security benefits, to the extent they are taxable, will be included in the taxable income of the person who has the legal right to receive the benefits. For example, benefits paid to a child (or on behalf of a child under section 203(i) of the Social Security Act) will be considered to be the child's and will be added to the child's other income to determine whether they are taxable. The amount of benefits received refers to benefit payments after reductions under such provisions as actuarial reductions, family maximum, and the earnings test, but includes certain amounts that may be withheld from benefits, such as payments of supplementary medical insurance premiums, where the amounts withheld are for the purpose of meeting a financial obligation incurred by the individual entitled to receive such benefit payments. In addition, the amount of any social security benefits received will include the total amount of the benefits without any reduction for attorney's fees, if any, paid in order to enable an individual to receive those benefits. The committee expects the Secretary of the Treasury to provide guidance on the extent to which expenses (such as attorneys' fees) incurred in perfecting claims to social security benefits may be deducted, now that some of the social security benefits may be taxed.

Social security benefits that will be included in the gross income of a taxpayer for a taxable year will be limited to the lesser of (1) one-half of the social security benefits received, or (2) one-half of the excess of the sum of the taxpayer's adjusted gross income, interest on obligations exempt from tax, and one-half of the social security benefits received, over the appropriate base amount. Thus, the maximum proportion of social security benefits that will be included in the gross income of any taxpayer will be one-half of benefits. This provision does not affect the exclusion for interest on tax-exempt obligations. Rather, it merely includes that interest in the base for the purpose of determining the amount of an individual's social security benefits that will be taxed.

The base amount is \$32,000 in the case of a married individual filing a joint return; zero in the case of a married individual filing a separate return, unless he or she lived apart from his or her spouse for the entire taxable year; and \$25,000 in the case of all other individuals.

The base amount is zero for married individuals filing separate returns because the

committee believes that the family should be treated as an integral unit in determining the amount of social security benefit that is includable in gross income under this provision. If the base amount for these individuals were higher, couples who are otherwise subject to tax on their benefits and whose incomes are relatively equally divided would be able to reduce substantially the amount of benefits subject to tax by filing separate returns.

For the purpose of determining how much of a taxpayer's social security benefit will be included in gross income, a taxpayer will be permitted to reduce benefits received during the taxable year by the amount of benefits, previously received during the current or any preceding taxable year, that he repays during the taxable year. This provision is necessary to prevent a taxpayer from being subject to taxation on his benefits in those situations in which a taxpayer must repay a portion of those benefits because he has been overpaid previously. A taxpayer will be permitted an itemized deduction, to the extent allowed under section 165, for repayments of social security benefits which had been included in gross income in a previous year, to the extent that the repayments exceed social security benefits received by the taxpayer, and not repaid, during the taxable year. Alternatively, if such amount repaid exceeds \$3,000, the taxpayer has the option under section 1341 to compute tax for the taxable year without the deduction and to subtract from that amount the reduction on tax that would have resulted from excluding the amount repaid from income for the year of the overpayment.

The committee's bill provides an elective, special rule for taxpayers who receive lump-sum payments. This rule was determined to be necessary because in some situations involving lump-sum payments of benefits attributable to prior years, the general income averaging rules may not provide adequate relief.

If this special rule is elected, the taxpayer will determine the tax for the taxable year of receipt of the lump-sum payment by including in gross income for the current year the sum of the increases in gross income that result solely from taking into account the appropriate portions of the lump-sum payment in the taxable year to which they are attributable. The committee intends that when lump-sum payments are made, the Social Security Administration or Railroad Retirement Board will notify the recipients thereof of the taxable years to which the payments are attributable.

Social security benefits are to be treated as a pension or annuity and, therefore, not treated as earned income, for purposes of the earned income credit, the deduction for contributions to individual retirement arrangements, the deduction for two-earner couples, and the foreign earned income exclusion.

Returns relating to social security benefits

Information reporting will be required with respect to benefit payments. Specifically, the appropriate Federal official (i.e., the Secretary of Health and Human Services, in the case of social security benefits, and the Railroad Retirement Board, in the case of railroad retirement benefits) will be required to report to the Treasury (1) the aggregate amount of benefits paid with respect to any individual during any calendar year; (2) the aggregate amount of benefits repaid by the individual during the calendar year; and (3) the name and address of the individual with respect to whom benefits are paid. In addition, each individual receiving social security or railroad retirement benefits will be furnished with a written state-

ment showing (1) the name of the agency making the payments, and (2) the aggregate amount of payments and repayments. This statement will be due by January 31 of the year following the year in which social security benefits are paid.

Treatment of nonresident aliens

The committee's bill provides that social security benefits paid by the United States are U.S.-source income for purposes of the Code, including the foreign tax credit. In addition, one-half of social security benefits paid to nonresident aliens will be subject to the general 30-percent tax which will be collected by withholding. The committee's bill is not intended to override the treatment of social security benefits provided in existing income tax treaties to which the United States is a party.

The committee's bill permits the Secretary of the Treasury to disclose to the Social Security Administration or the Railroad Retirement Board available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a resident or citizen of the United States. This information, which may be disclosed upon written request, may be disclosed to the Social Security Administration and the Railroad Retirement Board only for purposes of carrying out their responsibilities for withholding taxes from social security benefits of nonresident aliens. Any return information disclosed under this provision will be subject to the present law requirements regarding record-keeping and safeguarding of return information.

Transfers to trust funds

The committee's bill appropriates to each payor fund the increase in Federal income tax liabilities attributable to taxing social security benefits. This amount is the difference between total income tax liabilities for the year and what income tax liabilities would have been without the application of the Code sections which provide for the taxation of benefits. A "payor fund" is any trust fund or account from which payments of social security benefits are made.

The appropriated amounts are to be transferred from time to time (but no less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury. Transfers to the payor funds may be based on the proportion of each type of benefit as a share of the total benefits potentially includable in gross income under these provisions. For example, suppose that after adding OASI benefits, DI benefits and Tier I railroad retirement benefits the shares of these in the total are 80 percent, 16 percent, and 4 percent, respectively. These percentages of the increase in tax liabilities described above may then be transferred to the respective funds.

Any quarterly payment to a payor trust fund must be made on the first day of the quarter and must take into account social security benefits estimated to be received during the quarter. Proper adjustments are to be made in the amounts subsequently transferred to the extent that prior estimates were in excess of, or less than, the amounts required to be transferred. A final determination of the amount required to be transferred for a year may be based on an estimate derived from the appropriately weighted sample of individual income tax returns for that year which is used as the basis for the Internal Revenue Service's publication of statistics of income for that year under Code section 6108. In making these estimates, the Secretary of the Treas-

ury need not take account of certain provisions of the tax law that might affect an individual's tax liability (e.g., income averaging, loss carrybacks, etc.) if these provisions are judged to have an inconsequential effect on the estimates.

The Secretary of the Treasury will be required to submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board concerning (1) the transfers made during the year, and the methodology used in determining the amount of the transfers and the funds or account to which made, and (2) the anticipated operation of the transfer mechanism during the next five years.

Taxation of Tier One railroad retirement benefits

The Committee's bill provides that railroad retirement "Tier 1" benefits are subject to taxation to the same extent and in the same manner as monthly benefits payable under title II of the Social Security Act. As a result of this change, certain amounts will be transferred regularly to the Railroad Retirement Account.

Under the financial interchange between railroad retirement and social security, however, the social security trust funds are placed in the same position they would have been in if railroad employment were covered under social security. Therefore, the committee understands that existing law requires that the proceeds of income taxes on those railroad retirement benefits which are strictly equivalent to social security benefits are to be credited to the social security trust funds through adjustments in the financial interchange. This will produce exactly the same result as if the social security system had paid that portion of the tier I benefits which are strictly equivalent to social security benefits and had received the proceeds of the income tax on these benefits.

Effective date

In general, the provisions will apply to benefits received after December 31, 1983, in taxable years ending that date. However, the provisions will not apply to benefits received after December 31, 1983, if the generally applicable payment date of these benefits was before January 1, 1984.

B. Acceleration of increases in FICA taxes; 1984 employee tax credit (sec. 132 of the bill; secs. 3101, 3111, and new sec. 3510 of the code).

Present law

Under present law, several increases in social security payroll tax (FICA) rates are already scheduled to take effect between 1985 and 1990, as shown in the following table:

EMPLOYER-EMPLOYEE RATE (EACH)

| Year | OASDI | HI | OASDI-HI |
|-----------|-------|------|----------|
| 1984..... | 5.4 | 1.30 | 6.70 |
| 1985..... | 5.7 | 1.35 | 7.05 |
| 1986..... | 5.7 | 1.45 | 7.15 |
| 1987..... | 5.7 | 1.45 | 7.15 |
| 1988..... | 5.7 | 1.45 | 7.15 |
| 1989..... | 5.7 | 1.45 | 7.15 |
| 1990..... | 6.2 | 1.45 | 7.65 |

Reasons for change

In conjunction with other changes in the law which are designed to help insure the solvency of the OASDI Trust Funds, the committee has found it necessary to advance the OASDI increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988. In order to cushion the impact on workers of the first change, a one-time tax credit is provided to employees

equal to the 1984 increase in the employees FICA tax.

Explanation of provision

The bill provides a new schedule of OASDI rates leaves HI rates unchanged. The new OASDI rates and combined OASDI rates are as follows:

EMPLOYER-EMPLOYEE RATE (EACH)

| Year | OASDI | HI | OASDI-HI |
|-----------|-------|------|----------|
| 1984..... | 5.70 | 1.30 | 7.00 |
| 1985..... | 5.70 | 1.35 | 7.05 |
| 1986..... | 5.70 | 1.45 | 7.15 |
| 1987..... | 5.70 | 1.45 | 7.15 |
| 1988..... | 6.06 | 1.45 | 7.51 |
| 1989..... | 6.06 | 1.45 | 7.51 |
| 1990..... | 6.20 | 1.45 | 7.65 |

Because railroad retirement (RR) payroll taxes are linked to the rates for social security, the committee's bill also provides similar increases in the corresponding railroad retirement taxes.

The bill provides employees a credit equal to 0.3 percent of compensation subject to the FICA and RR taxes and to payments of amounts equivalent to FICA taxes under section 218 of the Social Security Act. Because the credit is to be taken into account at the time the tax is collected (by deduction from the employees' wages or otherwise), the net OASDI employee tax rate for 1984 will be 5.40 percent. However, employees' annual wage statements are to show the gross FICA tax (7.00 percent of wages) and the credit amount (0.3 percent of wages) separately. As under present law, the appropriation of funds into, for example, the OASDI trust funds will be based on the gross OASDI employee tax rate, which will be 5.70 percent and, thus, will not be affected by the credit.

Effective date.—These provisions will apply to remuneration paid after December 31, 1983.

C. Self-employment income tax and credit (secs. 133 of the bill and secs. 43, 164, 275, 401, 1401, and 1402 of the Code).

Present Law

The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Self-employed persons pay an OASDI tax rate that is equal to approximately 75 percent of the combined employer-employee rate and an HI tax rate that is equal to 50 percent of the combined employer-employee rate.

The presently scheduled OASDI rates for self-employment income are as follows:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent: |
|------------------------|----------------------|----------|
| December 31, 1981..... | January 1, 1985..... | 8.05 |
| December 31, 1984..... | January 1, 1990..... | 8.55 |
| December 31, 1989..... | | 9.30 |

The HI rates for self-employment income are as follows:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent: |
|------------------------|----------------------|----------|
| December 31, 1980..... | January 1, 1985..... | 1.30 |
| December 31, 1984..... | January 1, 1986..... | 1.35 |
| December 31, 1985..... | | 1.45 |

Under present law, the expenses of compensation or purchased services, including wages, the employer FICA tax, and payments to self-employed individuals are deductible, for income tax purposes, as business expenses. However, neither the em-

ployee FICA tax nor the SECA tax is deductible.

Reasons for change

The committee is concerned that, under the current system, self-employed individuals pay into the social security system less than employers and employees, taken together, contribute for equal benefits. Thus, even though an employer may take an income tax deduction for his share of the payroll tax paid on behalf of an employee and Federal revenues would be reduced thereby, the social security trust funds received less than is necessary to provide benefits to self-employed individuals. This disparity in receipts contributes to the financial difficulties of the social security system.

Explanation of provisions

Under the bill, the OASDI rate on self-employment income will be equal to the combined employer-employee OASDI rate, and the HI tax rate on self-employment income will be equal to the combined employer-employee HI rate. In order to cushion the impact of the increase, the bill provides a permanent credit against SECA taxes.

The OASDI tax rate on self-employment income will be:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent |
|------------------------|----------------------|---------|
| December 31, 1983..... | January 1, 1988..... | 11.40 |
| December 31, 1987..... | January 1, 1990..... | 12.12 |
| December 31, 1989..... | | 12.40 |

The HI rate for self-employed persons will be:

IN THE CASE OF A TAXABLE YEAR

| Beginning after: | and before: | percent |
|------------------------|----------------------|---------|
| December 31, 1983..... | January 1, 1985..... | 2.60 |
| December 31, 1984..... | January 1, 1986..... | 2.70 |
| December 31, 1985..... | | 2.90 |

Beginning in 1984, self-employed persons will be entitled to a permanent credit against SECA tax. For 1984, the credit will be 2.9 percent of self-employment income. For 1985, the credit will be 2.5 percent. For 1986, the credit will be 2.2 percent. For 1987-89, the credit will be 2.1 percent. For 1990 and subsequent years, the rate of the credit will be 2.3 percent. The SECA tax credits may be taken directly into account in computing SECA liability for a taxable year and estimated tax payments for that year.

The SECA tax credits will not reduce the revenues of the social security trust funds, since under the Social Security Act, appropriations into the trust funds will be based on the SECA tax rates specified above without regard to the credits allowed against such taxes.

Effective date.—The provisions will be effective for taxable years beginning after December 31, 1983.

Reallocation of OASDI tax rate

(Section 141 of the bill)

Present law

The tax rate allocation between OASDI and HI is fixed in the law. The following table displays the allocation for employers, employees and the self-employed:

OASDI TAX RATES

[In percent]

| | Employers and employees, each | | | Self-employed | | |
|----------------|-------------------------------|-------|-------|---------------|--------|-------|
| | OASI | DI | OASDI | OASI | DI | OASDI |
| 1982 to 1984 | 4.575 | 0.825 | 5.4 | 6.8125 | 1.2375 | 8.05 |
| 1985 to 1989 | 4.750 | .950 | 5.7 | 7.1250 | 1.4250 | 8.55 |
| 1990 and later | 5.100 | 1.100 | 6.2 | 7.6500 | 1.6500 | 9.30 |

Committee amendment

The Committee amendment would reallocate the OASDI tax so that both trust funds will have about the same reserve ratios (i.e., reserves at the beginning of a year as a percentage of outgo during the year). This is the same as the recommendation of the National Commission on Social Security Reform.

The following table displays the new allocation for the OASDI tax rate:

[In percent]

| | Employers and employees, each | | | Self-employed | | |
|----------------|-------------------------------|-------|-------|---------------|--------|-------|
| | OASI | DI | OASDI | OASI | DI | OASDI |
| 1983 | 5.075 | 0.625 | 5.7 | 10.4625 | 0.9375 | 11.40 |
| 1984 to 1987 | 5.20 | .50 | 5.7 | 10.4 | 1.0 | 11.40 |
| 1988 to 1989 | 5.53 | .53 | 6.06 | 11.06 | 1.06 | 12.12 |
| 1990 to 1999 | 5.60 | .60 | 6.20 | 11.2 | 1.20 | 12.40 |
| 2000 and later | 5.55 | .65 | 6.20 | 11.1 | 1.30 | 12.40 |

Effective.—The first reallocation would apply for 1983.

Interfund borrowing extension

(Section 142 of the Bill)

Present law

Public Law 97-123 authorized, through December 31, 1982, borrowing between the OASI, DI, and HI trust funds whenever it was determined by the Managing Trustee (the Secretary of the Treasury) that additional funds were needed to pay benefits. The Conference Report specified that amounts borrowed could not exceed what was required to ensure benefit payments through June 1983. Under this authority, and to fulfill this purpose, \$17.5 billion was transferred to the OASI trust fund from the DI and HI trust funds in 1982 (of which \$12.4 billion was from HI).

Under the law, the borrowing fund is required to make periodic interest payments on outstanding balances. Also the loan must be repaid when the Managing Trustee determines that the assets of the borrowing fund are sufficient to begin repayment.

Committee amendment

Through 1987, the committee amendment would authorize interfund borrowing between the OASI, DI, and HI trust funds. The following protections would be provided for the HI trust fund: (1) interest would be paid monthly to HI on any outstanding loans to OASDI; (2) OASDI could not borrow from HI in any month the HI trust fund ratio is under 10 percent (with no more to be borrowed than would reduce such ratio to 10 percent); (3) in 1983-87, OASDI would repay loans from HI whenever the OASDI fund ratio at the end of the year exceeds 15 percent; and (4) in 1988-89, OASDI would repay HI, in 24 equal monthly payments, the loan balance outstanding at the end of 1987 (plus interest on any outstanding loan balance).

Similar protections would be provided for the OASI and DI trust funds in the event that HI were to borrow from OASDI.

The amendment is similar to the recommendation of the National Commission on

Social Security Reform to authorize, through 1987, interfund borrowing between the OASI and DI trust funds and to the OASI and DI trust funds from the HI trust fund.

Under the Committee amendment, using intermediate cost estimates the amounts available from the HI trust fund for loans (in excess of the 10 percent requirement) to the OASDI trust funds would be about \$7 billion in 1984, \$5 billion in 1985, \$4 billion in 1986, and \$3 billion in 1987; however, under this estimate the OASDI trust funds would not need any further loans in 1983-87. Under the pessimistic cost estimate, such amounts available from the HI trust fund would be about \$6 billion in 1984, \$4 billion in 1985, and zero in 1986-87; however, under this estimate the OASDI trust funds would not need any further loans in 1983-87 (although slightly worse experience during that period would make loans necessary).

Effective.—On enactment.

Credit amounts of unnegotiated checks to the trust funds

(Section 143 of the Bill)

Present law

The social security trust funds are not credited for OASDI benefit checks which remain uncashed. Instead, the value of benefit checks which are not cashed remains in the General Fund of the Treasury.

Committee amendment

The Committee amendment would provide for a lump-sum payment to the OASDI trust funds from the General Fund representing the amount of uncashed benefit checks which have been issued in the past. In addition, it would require the implementation of a procedure under which: (1) the Treasury Department would make it possible to distinguish OASDI checks from other government checks; and (2) the trust funds would be credited on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of twelve months. This is similar to the recommendation of the National Commission on Social Security Reform which required only the initial lump sum transfer, assuming that future transfers were already provided for.

Effective date.—The lump sum transfer would be made in the month following the month of enactment of this provision.

OASDI REVENUE GAIN

[In billions, calendar years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|-------------|-------------|------------------|------------------|------------------|------------------|------------------|------------------|---------|
| Short range | \$0.8 | (¹) | \$1.1) | (^{1}) | (^{1}) | (^{1}) | $1.1 |
| Long range | negligible. | | | | | | | |

¹ Less than \$50 million.

Military wage credits

(Sections 144 and 145 of the Bill)

Present law

Since 1946, the OASDI system has provided gratuitous wage credits to persons who serve in the military forces. Such military personnel have been credited with earnings (upon which benefits are based) for which no payroll taxes have been paid. Two types of credits have been given: (1) for World War II veterans, noncontributory wage credits of up to \$1,920 per year for active military service from 1940 to 1957; and (2) noncontributory wage credits of \$1,200 per year for military service performed after 1956 to recognize the value of non-cash compensation, such as food, shelter and medical services. (In 1957, members

of the military were compulsorily covered under social security.)

To finance the costs incurred in paying the benefits based on periods of military service for which no contributions were made, the social security trust funds receive reimbursements from the General Fund of the Treasury. The annual reimbursement to the trust funds has been about \$700 million in recent years.

Committee amendment

The Committee amendment would credit the OASDI trust funds, in a lump sum, with an amount equal to the estimated additional cost of providing future benefits based on pre-1957 military wage credits. In addition, the OASDI trust funds would be credited with a lump sum payment equaling the taxes that would have been collected and the interest that would have been earned if the credits for service after 1956 and before 1983 had been taxed as they were earned, less the reimbursements already received. Beginning in 1983, a general fund appropriation would reimburse the trust funds on a current basis for the employer-employee taxes on additional military wage credits given for non-cash compensation.

This is the same as the recommendation of the National Commission on Social Security Reform except that the Committee has extended the provision to include HI.

Effective date.—Lump sum is payable in the month following the month of enactment. Lump sums would be payable within 30 days after the enactment of this provision.

OASDI REVENUE GAIN

[In billions of dollars, calendar years]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|------------|------------------------------|------|------|------|------|------|------|---------|
| Shortrange | 18.4 | -0.4 | -0.4 | -0.3 | -0.4 | -0.4 | 0.4 | 16.0 |
| Long range | plus .01 of taxable payroll. | | | | | | | |

Trust fund investment procedure

(Section 146 of the Bill)

Present law

Payroll tax revenues which are in excess of the amount necessary to pay current benefits must be invested, generally in "special issue" obligations available for purchase only by the trust funds. Such obligations have maturities fixed with "due regard" for the needs of the trust funds and bear an interest rate equal to the average market yield on all marketable, interest bearing obligations of the U.S. government which are not due or callable for at least 4 years.

The maturity dates on new special issues and the redemption schedule for trust fund investments are not set by law, but by Treasury procedure. The Treasury attempts to set the maturity dates for special issues from 1 to 15 years—so that about 1/3 of the total portfolio comes due in each of the next 15 years. When securities must be sold to meet benefit obligations, special issues with the shortest duration until maturity are sold first. In the event that there are several securities with the same duration until maturity, those with the lowest interest rate are sold first.

Committee amendment

The Committee amendment provides for reinvesting all trust fund assets each month at a rate of interest based on the average market rate on all public-debt obligations currently held by Treasury with a duration of four or more years until maturity.

The amendment would require the Managing Trustee to: (1) redeem all present special issues at their face amount; (2) redeem all flower bonds (marketable government bonds which, for inheritance tax purposes, are redeemable at par) at their current market values; and (3) invest, on a monthly basis, the redeemed investments and all future funds only in separate depository accounts for each of the trust funds.

This is similar to the recommendation of the National Commission on Social Security Reform, except that the Commission recommended investing in special issues.

Effective.—The first day of the first month beginning more than 30 days after the date of enactment.

Revenue Gain.—No significant gain or loss anticipated.

Public members on board of trustees
(Section 147 of the Bill)

Present law

The Board of Trustees of the four social security trust funds (Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplemental Medical Insurance) consists of, ex officio, the Secretaries of the Treasury, Health and Human Services, and Labor, with the Secretary of the Treasury serving as the managing trustee. Among other responsibilities, the Board of Trustees is required to report to Congress each year on the operation and status of the trust funds, review the general policies followed in managing the trust funds, and recommend changes in such policies.

Committee amendment

The Committee amendment would add two public members to the Board of Trustees of the OASDI, HI, and SMI trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party. Public members would not be considered fiduciaries and would not be personally liable for actions taken in such capacity with respect to the trust funds.

The National Commission on Social Security Reform also proposed that the Board of Trustees of the OASDI trust funds be expanded to include two public members.

Effective.—On enactment.

Cost.—None.

Accelerate State and local deposits
(Section 148 of the Bill)

Present law

Requires the deposit of withheld social security taxes for State and local employees within thirty days after the end of the month in which the applicable wages were paid.

By contrast, the frequency with which deposits of social security taxes and income taxes are made by private employers is determined under regulations issued by Treasury and vary in accordance with the tax liability of the employer. Deposits are required as frequently as every week for employers with large liabilities and as infrequently as every three months for employers with smaller liabilities.

Although State and local governments are now governed by the same rules as private employers with regard to depositing withheld income taxes, deposits of social security taxes continue to be treated differently.

Committee amendment

The Committee amendment would apply the same social security tax deposit requirements to State and local governments that now apply to private employers.

Effective date.—Effective for deposits required to be made after December 1983.

OASDI REVENUES
(In billions, calendar years)

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1983-89 |
|-------------------------|-------|-------|-------|-------|-------|-------|---------|
| Short range..... | \$1.4 | \$0.1 | \$0.1 | \$0.1 | \$0.3 | \$0.2 | \$2.2 |
| Long-range: Negligible. | | | | | | | |

Triggered normalization of tax transfers
(Section 149 of the Bill)

Present law

Under current procedures, social security taxes are transferred to the trust funds on a daily basis on Treasury estimates of amounts collected. OASDI benefit payments, however, are concentrated at the start of the month creating the need for high balances in the OASDI trust funds during the first week of the month.

Committee amendment

The Committee amendment provides that, when at the start of any month, the Secretary of Treasury determines that the reserves of the OASDI trust funds are inadequate to meet 1½ months of benefits (reserves less than 12% of outgo), the Secretary would be required to credit the trust funds on the first day of the next month with the full payroll tax revenues estimated for the month. Interest would be paid to the General Treasury on the excess sums so transferred at a rate equal to the average 91-day Treasury bill rate during the month, with such interest being payable at the end of each month.

Effective.—On enactment through 1987 (when the authority for interfund borrowing expires).

Cost.—Negligible.

Treatment of certain deferred compensation and salary reduction arrangements (sec. 150 of the bill and sec. 3121(a) of the Code).

Present law

Cash or deferred arrangements.—Under a qualified cash or deferred arrangement (sec. 401(k)) forming a part of a tax-qualified profit-sharing or stock bonus plan, a covered employee may elect to have the employer contribute an amount to the plan on the employee's behalf or to receive such amount directly from the employer in cash. Amounts contributed to the plan pursuant to the employee's election are treated as employer contributions to the plan and are excluded from the employee's taxable income and social security wage base.

Amounts distributed with respect to an employee under a qualified plan generally are includible in the recipient's income, but are excluded from the social security wage base.

Tax-sheltered annuities

Under present law, tax-sheltered annuities (sec. 403(b)) may be purchased on an individual basis for employees of public schools or tax-exempt religious, charitable, and other organizations described in section 501(c)(3). Subject to certain limitations, amounts paid by the employer to purchase the annuity are excluded from the employee's income. A tax-sheltered annuity may be purchased for an employee pursuant to a salary reduction agreement between the employer and the employee.

The Internal Revenue Service has ruled that amounts paid for a tax-sheltered annuity pursuant to a salary reduction agreement are includible in the employee's social security wage base, even though such amounts may not be subject to income tax withholding. The validity of the ruling position is in doubt in light of the Supreme Court decision in *Rowan Companies, Inc. v. United States* (see following section of this report).

Amounts distributed under a tax-sheltered annuity generally are includible in the recipient's income, but are excluded from the social security wage base.

Cafeteria plans

Under an employer's cafeteria plan (sec. 125), a covered employee may choose among various benefits, which may include cash, taxable benefits, or nontaxable benefits. If certain requirements are met, amounts applied under a cafeteria plan toward nontaxable benefits (e.g., accident and health benefits or plan contributions under a qualified cash or deferred arrangement) are excluded from the employee's income and generally from the social security wage base. Taxable benefits chosen by the employee (e.g., cash) are includible in income and generally includible in the wage base.

Eligible State deferred compensation plans

Under an eligible State deferred compensation plan (sec. 457(a)), an employee of a State or local government or a rural electric cooperative may elect to defer compensation, subject to certain limits. Amounts deferred under an eligible plan are excluded from income until paid to the employee under the plan. Eligible State deferred compensation plans generally are not retirement plans for purposes of the rules defining "wages" includible in the social security wage base. (For example, the income tax rules for eligible plans permit distributions to an employee after age 59½ without regard to whether the employee is retired.) Thus, amounts deferred are includible in the social security wage base at the time of the deferral if the plan is not a retirement plan.

Non-qualified deferred compensation plans

Under present law (sec. 312(a)), standby pay or payments made to an employee on account of retirement, either on an individual basis or under a plan or system of the employer providing for employees generally, may be excluded from the social security wage base without regard to whether the payments are under a tax-qualified retirement plan (sec. 401(a) or 403(a)) or other tax-favored retirement savings program (e.g., a tax-sheltered annuity (sec. 403(b))).

Reasons for change

Generally, if an employee receives cash and then chooses to use these funds for personal savings or benefits, the amount of cash received is subject to FICA. This is true, for example, for contributions to an individual retirement account (IRA) even if the employer transmits the funds directly to the IRA account.

Under cash or deferred arrangements, certain tax-sheltered annuities, certain cafeteria plans, and eligible State deferred compensation plans, the employer contributes funds which are set aside by individual employees for individual savings arrangements, and thus, the committee believes that such employer contributions should be included in the FICA base, as is the case for IRA contributions. Otherwise, individuals could, in effect, control which portion of their compensation was to be included in the social security wage base. This would make the system partially elective and would undermine the FICA tax base.

The committee also believes that it is appropriate to exclude payments from the social security wage base where the payments are made from a tax-qualified or other tax-favored retirement plan. However, the committee does not believe that such tax-favored treatment under the FICA tax rules generally should be extended to deferred compensation plans which do not

qualify for tax-favored treatment under the income tax rules.

Explanation of provision

Under the bill, an employer's plan contributions on behalf of an employee under a qualified cash or deferred arrangement will be includible in the social security wage base for tax and coverage purposes to the extent that the employee could have elected to receive cash in lieu of the contribution. The provision is intended to apply to elective amounts under the cash or deferred arrangement and not to nonelective amounts contributed by employers to a qualified profit-sharing or stock bonus plan of which the arrangement may be a part.

The bill also provides that any amounts paid by an employer to a tax-sheltered annuity by reason of a salary reduction agreement between the employer and the employee would be includible in the employee's social security wage base. The committee intended that the provision would merely codify the holding of Revenue Ruling 65-208, 1965-2 Cum. Bul. 383, without any implication with respect to the issue of whether a particular amount paid by an employer to a tax shelter annuity is, in fact made by reason of a "salary reduction agreement".

In addition, amounts subject to an employee's designation under a cafeteria plan that includes a qualified cash or deferred arrangement will be includible in the social security wage base to the extent that such amounts may be paid to the employee in cash or property or applied to provide a benefit for the employee that is not otherwise excluded from the definition of wages under section 3121 of the Code.

The bill would also include in the social security wage base amounts deferred under an eligible State deferred compensation plan (sec. 457(a)). The payment to such a plan would be treated as wages received in the year in which the services relating to the payment were performed. However, no change is made to the present-law self-employment tax (SECA) rules regarding amounts paid under an eligible State deferred compensation plan on behalf of an independent contractor.

Under the bill, nonqualified deferred compensation generally is includible in the social security wage base when it becomes available to the employee. For this purpose, nonqualified deferred compensation generally includes payments under a deferred compensation arrangement which is not (1) a tax-qualified plan, (2) an individual retirement arrangement (IRA), (3) a simplified employee pension (SEP), (4) a tax-sheltered annuity, or (5) a governmental plan. A governmental plan is one established and maintained for its employees by the Government of the United States, by any State or politi-

cal subdivision thereof, or by any agency or instrumentality of any of the foregoing. However, elective deferrals under an eligible State deferred compensation plan (sec. 457(a)) are includible in the wage base as described in the preceding paragraph, and amounts payable under a deferred compensation plan of a State or local government which is not an eligible plan (sec. 457(e)(1) and (e)(2) (D) and (E)) are includible in the wage base when there is no substantial risk of forfeiture by the employee.

The bill also includes conforming changes to the provisions (sec. 3306) defining "wages" for purposes of the Federal Unemployment Tax Act (FUTA). Deferred compensation includible in the social security wage base under the bill would also be treated as wages for FUTA purposes. In addition, the bill provides that certain sick pay which is includible in the social security wage base under provisions enacted in 1978 would also be treated as wages for FUTA purposes.

Effective date.—These changes apply to remuneration paid after December 31, 1983. Codification of Rowan decision with respect to meals and lodging (sec. 151 of the bill and sec. 3121(a) of the Code).

Present law

Under present law, amounts which constitute wages for income tax withholding purposes (Code sec. 3401) and amounts which constitute wages for social security tax purposes (Code sec. 3121) are separately defined. However, in *Rowan Companies, Inc. v. United States*, 452 U.S. 247 (1981), the Supreme Court held that the definition of wages for social security tax purposes and the definition of wages for income tax withholding purposes must be interpreted in regulations in the same manner in the absence of statutory provisions to the contrary.

At issue in *Rowan* was whether the value of meals and lodging provided employees at the convenience of the employer were wages for social security tax purposes (i.e., were includable in the social security wage base). The value of such employer-provided meals and lodging may be excluded from the income of an employee (sec. 119). Treasury regulations required that the value of the meals and lodging be included in the social security wage base, but excluded such value from the definition of wages subject to income tax withholding. The Supreme Court decision invalidated those Treasury regulations which required that the value of the meals and lodging be included in the social security wage base.

Reasons for change

The social security program aims to replace the income of beneficiaries when that income is reduced on account of retirement and disability. Thus, the amount of "wages"

is the measure used both to define income which should be replaced and to compute FICA tax liability. Since the security system has objectives which are significantly different from the objective underlying the income tax withholding rules, the committee believes that amounts exempt from income tax withholding should not be exempt from FICA unless Congress provides an explicit FICA tax exclusion.

Explanation of provision

The bill provides that, with the exception of the value of meals and lodging provided for the convenience of the employer, the determination whether or not amounts are includible in the social security wage base is to be made without regard to whether such amounts are treated as wages for income tax withholding purposes. Accordingly, an employee's "wages" for social security tax purposes may be different from the employee's "wages" for income tax withholding purposes. In addition, the bill provides that the definition of wages for social security tax and benefit purposes is revised to exclude the value of employer-provided meals and lodging to the extent such value is also excluded from the employee's gross income.

Effective date.—The provision applies to remuneration paid after December 31, 1983.

Treatment of contributions under simplified employee pensions (SEPs) (sec. 152 of the bill and sec. 3121(a)(5) of the Code)

Present law

Under present law, the Internal Revenue Code excludes from the social security wage base employer payments to or on behalf of an employee under a simplified employee pension (SEP). However, such employer contributions are treated as covered wages for social security benefit purposes.

Reasons for change

The committee believes that it is inappropriate to treat employer payments to a SEP as covered wages for benefit purposes where such amounts are excluded from the social security wage base for tax purposes.

Explanation of provision

The bill amends the Social Security Act to exclude from the definition of covered wages for social security coverage purposes employer contributions to a SEP that are deductible as such by the employer. The bill makes clear that the exclusion applies, for both tax and coverage purposes, only with respect to the employer's contribution to a SEP, not with respect to the amount equivalent to the employee's contribution to an individual retirement arrangement (IRA).

Effective date.—This provision applies to remuneration paid after December 31, 1983.

ESTIMATED REVENUE EFFECTS OF CERTAIN COMMITTEE PROVISIONS¹

(In millions of dollars)

| Provision and receipts or liabilities | Calendar or fiscal year— | | | | | | Total |
|---|--------------------------|--------|--------|--------|--------|--------|---------|
| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Taxation of (GASDI) benefits:^a | | | | | | | |
| Calendar year ^a | 2,627 | 3,181 | 3,847 | 4,603 | 5,500 | 6,544 | 26,312 |
| Fiscal year | 848 | 2,805 | 3,397 | 4,079 | 4,878 | 5,818 | 21,815 |
| Taxation of tier I railroad retirement benefits: | | | | | | | |
| Calendar year ^a | 61 | 71 | 81 | 94 | 108 | 124 | 536 |
| Fiscal year | 20 | 64 | 74 | 85 | 98 | 113 | 453 |
| Tax credit for 1984 FICA taxes^b | | | | | | | |
| Calendar year ^a | 4,434 | | | | | | 4,434 |
| Fiscal year | 3,234 | 1,200 | | | | | 4,434 |
| SECA provisions:^c | | | | | | | |
| Increase in OASDI and HI rates for SECA: | | | | | | | |
| Calendar year ^a | 4,490 | 4,361 | 4,744 | 4,973 | 6,133 | 6,476 | 31,177 |
| Fiscal year | 1,497 | 4,447 | 4,489 | 4,820 | 5,360 | 6,247 | 26,869 |
| SECA credit: | | | | | | | |
| Calendar year ^a | -2,800 | -2,596 | -2,427 | -2,428 | -2,565 | -2,709 | -15,525 |
| Fiscal year | -933 | -2,732 | -2,540 | -2,427 | -2,474 | -2,613 | -13,719 |
| Net effect: | | | | | | | |
| Calendar year | 1,690 | 1,765 | 2,317 | 2,545 | 3,568 | 3,767 | 15,652 |

ESTIMATED REVENUE EFFECTS OF CERTAIN COMMITTEE PROVISIONS¹—Continued

(In millions of dollars)

| Provision and receipts or liabilities | Calendar or fiscal year— | | | | | | Total |
|---------------------------------------|--------------------------|-------|-------|-------|-------|-------|--------|
| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Fiscal year | 564 | 1,715 | 1,949 | 2,395 | 2,886 | 3,634 | 13,141 |

¹ In addition to the provisions shown, the committee estimates that the provisions regarding the inclusion in the FICA wage base of amounts received under certain deferred compensation and salary reduction agreements will increase receipts of the social trust funds by \$2.0 billion during calendar years 1984 to 1989, inclusive.
² These estimates are consistent with the H-8 assumptions used by the Social Security Administration in preparing the Trust Fund estimates shown elsewhere in this report.
³ These amounts are estimated to be transferred to the Social Security Trust Funds during the calendar year shown.
⁴ These amounts are estimated to be transferred to the Railroad Retirement Account during the calendar year shown.

TITLE II OF THE BILL

**INCREASE THE SSI PAYMENT STANDARD AND
 MODIFY PASS-THROUGH REQUIREMENTS
 (Sections 201 and 202 of the Bill)**

Present law

The first \$20 of income received by an individual in a month is disregarded in determining SSI eligibility and benefit amount. The income may be earned or unearned (except for some income based on need, such as veterans' pensions, which is fully counted). The disregard was provided in the original statute in 1972 to ensure that persons who had contributed toward an entitlement, such as OASDI, were better off than those who had not. The amount of the disregard has not been increased since 1972.

Committee amendment

The Committee amendments would:

A. Increase the SSI payment standard applicable to all individuals by \$20 (\$30.00 for a couple) per month, effective July 1983; and

B. To help protect the States from increased costs resulting from this provision, expand current law to allow States to meet the "pass through" requirement for 1983 if they pass through the equivalent of the COLA that would have occurred under current law rather than the proposed monthly payment increase. Presently, State which provide payments to supplement the Federal SSI payment are required to pass through to recipients any Federal SSI cost-of-living increases. States have two basic options: 1) they may maintain the supplementary payment levels that were in effect for categories of individual recipients in December 1976, or 2) they may make State supplementary payments in any current 12-month period that are no less, in the aggregate, than were made in the previous 12-month period.

The National Commission on Social Security Reform recommended that, effective July 1983, the SSI disregard be increased by \$30 per month for OASDI income (not other income) in determining an individual's SSI eligibility and benefit amount. The effect would have been to increase by \$30 the monthly income of those individuals who are entitled to both OASDI and SSI.

Presently, the maximum Federal SSI payment is \$284 monthly for an individual and \$426 monthly for a couple. After certain disregards, the amount of SSI actually received by an individual is reduced on account of other income.

SSI COST (BASED ON CBO ESTIMATES)

(In millions, fiscal years)

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|--------------------------------|-------|-------|-------|-------|-------|-------|
| \$20 payment standard increase | \$260 | \$750 | \$645 | \$840 | \$675 | \$935 |

**SSI ALERT
 (Section 203 of the Bill)
 Present law**

Currently, there is no statutory requirement that OASDI beneficiaries be contacted and informed of potential eligibility for Supplemental Security Income (SSI) payments. However, since the beginning of the SSI program, the Social Security Administration has undertaken a number of outreach efforts to identify those potentially eligible. SSA routinely provides information about SSI eligibility and takes applications for SSI payments at the time of application for OASDI benefits if the applicant is potentially eligible for SSI payments. In addition, many State agencies and other private relief groups routinely refer clients to SSA. Presently, about 6.9 percent of elderly social security recipients also receive SSI.

Committee amendment

The Committee amendment would require the Secretary of Health and Human Services to notify, on a one-time basis, all elderly OASDI beneficiaries who are potentially eligible of the availability of SSI and encourage them to contact their district offices. In addition, the provision would require that the same information be included with the notification to OASDI beneficiaries of upcoming eligibility for Supplemental Medical Insurance.

Despite the current and past activities of the Social Security Administration to make persons potentially eligible for SSI aware of the existence of the program, the Committee believes that there may be currently needy OASDI beneficiaries who have been on the social security rolls for a period of time who may have applied for social security prior to the availability of SSI or who may not have been eligible at the time they applied but whose circumstances have since changed.

The Committee provision would alert those OASDI beneficiaries to the availability of the SSI program and would, in the future, also provide notification to those approaching the age of eligibility (age 65) through information contained with a notice of future eligibility for Supplemental Medical Insurance which is mailed approximately three months before a beneficiary attains age 65.

Effective date.—Notification to those on the rolls must be made before July 1, 1984.

Cost.—Unable to estimate.

**TITLE IV OF THE BILL
 UNEMPLOYMENT COMPENSATION PROVISIONS
 Extension of Federal supplemental
 compensation (FSC) program
 (Section 401 of the Bill)**

Present law

The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) established the FSC program. This program provides additional weeks of unemployment compensation at the same weekly benefit amount to individuals who have exhausted their State benefits and any extended benefits to which they were entitled. The FSC program,

which became effective on September 12, 1982, expires March 31, 1983.

As originally enacted, the FSC program provided 10, 8, or 6 additional weeks of benefits. The Surface Transportation Assistance Act of 1982 (Public Law 97-424) increased the maximum number of weeks of FSC benefits to 16, 14, 12, or 8, depending on the State where the individual filed for or received the additional benefits.

Beginning with the week of January 9, 1983, the FSC program began providing the following maximum weeks of benefits:

- (1) 16 weeks in States with an insured unemployment rate (IUR) of at least 6.0 percent (measured as the average over a moving 13 week period);
- (2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983;
- (3) 12 weeks in remaining States with a 13 week average IUR of at least 4.5 percent;
- (4) 10 weeks in remaining States with a 13 week average IUR of at least 3.5 through 4.4 percent; and
- (5) 8 weeks in all other States.

In order to qualify for FSC, a worker must have worked at least 20 weeks or earned its equivalent in wages in his base year, usually defined as the first four of the last five completed calendar quarters before he filed his claim for regular State benefits. He must also have exhausted the regular and extended benefits to which he is entitled. In addition, his benefit year must have ended on or after June 1, 1982 or he must have been eligible for extended benefits for any week beginning on or after June 1, 1982.

If an individual is eligible for FSC benefits, the number of weeks of FSC he may receive is determined in relation to the number of weeks of regular State benefits to which he was entitled. An eligible individual may receive FSC for the lesser of (a) 65 percent of the number of weeks of regular State benefits to which he was entitled or (b) the maximum number of weeks of FSC benefits provided in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in his former State.

Committee amendment

The committee amendment would extend FSC for 6 months from April 1, 1983 through September 30, 1983. To qualify for FSC, an individual would need at least 26 weeks of work or its equivalent in wages in his base year. This restriction would apply only to claimants who initially become eligible for FSC on or April 1, 1983.

The number of weeks available in each State would be:

- (1) **Basic FSC Benefits.**—Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:
 - (1) 14 weeks in States with IUR at 6 percent and above;
 - (2) 12 weeks in States with IUR at 5 percent to 5.9 percent;

(3) 10 weeks in States with IUR at 4 percent to 4.9 percent;

(4) 8 weeks in all other States.

No State would, however, lose more than 4 weeks when compared to present law.

(2) *Additional FSC Benefits.*—Individuals who exhausted FSC before April 1, 1983 could receive additional weeks of FSC benefits up to a maximum of:

(1) 8 weeks in States with IUR at 6 percent and above;

(2) 6 weeks in States with IUR at 5 percent to 5.9 percent;

(3) 4 weeks in States with IUR at 4 percent to 4.9 percent;

(4) 4 weeks in all other States.

(3) *Transitional FSC Benefits.*—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement, received after April 1, 1983, and the additional weeks provided in (b) cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

(4) *Phaseout FSC Benefits.*—Individuals who have not exhausted FSC entitlement on September 30, 1983 when the program expires, would be eligible to receive up to 50 percent of their remaining FSC entitlement. No new claimants would be added to the FSC program on or after September 30, 1983.

Effective date.—For weeks beginning after April 1, 1983.

Optional exclusion from disqualification for not actively seeking work under extended benefits and Federal supplemental compensation for claimants who are hospitalized or serving on jury duty

(Section 422 of the Bill)

Present law

Present law disqualifies claimants from receiving extended Benefits or Federal Supplemental Compensation if they are not actively seeking work. Moreover, the disqualified claimant must go back to work for at least 4 weeks and earn at least 4 times his weekly benefit amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation.

Committee amendment

The committee amendment would permit States to determine on a weekly basis the eligibility availability of claimants of Extended Benefits and Federal Supplemental Compensation who are serving on jury duty or are hospitalized for treatment of an emergency or life-threatening condition. A State must treat these individuals in accordance with their own State unemployment compensation law.

Effective date.—Date of enactment.

Denial of benefits to nonprofessional employees of educational institutions between academic years or terms

Present law

The Federal Unemployment Tax Act (FUTA) covers employees of educational institutions. FUTA requires States to deny benefits between academic years or terms to certain professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term. FUTA gives the States the option of the same denial of benefits, however, for nonprofessional employees of educational institutions.

Committee amendment

The committee amendment would make the denial of benefits between academic years or terms to nonprofessional employees

mandatory if the employees have a reasonable assurance of returning to work in the next academic year or term. In addition, States would be required to deny benefits between terms to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency.

Effective date

The provision would be effective on or after October 1, 1984. States in which there is no legislative session before that date would, however, be given additional time to comply with this provision.

Modification of credit reduction cap provisions

Present law

Employers in all States currently pay the tax levied under the Federal Unemployment Tax Act (FUTA) at a rate of 3.6 percent on a taxable wage base of \$7,000. However, employers in States generally received a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. Prior to reforms enacted in the Omnibus Budget Reconciliation Act of 1981, State UC programs could borrow on an interest-free basis from the Federal Unemployment Account. However, once a State defaulted on its loans from the Federal account, employees in the State began to lose the FUTA tax credit at the rate of at least .3 percent a year.

Specifically, if an advance is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of that year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc.). Additional offset credit reductions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1975-1980 for States satisfying specific requirements. Sixteen states are experiencing a credit reduction for 1983.

The 1981 Budget Reconciliation Act made two major changes in loan repayment conditions: interest of up to 10 percent is charged on loans made after April 1, 1982 (except those made for "cash flow" purposes and repaid by the end of the fiscal year in which they occur); and States are allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met.

For a State qualifying for the cap, the annual tax credit reduction is limited to 0.6 percent, or the rate that was in effect for the State for the preceding calendar year, whichever is higher. These loan reform provisions are in effect from January 1, 1981 to December 31, 1987.

The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State trust funds to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability.

In order to qualify for the cap on the FUTA penalty tax a State must demonstrate that:

(1) the net solvency of its UI system has not diminished (effective for taxable years 1981-1987);

(2) there have been no decreases in its unemployment tax effort (effective for taxable year 1981-1987);

(3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983-1987; and

(4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983-1987). The comparable year for taxable year 1983, however, is 1981.

Committee amendment

The committee amendment would make the credit reduction cap: provisions in present law permanent. A State would still be required to meet all four conditions in present law. The committee amendment would, however, provide two possible lower credit reductions, if a State does not qualify for the total cap: (1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the credit reduction would be 0.2 instead of at least 0.3 percentage points; and (2) If a State meets the first two credit reduction cap conditions and qualifies for the interest deferral authorized as a result of substantial changes in its unemployment compensation law, the credit reduction would be 0.1 instead of at least 0.3 percentage points. The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities.

The January 1st of each year for which a State qualifies for a partial limitation on the offset credit reduction will be taken into account for purposes of determining future offset credit reductions. The credit reduction applicable in each subsequent year after the partial limitation is in effect would continue to be reduced by the amount by which the offset credit was reduced.

Effective date.—Date of enactment.

Modification of interest provisions

Present law

Present law imposes interest of up to 10 percent per year on loans obtained by the States after April 1, 1982, except for "cash flow" loans that States repay by the end of the fiscal year in which the loans were obtained. A State can defer payment of its interest due for the fiscal year by paying 25 percent in each of four years beginning with the year in which the interest is due. Interest accrues, however, on the deferred interest.

Committee amendment

The committee amendment would make the provisions imposing interest on the States permanent. It would also provide for another deferral and a discounted interest rate for which States could apply if they meet certain conditions as certified by the Secretary of Labor.

The new deferral would be 80 percent of the amount due for the fiscal year. It would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. The deferred amount would be payable in 4 installments in the succeeding years equal to at least 20 percent of the original amount of interest due. A State would be required to meet two conditions to qualify for the deferral:

(1) no action has been taken to reduce its tax effort or trust fund solvency; and

(2) action (certified by the Secretary of Labor) after October 1, 1982, has been taken which would increase revenues and decrease benefits by a total of 30 percent in the calendar year immediately following the fiscal year for which the first deferral is requested. Deferral in the years immediately following the year in which the first year change is effective may be received if changes of 40 and 50 percent are made.

The discounted interest rate would be one percentage point below the interest rate that would otherwise apply. It would be authorized for interest accrued only for fiscal

years 1983, 1984, and 1985. It would be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

For purposes of determining whether a State meets the conditions in (2) above, the Secretary of Labor will provide an estimate of the unemployment rate for the base year, the calendar year in which the deferral is requested. The level of benefits and revenue liabilities will be determined using the State law in effect before passage of the legislation. The estimate of changes as a result of new legislation will be made from the base year in each year for which a deferral is requested. Once a deferral is approved, a State must continue to maintain its solvency effort. Failure to do so would result in immediate payment of all deferred interest.

Increases in the taxable wage base from \$6,000 to \$7,000 after calendar year 1982 and increases in the maximum tax rate to 5.4 percent after calendar year 1984 will not be counted for purposes of meeting condition (2).

States will not be penalized or rewarded if economic events change from those used in the base year for computing eligibility under condition (2).

Effective date.—Date of enactment.

Change in second year additional credit reduction

Present law

Present law provides that a State, in the second year in which the offset credit reduction is imposed to repay outstanding loans, may be subject to an additional credit reduction equal to the amount by which the State's average tax rate is lower than 2.7 percent. The average tax rate and the 2.7 percent are computed from the ratio of taxes collected to State and Federal taxable wages, respectively. Taxable wages are determined by the taxable wage base. Any wages above the taxable wage base are therefore not included.

In States where the taxable wage base exceeds the Federal taxable wage base of \$7,000, the tax rate base on the State's taxable wages will be lower than it would be if their taxable wage bases were \$7,000. This could activate the additional credit reduction in the second year even though these States have relatively higher tax efforts.

Committee amendment

The committee amendment would change the computation of the average tax rate to reflect the ratio of the federal unemployment tax base to the national average wage in covered employment.

Effective date.—Taxable year 1983.

Change in the date interest is due

Present law

Present law requires that interest is due no later than the first day of the next fiscal year. If the first day of the next fiscal year falls on a weekend, interest is due in the prior fiscal year. Otherwise, it is due on the first day of the next fiscal year.

Committee amendment

The committee amendment requires that interest be paid before the first day of the next fiscal year.

Effective date.—Date of enactment.

Collection interest

Present law

Present law provides no mechanism through which the Federal Government can collect interest from the States if the States do not pay interest when it is due.

Committee amendment

The committee amendment would require the collection of delinquent interest charges

one year after they are due by a reduction in the FUTA credit of 0.1 percentage point. Any amount collected during the imposition of this provision [exceeding the overdue interest] would be applied to the outstanding loan as an involuntary repayment. This provision would provide a specific collection mechanism to assure the payment of interest pending completion of any conformity proceeding which is implicitly but clearly required for nonpayment of interest by a State.

Effective date.—Date of enactment.

Mr. DOLE. Mr. President, there is a lot of other material, but I would just say this, the Senator from Kansas believes this is an outstanding piece of legislation, not because it is perfect in every sense of the word, not because the Commission did not have its shortcomings, not because there probably are others who might have better ideas, but let the Senator suggest, because the distinguished Senator from New York is in the Chamber, had the Senator from New York not visited with the Senator from Kansas on January 3, this year we might not be here this afternoon.

As I recall, that was about 12:20 p.m., that day when everyone was being sworn in, and the Senator from New York came back to the desk of the Senator from Kansas and said:

Well, are we going to let social security go down the drain.

Or something to that effect.

We talked about it for a while, and we said not if we can help it. So we decided to discuss it ourselves, along with Robert Ball, a former Commissioner, probably the most knowledgeable if not one of the most knowledgeable men about social security in this country.

The next day we brought in Alan Greenspan, the chairman of the Commission. The next day or the following day we brought in a representative of the White House.

Mr. MOYNIHAN. Mr. CONABLE.

Mr. DOLE. Mr. CONABLE. That is correct.

That started what we thought was a very successful process because we came up with a compromise, and for that we owe a debt of gratitude to the distinguished Senator from New York and the others who were willing for about a 2-week period to try to hammer out some of these differences.

So what I believe we have is a fair and a reasonable proposal, not a perfect proposal, not the proposal that probably any one of us in this Chamber or anyone within the hearing of my voice would put together themselves. Let us face it. There is some resistance to bringing in new hires, new Federal employees. There is some resistance to COLA delay. There is some resistance to the fail-safe mechanism. There is some resistance to taxing benefits. That is only about 7 percent of the beneficiaries. There is some resistance to accelerating payroll taxes.

I would guess the strength of this package may be the weakness of its

parts because it is a very fragile package we have.

If during the course of debate one of these should fall by the wayside, it is the opinion of this Senator that we probably end up without a compromise and without a social security package this year.

Along with all the others who deserve great credit and certainly that would be every Member, with the exception of the Member speaking, on the Social Security Commission and perhaps more importantly the willingness of the President and the Speaker of the House of Representatives to endorse the package and in a bipartisan way, to remove politics, partisan politics from consideration of social security in my view has been the highlight of anything that has happened around here for the last several years.

It is a very, very politically sensitive program. There are between 36 million and 37 million beneficiaries. There are between 115 million and 116 million people who pay into the system, and it seems to many of us on the Commission that we could have gone to the Commission meetings and argued about politics, whether it is the Democrats, fault, the Republicans, fault and we could have spent months doing that. But we determined at a very early stage to try to work out a compromise, and let the politics be played out in some other fashion.

So I certainly believe that we owe a debt of thanks to the President of the United States, to the Speaker of the House, to all the members of the National Commission, to members of the staff who worked with the Commission and members of our own personal staff in an effort to sort of put all this together. And then finally, we cannot fail to recognize the very good work done on the House side, the way it was handled by the chairman of the Ways and Means Committee, the very speedy action by Chairman ROSTENKOWSKI and Congressman CONABLE, the ranking Republican member on Ways and Means, and all the members on that committee, and the quick and responsible action on the House floor and, I must say, I hope the equally responsible and quick action in the Senate Finance Committee and on the Senate floor.

This is one piece of legislation that should pass the Congress and be signed by the President before the so-called Easter break, and I have every reason to believe that it will be passed, I hope, by a substantial vote.

I again suggest that no one on the Commission that I know of has ever indicated this would be their package. If they could write out their own package they would probably have different provisions. But I suggest the members of that Commission, knowing the limitations, knowing the severity of the crisis, in my view acted very responsibly, and I am very proud to have been a member of that group.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, before I say a single word with respect to the specifics of the measure before us, let me say that the Senator from Kansas has spoken of the role of the President, which was indispensable, of the Speaker which was equally so, of the White House staff, of the Commission members, and of the members of the Finance Committee in bringing this measure to the floor which, as he said, is almost surely the most important single piece of legislation we will deal with in this Congress. But it would not be here in what we firmly believe to be the final stage of enactment save for the Senator from Kansas. It is his willingness to give up personal concerns, to set aside other matters pressing on him in the Congress, to set aside the legitimate interest of party and legitimate political interests in all these matters that have brought us here today, and I stand in tribute to him and I suppose this tribute can best be expressed by my stating that every member of our side, the Democratic side, of the Finance Committee, voted to report this bill, and a larger statement of confidence we could not have, and none would be more deserved.

Mr. President, it is a very exceptional piece of legislation. I have a statement which deals with a number of aspects of the bill.

Mr. President, today the Senate begins its deliberations on one of the most significant issues to face the 98th Congress. I refer, of course, to S. 1, the Social Security Amendments of 1983. The House has already concluded its consideration of the social security issue, and its approval of H.R. 1900 is a clear and unequivocal endorsement of the package of recommendations proposed by the National Commission on Social Security Reform. I am proud to have been a member of that Commission, and I am pleased the House was able with such speed and fairness to pass intact the basic elements of the Commission package, along with a few technical improvements. It is my sincere hope that we in the Senate will be able to act in a similarly expeditious and fair manner. The Senate and House versions contain only relatively small differences, and the Washington Post generously describes each as "a basically fair and responsible approach to dealing with an issue that can, without qualification, be rated as the most politically sensitive one on the American Scene."

I think we would do well to review the history of the so called social security crisis, for it underscores the pressing nature of the problem, as well as the successes that are within our reach.

On May 12, 1981, the administration proposed a package consisting primarily of benefit cuts designed to raise \$110 billion in 5 years. The Senate, however, passed unanimously, on May 20, 1981, a resolution stating "that

Congress shall not precipitously and unfairly reduce early retirees' benefits." The prospect of governmental gridlock loomed.

But the shrinkage of the trust funds that resulted from further deterioration in the national economy, coupled with mounting public concern that the system was becoming insolvent, made clear the need for action. On December 16, 1981, by Executive order of the President, the National Commission was created and charged with providing appropriate recommendations to the administration and the Congress "on long-term reforms to put social security back on a sound financial footing."

The Commission met nine times during 1982 and reviewed material produced by various public bodies including Congress, the 1979 Advisory Council, and the 1981 National Commission on Social Security Reform. It sought the advice of experts and examined a wide variety of alternative approaches. These deliberations led to a consensus about the size and nature of the problem. The Commission agreed that there is a short-term problem—a \$150 to \$200 billion shortfall between now and 1989; that from 1990 through the early 2000's the system will be in surplus; and that due to the retirement of the "baby boom" generation, there is a long-term problem beginning after 2010. Equally important, the Commission agreed that "Congress *** should not alter the fundamental structure of the social security program or undermine its fundamental principles."

There was, however, no agreement on solutions to the social security crisis. Commission members were deeply divided on recommendations to cover both the short-term and long-term revenue shortfalls. This impasse persisted until the middle of January, at which point the combined efforts of Commission members, the congressional leadership and the White House produced the difficult compromise necessary to achieve an acceptable package of proposals.

Twelve of the fifteen Commission members, the President, the Speaker, and other congressional leaders agreed that the National Commission's recommendations strike an acceptable balance between tax increases and reductions of benefit increases. Since the report was issued, it has also been endorsed by a broad range of organizations, including the Save our Security Coalition, the National Association of Manufacturers, the United Auto Workers, the American Council of Life Insurance, and the Business Round Table.

No Commission member is satisfied with every recommendation. No Member of the House or Senate will be satisfied with every recommendation. But as a January 18 Washington Post editorial argued, the package comes "as close to absolute fairness as any social security revision can ever

be." The balance, nonetheless, is fragile. The House has succeeded in avoiding significant alterations in the package. It is our responsibility in the Senate to do the same.

I have been of the opinion that throughout these long and difficult negotiations, more than just social security has been at stake. An alarming number of people, social security contributors and beneficiaries alike—became convinced of the inability of the Congress to govern fairly and effectively. When S. 1 passes, we will have demonstrated not merely that the social security system fundamentally sound, we will have demonstrated that there is a center in American politics, and it can govern. While the effort and patience needed have been great, it is without question a point worth making.

I conclude by saying that if we are on the verge of a historically important achievement, it could not have come without the chairman of the Finance Committee's initiative, commitment, and patience. Our hearings were open to the widest range of opinion on this issue and the Committees deliberations were thoughtful and exhaustive. The chairman's willingness to cooperate made S. 1 possible, and I want to express my personal thanks to him. It is my hope that within a short time the Nation too will recognize the valuable role he has played in the development of a truly praiseworthy piece of legislation.

I would call the attention of Senators to an editorial which, by a happy bit of serendipity, appeared in the Washington Post this morning entitled "Social Security Speeds Along." It begins with the paragraph which I will take the liberty of reading. It says:

If you get discouraged from time to time about government's inability to deal with the hard problems, reflect upon the surprising agility with which the Social Security rescue legislation is moving through Congress. Not only has the progress been swift, but, marvelous to tell, each step along the way has actually brought additional improvements to the package.

I ask unanimous consent that the editorial and its full text be placed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY SPEEDS ALONG

If you get discouraged from time to time about government's inability to deal with the hard problems, reflect upon the surprising agility with which the Social Security rescue legislation is moving through Congress. Not only has the progress been swift, but, marvelous to tell, each step along the way has actually brought additional improvements to the package.

The measure approved by the House last week made better the version proposed by the National Commission on Social Security Reform: It solved, in addition to the short-term Social Security deficit, the long-term shortfall. The House would achieve this by a further increase in the payroll tax in the next century and by gradually postponing

the age at which full retirement benefits can be received from 65 to 67.

The Senate Finance Committee bill, which will come to the Senate floor this week, provides additional protection for the fund in the event of severe recessions and a better long-term plan for shoring up the program. The retirement age would be postponed by only one year and the needed savings would come from a slight reduction in benefits for all new retirees. This is a much fairer approach than that taken by the House, which would put a heavy burden on those people who are forced into early retirement by disability or job loss.

The Senate version also allows people who go on working after age 65 to draw full Social Security benefits starting in the next decade. This is a sweetener for high-income beneficiaries who would now have to pay taxes on their benefits, but it would also help people with relatively modest earnings.

If, as seems likely, the Senate approves the measure this week, the conferees will be in a happy position. They will need only to reconcile relatively small differences between two measures, each of which is a basically fair and responsible approach to dealing with an issue that can, without qualification, be rated as the most politically sensitive one on the American scene.

Note also that this has been accomplished without round-the-clock floor battles and encampments of the elderly staked out in the halls of Congress—and with admirable disregard for the million-dollar campaign of misleading argument launched by federal and postal workers' lobbies. It's enough to make you feel optimistic about the future of the republic.

Mr. MOYNIHAN. It comments upon the success of the Finance Committee, in the view of the Post, in fact improving upon a measure which the House passed which, in turn, improved on the proposals of the Commission.

With respect to a repeated theme of my friend's colleague's remarks that none of us would necessarily approve any of the details and many would disapprove of all, and yet together the weakness of each provision is the strength of the whole, a wonderful phrase, may I point out that in the House of Representatives Senator PEPPER, as he is referred to in that body, moved in the final House floor consideration an arrangement which would deal with the long-term problem without increasing the age of retirement. This had been a matter of the deepest concern and conviction on the part of Senator PEPPER for a very long while, and yet his measure lost and a measure did pass which would raise that age to 67, a measure never contemplated by the Commission, and which he and I and others opposed in the Commission, and yet even so CLAUDE PEPPER voted for this measure on final passage. That is what is at stake.

What is at stake is the stability and confidence in the singlemost important social program of the United States today, and the stability of the system as well, and in that context confidence in our ability to make hard choices, to say no even to our best friends when we judge the public interest to be otherwise because the public interest is everyone's interest,

even when narrowly perceived, particular interests differ.

I would like to make one statement then about the bill before us. In the Committee on Finance I moved a proposal to deal with the long-term problem, as it has been designated, by a proposal to raise the tax rates in the year 2010. This proposal did not receive the approval of the committee. It received the approval of a bipartisan minority of two, and with that in mind I thereupon proposed to both members who had voted for that to vote for the final proposal, and I do not mean to propose the matter on the floor.

I think the judgment of the Senate, as reflected in the Finance Committee, should be settled. Similarly in the House Committee on Ways and Means there was a proposal to deal with the long-term problem of shortfall by a combination of a reduction in benefits and an increase in taxes, and again while that was overwhelmingly approved in the Ways and Means Committee, it was not voted on on the floor, and I think it is well to proceed from where we are and not to raise that alternative either, and I will not do that. I will vote for the proposal as it emerged from the Finance Committee and hope it will not in any significant way be changed.

I would like to make several points that may not be as widely recognized or in some cases simply only recently have been established that are important in this matter.

First of all, with respect to the constituents, the beneficiaries from social security. It is commonly stated that there are some 36 million to 37 million beneficiaries of social security and there are some 110 million or 115 million persons paying into the system for the support of the beneficiaries.

Not so, Mr. President. Every person in the system, whether still actively employed and paying into it or retired and receiving from it, is a beneficiary of it, because social security provides the protections of insurance, life insurance, disability insurance, care of the widowed and the orphaned, for everybody involved. No person would deny that an insurance of that quality is a real benefit. In consequence of which I think it would be more widely understood that we are all beneficiaries of the system, those of us who are fortunate enough to be members of it, a condition which we hope that by the end of this legislation will be made universal.

The original 1935 legislation left out a number of groups. One by one they have been included. Now, with inclusion of Federal employees and, indeed, employees of the Social Security Administration, coverage will be as near to a reasonable possibility, universal.

A second point I would like to make is about the stabilizer, as we have come to call it, and the Senator from Kansas described it. I would like to note that during the course of the informal negotiations in January, we

were able to replicate the experience of the period 1977 to 1982, given the hypothetical existence of the COLA adjustment part of this stabilizer.

It is remarkable and important to note that had we had such a stabilizer in effect in 1977 we would not be on the floor today. There would be no shortage in the fund. On the other hand, we might not be on the floor today making changes that are in themselves wholly desirable—desirable because there are improvements in the system in this legislation. The Senator from Kansas mentioned but two—the 2 years of credit that are the dropout credit so called for women who are in the work force but leave to care for children and the gradual elimination of the earnings test for persons over 65 who continue to work.

Mr. President, I depart just a moment from any rigorous statement to an anecdotal one, but it is important. One of the great public men of the middle years of this century was Paul Appleby, confidant of President Roosevelt, Deputy Director of the Budget under President Roosevelt and President Truman, a great writer and teacher in public administration, a great American in every sense of that word. After a long life of public service and later dean of the Maxwell School at Syracuse, he retired. As most such men who had given their life to public service, he had no savings. He had only social security and the fact that he was still in demand for consulting and other duties, lecturing that he could carry out.

I remember, in my early years in Washington in the 1960's, how that great man had to make every decision about what he could do, where he could speak, in terms of would he lose his social security benefits if somehow he went over that \$6,000 limit. It was lower than that then. That will be behind us and ought to be.

I would note that there are a number of provisions that we are specifically correcting, such as inequities in the present system with regard to older women, and they too are additions to the system.

Finally, Mr. President, in order that we may have some sense of the magnitude of the measures we put in force today or tomorrow or the next day—and we must put them in force in this period in the Congress, else we cannot make the technical adjustments at the Social Security Administration to send out the June checks as they will be required—I would like to offer for the RECORD, Mr. President, estimates of the cumulative OASDI surpluses which this measure will bring about. We asked the Office of Actuary at the Social Security Administration to estimate the period during which the funds will increase from year to year until the first moment, the first year, at which it could be estimated they will decline. And the Office of Actuary reports to us that from the year 1982

to the year 2021, these funds, the OASDI funds, increase each year.

Now, we are cautioned that things can surprise us. But this is the Office of Actuary. They make the best judgment they can. And, Mr. President, at the end of that period, in the year 2021, the cumulative surpluses are \$12.1 trillion. That suggests a considerable achievement and the importance of this measure which we bring to the floor at this point.

I see that my distinguished friend, the minority whip, the Senator from California, is on the floor. We would be happy to hear his views on these matters.

Mr. CRANSTON. I thank my friend from New York. I appreciate his eloquent statement with regard to the importance of social security.

UP AMENDMENT NO. 68

(Purpose: To require the Secretary of Health and Human Services to prepare an implementation report on earnings sharing for social security purposes)

Mr. CRANSTON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. (Mr. PRESSLER). The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 68.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 172, between lines 5 and 6, insert the following new part:

PART E—EARNINGS SHARING IMPLEMENTATION REPORT

SEC. 161. (a) The Secretary of Health and Human Services (hereinafter in this Part referred to as the "Secretary") shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for earnings sharing legislation as described in subsection.

(b) The Secretary shall report such proposals to such committees not later than January 1, 1984. The report and proposals provided to such committees shall—

(1) take into account, discuss, and analyze the impact of earnings sharing on various categories of social security beneficiaries and include recommendations for the implementation of earnings sharing which may be necessary to provide adequate protection for particular classes of beneficiaries;

(2) include specific recommendations with respect to an appropriate and feasible time period or time periods for implementation of such proposals along with recommendations for any transition provisions which may be necessary or appropriate; and

(3) provide cost-impact analyses on each proposal presented.

(b) For the purposes of subsection (a), the term "earnings sharing" refers to proposals that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for social security benefit purposes.

(c) In preparing the report and proposals required in subsection (a), the Secretary

shall include consideration and analysis of the earnings sharing proposals contained in (1) S. 3, 98th Congress, 1st Session, (2) H.R. 1513, 97th Congress, 1st Session, and (3) the earnings sharing option described in the report entitled "Social Security and the Changing Roles of Men and Women", submitted to the Congress pursuant to Public Law 95-216, the Social Security Amendments of 1977.

(d) In carrying out subsections (a), (b), and (c), the Secretary shall consult with the Director of the Congressional Budget Office. Not later than 30 days after the Secretary submits the report required in subsection (a), the Director of the Congressional Budget Office shall submit a report to the committees identified in such subsection, on the methodologies, recommendations, and analyses used in the Secretary's report.

Mr. CRANSTON. Mr. President, this amendment would direct the Secretary of Health and Human Services, in consultation with the Committee on Finance, the Committee on Ways and Means of the House, and the Director of the Congressional Budget Office, to develop proposals for implementation of earnings-sharing legislation for the purposes of social security benefits and report those proposals to the appropriate committees of Congress no later than January 1, 1984.

I have discussed this with the distinguished chairman of the committee. I modified the amendment to meet one concern of his and I am delighted he now looks upon it with favor, and I trust that is also true with the distinguished Senator from New York.

BACKGROUND

Mr. President, last year I introduced legislation, S. 3034, and again this year as S. 3, which would provide for the establishment of a system of earnings sharing within the social security system.

Earnings sharing basically means that the combined earnings of a husband and wife during the period of their marriage would be divided equally and shared between them for social security purposes. Marriage, for the purposes of social security, would be regarded as an economic partnership and each spouse would receive equal social security credits for earnings accrued during the course of the marriage. The earnings-sharing concept is very similar to the community property model, which is increasingly the basis for division of all property or property rights—including private pension rights—acquired during marriage.

Mr. President, I was very pleased that 6 of the 15 members of the Social Security Reform Commission in January specifically referred in their supplemental statements to the earnings-sharing concept as the most promising and direct approach to dealing with the fundamental inequities faced by women under the social security system. They urged that steps be taken now to work out the details for implementation of earnings sharing. The amendment I am offering would set in motion the process toward devel-

oping a concrete and viable plan of action to achieve this goal.

IMPLEMENTATION REPORT: NOT A STUDY

Mr. President, I want to stress that this amendment does not call for another study. We did that in 1977. The 1977 social security amendments in section 341 called for HHS to study the problems facing women under the social security system. The report developed as a result of the 1977 amendments presented the earnings-sharing model as one of two possible options for dealing in a comprehensive fashion with the problems facing women under social security. Other commissions and task forces—both public and private—which have looked at the problem have also identified earnings sharing as the most promising alternative for providing equity for women under the social security system. What needs to be done now is to work out and test the details on how a specific earnings-sharing model can be implemented, and determine what type of transition provisions are needed and what modifications in the basic earnings-sharing concept are necessary in order to provide adequate protection for various categories of beneficiaries.

Mr. President, at the time I introduced an earnings-sharing proposal in the Senate, I noted that there were a number of complex technical issues that would need to be resolved during the course of consideration of earnings-sharing legislation. However, as one of the Social Security Reform Commission members noted in urging action on earnings sharing:

The fact that transition to such a program will be complex to design and implement should not prevent this much-needed change. Work on the program should begin now so that the details can be worked out and communicated well in advance.

The amendment which I am offering today is designed to do that. It is patterned after the amendment adopted in the 1982 Tax Equity and Fiscal Responsibility Act which directed HHS to develop specific proposals for implementation of prospective reimbursement for medicare. The expertise of HHS along with CBO would be focused upon providing Congress with concrete proposals and a data base upon which legislative action can be taken in the very near future. I am convinced that this type of implementing analysis should precede enactment of earnings sharing and that we need to take action now so that the technical and programmatic issues can be resolved in a responsible, yet timely fashion.

SOCIAL SECURITY AND THE NEEDS OF WOMEN

The principal problem with the current social security system as it relates to the needs of women is that the program has not adapted to the profound changes in the role of women in our society since the social security system was founded.

In the 1930's when the social security program was created, the typical

American family consisted of a man who was a full-time worker and his wife who was a full-time lifelong homemaker. The labor force participation was less than 17 percent and fewer than 1 in 12 marriages ended in divorce. The social security benefit structure was thus established on the concept of a lifelong couple with one wage earner and a dependent spouse.

The situation has dramatically changed over the past 50 years and the typical family of the thirties and forties is not the typical family of today. Women have become a major part of America's work force, enriching the world of work with their contributions and productivity, despite continuing wage discrimination and employment barriers. The percentage of married women in the work force exceeds 50 percent and it has been estimated that 90 percent of all women spend some portion of their lives in the work force, many of them moving in and out of the roles of wage earners and homemakers as the needs of their families change. It is no longer true that women are likely to be either lifelong homemakers or lifelong wage earners; these roles are combined and interchanged throughout a lifetime.

Similarly, we must recognize, like it or not, that the status of marriage has changed dramatically over the past 50 years. Today, one in three marriages ends in divorce.

Mr. President, despite these massive changes in our society, the social security system has continued to operate on the basis of a philosophy designed for an era when most women did not work and when most women were part of a lifelong marriage. Consequently, the current system works well only for those women whose family and work patterns have not changed from the thirties and forties. For the vast majority of women and families that no longer fit into that pattern, the system fails to provide either adequately or equitably for their needs.

Both homemakers and women in the labor force are inadequately protected under the current system.

Women who work outside of the home often find that their social security benefits are no higher than they would be if they had never paid into the system. Members of two-earner families often find that they receive lower social security benefits than one-earner families with precisely the same lifetime earnings records.

The inequities of the current system can be even more acute for those women who have been full-time homemakers and are displaced from that role, either by divorce or the death of a spouse. After years of work as a homemaker, a divorced woman may find herself without any work record of her own and eligible for social security benefits only as a dependent spouse—at 50 percent of what her former spouse receives. A homemaker also receives no protection against disability under the current system.

A woman who drops out of the labor force for child rearing is also penalized since the current system rewards continuous work patterns. Each year she remains out of the work force to care for her children can reduce her ultimate social security benefits.

Mr. President, under the earnings-sharing concept, the combined earnings of a couple would be divided equally. Each spouse would have a separate social security account and would accrue credits equally during the period of their marriage. Homemakers would receive disability and retirement benefit protection in their own right. The current bias against two-earner families would be eliminated. Women who enter and leave the work force to fill necessary child-rearing roles would no longer be penalized by gaps in their social security coverage.

Mr. President, the earnings-sharing concept represents a fair and equitable approach to revising the social security system to reflect the changing role and needs of women and their families.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I thank the distinguished Senator from California. The only question the Senator from Kansas had was the date. That has been changed to January 1, 1984.

Mr. CRANSTON. That is correct.

Mr. DOLE. As the Senator knows, the consensus package of the National Commission included some of the recommendations to improve the equity of the social security system for women. In addition, it includes a provision offered by Senator ARMSTRONG that has already been referred to, which will allow people who are out of the work force caring for children under 3 to drop up to 2 years of earnings in the computation of their earnings history.

I think this is a good amendment which I support. It does take it beyond the study stage. It indicates we shall develop in consultation with the Senate Committee on Finance and the House Committee on Ways and Means proposals for earnings sharing legislation described in section (b). That has been made part of the record.

I am prepared to accept the amendment. I thank the distinguished Senator from California not just for the amendment, but for his past interest in this problem. This is an area of discrimination or inequity, whatever we may call it. The Senator from California has been in the forefront in trying to correct it.

Mr. CRANSTON. I thank the Senator from Kansas very much.

Mr. MOYNIHAN. Mr. President, may I simply associate myself with the views of the chairman of the Finance Committee. This is a matter that the Commission did very much concern itself with. The amendment of the Senator from California will put that concern into statutory language and

set about a process by which we will be able to do this in the context of time and when we will more than likely have the funds. That is a necessary combination.

Mr. CRANSTON. I thank my friend from New York.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 68) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 69

(Purpose: To conform certain Veterans' Administration pension law to accommodate the proposed six-month delay in cost-of-living adjustments)

Mr. DOLE. Mr. President, I send a technical amendment to the desk on behalf of the distinguished Senator from Wyoming (Mr. SIMPSON) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SIMPSON, proposes unprinted amendment numbered 69.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, between lines 7 and 8, insert the following: (e) Section 403(b) of the Omnibus Reconciliation Act of 1982 (Public Law 97-253) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) shall apply with respect to amounts payable for periods beginning after May 31, 1983.

"(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 of title 38, United States Code."

Mr. DOLE. Mr. President, this amendment will not in any way alter the substance of the package of social security reform we are considering today. It will simply conform VA pension law to those reforms. It will affect only the payment of certain veterans' benefits, not the payment of any social security benefits. Its sole purpose is to protect VA pensioners from any reduction in their monthly benefits.

I think the Senator from California should be added as a cosponsor to the amendment.

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. SIMPSON. Mr. President, this amendment concerns the effect of the 6-month cost-of-living adjustment (or COLA) delay for social security on the Veterans' Administration improved pension program.

Pursuant to the reconciliation requirements imposed by last year's first concurrent budget resolution, Senate Concurrent Resolution 92, the Senate Veterans' Affairs Committee reported out legislative language which provided that, in computing amounts of monthly non-service-connected VA pension payments, amounts of 99 cents or less shall be rounded down to the next lower dollar. This provision, which was enacted as section 403 of the Omnibus Reconciliation Act of 1982, Public Law 97-253, was made effective "with respect to amounts payable for periods beginning after May 31, 1983," so as to coincide with the effective date, under section 3112 of title 38, United States Code, of this year's COLA for the improved pension program enacted in the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588). Under that section, monthly amounts of such pension are increased at the same time and by the same percentage as title II social security benefits are increased pursuant to section 215(1) of the Social Security Act, which currently provides that benefits shall be increased effective on June 1 of each year.

The congressional intent underlying last year's rounding-down enactment was stated as follows in the joint explanatory statement accompanying the conference report on the Reconciliation Act—House Report No. 97-759, at 83:

The conferees stress that this provision will become effective at the same time as the cost-of-living adjustment in the rates for the "improved" pension program (enacted in Public Law 95-588), pursuant to section 3112 of title 38, scheduled for June 1, 1983, with the result that no such pensioner's monthly rate will be, by virtue of this provision, reduced below the amount paid for the previous month.

We feel that, in order to preserve and give full force and effect to this congressional intent, it is necessary that any social security COLA delay that is enacted in S. 1 be accompanied by a corresponding and simultaneous delay in the effective date of the rounding-down provision contained in section 403 of the 1982 Reconciliation Act. Toward this end, the present amendment would delay the effective date of the rounding provision only with respect to improved pension while retaining that provision's current effective date—June 1, 1983—for old, nonindexed pension payable under section 305(a) of Public Law 95-588.

In short, Mr. President, this amendment is entirely consistent with the bipartisan program of reforms contained in S. 1, and is not intended to alter, amend, or undercut any of those re-

forms. I would strongly urge its adoption. ●

Mr. DOLE. Mr. President, I know of no objection. This has been cleared on both sides.

Mr. MOYNIHAN. Mr. President, it is emphatically approved by this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 69) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I rise in support of H.R. 1900, the bill reported by the Senate Finance Committee, to implement the recommendations of the National Commission on Social Security Reform.

Mr. President, at the outset, I would like to pay tribute to the chairman of the committee, Senator DOLE, whom Senator MOYNIHAN and I had the privilege of serving with as members of the National Commission on Social Security Reform.

I believe the Senator from New York referred to the first paragraph in today's Washington Post editorial which comments that at each step along the way the work of the Commission has been improved upon and that in the Senate and in the Senate Finance Committee it has been improved still further.

Certainly, we all are very privileged to have had the leadership of the chairman of the Finance Committee. He has been tireless in his efforts to find ways to do a better job within the understanding arrived at among the members of the Commission and with Senator BAKER, Speaker O'NEILL, and the President. I believe with his guidance and help we have indeed been able to do that.

I secondly want to pay my tributes to the senior Senator from New York, Senator MOYNIHAN, who, it is literally safe to say, rescued the Commission in its moment of deepest and darkest despair, namely on the very day that we were all coming back to the Senate floor on January 3 to business as usual. But since the Senator from New York does not go about business as usual and never has in his distinguished public career, he was able to restore the process that had somehow begun to drift away from us over the Christmas recess, and it is thanks to his initiative, and I mean this sincerely, that we are here at all. Any of the accomplishments of the President, the Speaker, or any of the rest of us would not have been possible without that initiative. I think we all owe him a deep debt of gratitude.

Indeed, Mr. President, I think that even the critics of this package—Senator ARMSTRONG, as a member of the Finance Committee and as a member of

the commission—have had a very positive, salutary impact upon it.

Several of the amendments in this legislation come about because of the interest of Senator ARMSTRONG in trying to make sure that this package really did the job. I do believe that this package does do the job and, in that respect, rises above even the most optimistic expectations that any of us might have had for this effort.

When I say it does the job, I do not mean that it just addresses the short-term deficit; I do not mean that it just addresses, for the first time that I am familiar with, the long-term deficit. It does so with a variety of safeguards and policy choices that are both responsible and necessary. Uneasy choices admittedly, but responsible and necessary assuredly.

I shall have more to say about that in just a moment, but the reason I stress that point is that, at this very moment, roughly three out of four Americans under age 45 say to people like Lou Harris or George Gallup that they do not believe there is going to be a social security system when they retire. This bill, which does the job in meeting the solvency tests not just of the next 6 years but the next 75, should help restore public confidence in substantial measure. If there is anything we politicians are capable of doing, we should meet the test of reassuring those millions of Americans upon whom the very continuation of the social security system truly depends.

I have often said that this legislation is important not just to 38 million people—the retirees, their survivors, those who are disabled—by securing them against some kind of catastrophe, but I think it secures the interests of the 100-million-plus payees into social security. When we pass this bill, we cannot be accused any more of giving only some kind of idle chatter or meaningless talk when we give a commitment to a strong social security system.

This bill insures the future financial integrity of the old age, survivors, and disability insurance trust funds. It provides a rescue plan which should hearten all beneficiaries and workers who have feared for the future of the social security system.

Contained in this bill are measures which can restore the solvency of social security for the foreseeable future with no reductions in current social security benefit levels and no increases in payroll tax rates above those already scheduled in the law. The bill reaffirms the soundness of the basic structure of social security by making balanced and minimal adjustments to provide immediate relief from the short-term financing problems and to restore the long-term solvency of the program.

MEETING SHORT-TERM FINANCING NEEDS

The financing package reported from the committee improves the fi-

ancing of OASDI by \$165.5 billion over the next 7 years under intermediate assumptions. With only a modest improvement in the economy, this amount will be sufficient to pay benefit checks on time throughout the rest of the decade without resorting to any of the various fail-safe provisions in the bill.

However, in the past the Congress has been overly optimistic in its financing assumptions. The 1977 amendments were based upon intermediate assumptions which projected surpluses in OASDI beginning in 1980, with reserves accumulating to 7 months of outgo by 1987. Instead, because of several years of unanticipated double-digit inflation, declining real wages, and high unemployment, deficits continued in OASDI, drawing reserves down to 1 month's payout by the end of 1982.

The significant departure from previous social security financing efforts in this financing package is that it is, in fact, going to do more than merely enable social security to squeak through the decade under some kind of middling or, if you will, intermediate assumptions. The bill contains, through the direct financing measures that have been well recorded, a number of fail-safe provisions designed to go into effect whenever reserve levels become dangerously low. The first failsafe is the automatic crediting of the trust funds with a full month's revenue whenever reserves fall below 12 percent of annual outgo.

This tax transfer enables the trust funds to continue making timely benefit payments as long as monthly revenues will cover the checks. The second fail-safe is authorization to continue borrowing among the three trust funds until 1987. If these two provisions are insufficient to finance benefit payments, the third fail-safe, a graduated COLA reduction, would be triggered into effect, with appropriate notice.

The short-run financing safeguards in this package are important because they should enable social security to continue making timely benefit payments even if economic conditions, contrary to expectation, deteriorate through the rest of the decade. Even under the social security's trustees most pessimistic economic assumptions, only the use of normalized tax transfers would be necessary to enable social security to continue making benefit payments without interruption throughout the decade.

So, Mr. President, in sum, what we have achieved is a new effort to plan for the worst, and it is significant because, in the past, we have always planned while hoping for the best.

Mr. President, that has not, as we know, been good enough. This effort today before us reverses a good deal of wishful thinking, that I wish we had not done.

The bill before us provides adequate short-term financing for social secu-

ity without placing an undue burden on any single group of beneficiaries or taxpayers. Ultimately, there is no painless solution to social security's financing problems, but this package spreads the pain that there is as evenly as possible. About a third of the \$165.5 billion in new financing would affect employers and workers, a third would affect other accounts in the budget, and a third would affect beneficiaries. Because the financial burdens are broadly shared, they are minimal for any particular group of individuals.

In addition, the timing and sequence for implementing the various proposals in the package is designed to cushion their impact. The substantial immediate financing need in social security would be met primarily through transfers from other accounts in the budget—\$19.2 billion would be transferred from the general fund in the first year alone. Significant payroll tax increases would be postponed until the last 2 years of the decade to avoid any adverse consequences for economic recovery. The sequencing of this financing package makes it possible to provide sufficient revenues in the early years without drastic or immediate changes in the structure of the system.

I would like to say a few words about long-term financing.

More impressive than the success of this legislation in resolving the short-term financing problem in social security is the fact that it would totally eliminate the long-term deficit currently forecast under intermediate assumptions, for the first time in a decade. The Congress has faced a projected 75-year deficit in OASDI continuously since 1972. Enacting the Senate bill would actually leave the trust funds with an unheard of long-run surplus of 0.08 percent of taxable payroll. Enactment of this bill would thus do more to restore public confidence in social security than any other single action the Congress could take.

Two-thirds of the financing improvements in the long run come from proposals which are included primarily to meet the immediate financing needs of the program. The other third comes from a combination of proposals designed specifically to resolve the long-term financing problem. This long-term solvency package incorporates four changes which in combination improve the financing of the program by an estimated 0.74 percent of taxable payroll over the next 75 years. These changes are: One, to gradually raise the age of normal retirement from 65 to 66 between 2003 and 2015, leaving the early retirement age at 62; two, to gradually reduce relative benefit levels in OASDI by 5.3 percent between 2000 and 2008 so that by 2008 workers on average would receive 40 percent of their preretirement earnings from social security, instead of the 42 percent anticipated under current law; three, to gradually phase out

the earnings limit for persons 65 and older beginning in 1990, by raising the limit by \$3,000 a year over the indexed amount until the earnings limit is completely eliminated in 1995; and four, to allow persons who leave the labor force to care for a child under 3 to include 2 additional dropout years in computing their social security benefits.

Splitting the long-run solution between raising the retirement age and reducing replacement rates spreads the added costs of financing the projected growth in the beneficiary population equitably among those who will be beneficiaries in the 21st century, and provides adequate advance notice to all who will be affected in those years. There are sound arguments in favor of each of these adjustments. By combining them, it is possible to make only minor adjustments to assure that adequate social security benefits are available for all those who will rely upon them 30 or 40 years from now.

One element of the long-run solution is to raise the normal retirement age by only 1 year. This increase in retirement age is only a partial response to increases in life expectancy which have occurred over the past 40 years and are expected to continue over the next 60. For men aged 65, life expectancy has increased by 2 years since 1940 and is expected, under intermediate assumptions, to increase by another 3 years before 2040. For women aged 65, life expectancy has increased by 5 years since 1940 and is expected to increase by another 4 years before 2040. An increase of 1 year in the normal retirement age is a modest response to this change.

I was very pleased with the third paragraph in today's Washington Post editorial, which I am going to quote. It says:

The Senate Finance Committee bill, which will come to the Senate floor this week, provides additional protection for the fund in the event of severe recessions and a better long-term plan for shoring up the program. The retirement age would be postponed by only one year and the needed savings would come from a slight reduction in benefits for all new retirees. This is a much fairer approach than that taken by the House, which would put a heavy burden on those people who are forced into early retirement by disability or job loss.

Mr. President, that is exactly right. We have a far better bill than the House, which mandates that the retirement age eventually change from age 65, not to age 66 but to age 67. What we have done to pick up the additional money is, in effect, lower the so-called replacement rate by about 5 percent. What that means in English is that, in comparison to the roughly 42 percent of earnings replacement—preretirement earnings replacement that people now get from social security—that percentage, instead of being 42 percent, will be about 40 percent replacement, a very small change, indeed. That change would be gradual-

ly phased in from the year 2000 to 2008. It is a change of such a small magnitude that we can say with virtual assurance that the standard of living of people retiring just on social security will be, notwithstanding that change, substantially better than it is today.

The reason we can say that, Mr. President, with some assurance as we look 25 years into the future, is that it has been historically true over long periods of time that wages grow substantially faster—history says 1.5 percent faster—than prices. If you take the conservative estimate and say wages are going to grow 1 percent faster than prices, what that means is that preretirement earnings 25 years from now should be reflecting, even with those conservative assumptions, a 25 percent improvement in the real standard of living for all Americans, including those just about to retire.

What that means, Mr. President, is that, even with this change in the replacement rate, there will be a very substantial improvement in the standard of living, not just for Americans before they retire but for those after they retire. And we have met our commitment to insure that all Americans, retired or not, do participate in the real growth of this country. I am very pleased to have been able not only to make that commitment, but to keep it.

Mr. President, one of the things that is unfair about raising the retirement age to age 67 is that it affects different people very unequally. It is not that it is illogical policy. It is not illogical policy because we are living longer. We are expected to live longer with the additional advances in medical science. Indeed, life expectancy, as I have said, has increased for men of age 65 by 2 years since 1940. It is expected under intermediate assumptions to increase by another 3 years before the year 2040. For women aged 65, life expectancy has increased by 5 years since 1940, and it is expected to increase by another 4 years before the year 2040.

In addition, an increase in the retirement age 20 years from now should coincide with changes in preferences for work after the turn of the century. Today, quite naturally, workers who have spent 40 years on the production line or in manual labor look forward to retirement at age 62 as a right they have earned. In addition, employers facing labor surpluses have been willing to offer older workers added pension benefits to take early retirement. With few other job opportunities, older workers encouraged to terminate with one employer stand little chance of finding employment with another. Early retirement benefits under social security have provided the unemployed and the unhealthy older worker a chance to retire early with some dignity.

However, there is an increasing probability that preferences and opportunities for work will be quite different after the turn of the century.

Demographers project the development of labor supply shortages toward the end of this century, leading to an increasing demand for older workers. In addition, today's younger generation, which entered the labor force later, has developed a higher level of education and skills, and has worked in less physically demanding occupations than their elders, may prefer to work longer than the current generation of retirees.

While the average worker may choose to delay retirement, there will still be categories of workers—primarily those in stressful or hazardous jobs—who will need to maintain the option to retire early. There will continue to be workers with poor health, low skill levels, and inconsistent work histories who will be unable to work or will be unable to find employment when they are older.

For those who can work longer, raising the retirement age will conform to their choices and their opportunities. Combined with the incentives in this package to delay retirement—the increase in the delayed retirement credit and phase out of the earnings limit—raising the retirement age should help to dilute the strong association which has existed in the past between age 65 and retirement.

So, while people may be living longer, there is very inconclusive evidence that those living longer are going to be able to work proportionately longer.

In technical terms, our improvements in morbidity do not necessarily keep up with our improvements in mortality.

For those who can not continue working past age 62, improvements should be made in disability insurance (DI), supplemental security income (SSI), and unemployment compensation to assure that those unable to work longer are not unfairly or unnecessarily punished for events which are fully beyond their control. Raising the retirement age only 1 year assures that benefit changes from this proposal will be modest.

It is for that reason that I am going to offer an amendment that is going to urge that there should not be action taken in the future to make improvements in our disability insurance program, to make improvements in our supplemental security income program and in unemployment compensation, to assure that those people who are unable to work longer are not unfairly or unnecessarily punished for events which are beyond their control. When I say they would be punished, imagine, if you will, the difference in circumstances between someone who might have to retire at age 64 under current law versus age 64 under the House proposal. The difference in today's terms would be that if the House bill were enacted, the individual would be forced to take roughly a 14-percent cut in retirement benefits—while others who could work longer would take no

cut in benefits at all. That is what I mean by an unequal burden.

In addition to raising the retirement age 1 year, the long-term solution embodied in this bill would reduce relative benefit levels for future retirees by 5.3 percent from those anticipated under current law. This adjustment would be accomplished by gradually reducing the percentage factors in the benefit computation formula beginning in 2000 until a 5.3-percent reduction is achieved for those becoming entitled to benefits after 2007.

Interest in slowing the growth in real benefit levels in the long run has resulted from concern about the effects of the tremendous ad hoc across-the-board benefit increases granted to social security beneficiaries in the late 1960's and early 1970's. Across-the-board increases of 43 percent between 1968 and 1971 and 20 percent in 1972 raised nominal benefit levels by more than twice the rate of inflation. These substantial real increases in benefits helped in the early 1970's to cut the rate of poverty among the elderly in half. However, coupled with unintentional increases in real benefit levels resulting from the "double-indexing" of initial benefits in the mid-1970's, these increases also contributed to the decline in essential trust fund reserves. The 1977 amendments reduced the projected long-run replacement rate for future beneficiaries from 55 percent to 42 percent in an effort to stabilize the financing of the program. Some believe this still left long-run replacement rates nearly 10 percent higher than intended in the legislation of the early 1970's.

An across-the-board 5-percent reduction in benefits would still provide for real increases in benefits in the future. However, social security benefits would be slightly lower in relation to preretirement earnings than they would be under current law. Because this adjustment in benefit levels is accomplished through the benefit formula, it will affect all social security beneficiaries—retired, survivor, and disabled—equally, unlike the adjustment in retirement age which would affect only retired beneficiaries. For this reason, it spreads a relatively small adjustment across a much larger group than the group affected by the retirement age. And the adjustment is fairer, because it makes the same proportionate reduction for everyone, rather than have its effects on benefits vary depending on the responses of individuals.

The combination of these two proposals in the long run, accompanied by benefit increases to encourage delayed retirement and special programs to aid those who cannot delay retirement, should result in relatively minor benefit adjustments for any particular group of individuals. As with the changes made in the short term to meet the emergency financing needs of the program, the long-term changes

represent a blend of proposals to achieve a fair and balanced package of reforms to insure the continued viability of the social security program.

In conclusion, the most serious problem in social security has not been the financing shortfall, but the crisis in public confidence. In the last few years, the proportion of the population between 18 and 49 with little or no confidence in the future of social security has grown from just under half to over three-quarters. This massive loss in public confidence should be genuine cause for alarm because the whole social insurance system rests upon a compact across generations. Younger workers pay taxes to finance benefits to today's retired and disabled beneficiaries with the expectation that younger generations of the future will do the same for them when it is their turn to retire. Growing doubts about the future of social security threaten to undermine the willingness of workers to support the payroll tax upon which the entire system rests.

The bill before us represents a dramatic step toward restoring public confidence in social security. For the first time in more than a decade, with the enactment of this legislation, there will be no long-run or short-run financing shortfall in social security. In addition, despite the years of public debate and political stalemate leading up to this legislation, the Congress has demonstrated this year that it can work quickly and in a bipartisan fashion when necessary to maintain this important social institution. The commitment to preserving the social security system which we demonstrate by our actions this week will be an important indicator to today's younger workers that social security is as permanent as the Government which operates it.

I think, Mr. President, that our bill achieves a good balance. I hope we do not retreat from the position in this bill in conference, and that we fight very hard to retain the ability of people who, having retired, will not see their earnings taken away and offset their social security.

We, as you know, do eliminate in this legislation, starting in 1990, the so-called earnings test, to which I say good riddance, because it has achieved a good deal of confusion, discomfort, and even heartbreak for many rather fearful senior citizens who have worried that if they earned, somehow, \$1 dollar more than the \$5,500 or \$6,000 the law permits without an offset, they somehow were doing something wrong. I also think that the provision added by the Senator from Colorado in the additional dropout years for women is a very important step forward.

So, Mr. President, in sum, I hope my colleagues will support this measure. It represents an enormous amount of work. It is something that all members of the Finance Committee made major contributions to. I do not think any of

us would labor under the illusion that it is totally perfect. We do not know how to write perfect legislation yet and probably never will, but this is as good a product as has been my privilege to work on behalf of, and I do urge my friends and colleagues to support it.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, before the senior Senator from Pennsylvania may have to leave the floor, I should like to have him hear from me in person just this one statement. He called attention to the editorial comment in this morning's Washington Post which, very accurately in my view, states that the provisions that the Senate Finance Committee made to resolve the long-term gap in the deficit, that period which appears in the outer third of the 75-year period, are superior to those that emerged from the House.

What the Senator from Pennsylvania did not say is that it is he who fashioned that provision, and it was his efforts, his ability, to see the parts of compromise, bring a coalition together, that not only passed the measure in the Finance Committee but earlier I observed, that although alternative arrangements had been contemplated by the Democratic members of the Commission, we would not offer them. We would support the measure as was reported. And whilst I thank him for his extraordinarily generous remarks about the Senator from New York, I would like to put the record clear about who did this job. It was the Senator from Pennsylvania.

I should like to add one other note. We have been doing some quick calculations on the subject of what Keynes called "the miracle of compound interest," and I would report to the Senator and to the Chamber that if real wages rise 1.5 percent in the next 30 years, which is a very modest rise, certainly historically attained, real wages will be 56 percent higher than they are now. If as a result of the changes in this program, the wage replacement rate of benefits is 40 percent rather than 42, we will still be working from about a 50 percent higher base, so that real benefits will be very considerably higher. I again thank him for his generosity.

Mr. HEINZ. If the Senator will yield, the Senator is absolutely correct: I had meant to say this, but I do thank the Senator for his kind words. He is quite right about the miracle of compound interest. I had left that out of my explanation not because I am totally unaware of compound interest.

Mr. MOYNIHAN. Oh, no, the Senator stated it. We just did the calculation.

Mr. HEINZ. It is very true that what we have before us is a very happy prospect for future generations of Americans, one that they did not necessarily face a year ago when we faced

as a Congress the issue of social security in some disarray and confusion.

I thank my friend from New York for all his very kind words.

Mr. DOLE. Will the Senator from Pennsylvania yield?

Mr. HEINZ. I would be happy to yield.

Mr. DOLE. I also extend my thanks to the distinguished Senator from Pennsylvania, and I think the record should reflect that when we were trying to figure out what to do in Alexandria, Va., last November after a 3-day session in the Ramada Inn there, as I recall, it was the Senator from Pennsylvania who first broached the idea of sort of splitting it down the middle, at least getting us to think about how we are going to bring all the factions together. And that became sort of the starting point of the negotiations that started again in January.

For that effort we will be eternally grateful to the distinguished Senator from Pennsylvania, and we appreciate this constructive action not only at every Commission meeting but particularly that particular day when we seemed to be bogged down and not really going anywhere. Even though we did not adopt that specific recommendation, it became the basis for the compromise which was ultimately adopted by the Commission. I thank the distinguished Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Kansas.

Mr. ARMSTRONG. Mr. President, I want to join others who have spoken in complimenting the members of the Senate Finance Committee, especially its distinguished chairman, for producing this legislation, a feat which many thought would be impossible, even quite recently.

I must say that the scholarship and resourcefulness of the chairman of the committee, Mr. DOLE, is well-known to this body; but in this particular instance he has performed a near miracle by the leadership he has given to the Senate, not only in his stewardship of the Finance Committee but also in the way he helped shepherd this matter through the National Commission on Social Security Reform.

I also join the Senator from New York in congratulating the Senator from Pennsylvania. I agree with what he has said and Senator DOLE has said about the pivotal role JOHN HEINZ has played not only during the past few weeks but also from the start, and especially through the crucial—and at one point quite dark—days of the National Commission on Social Security Reform, when many were wringing their hands and, privately at least, confiding that this would not work out.

The Senator from Pennsylvania did not lose faith. He made many proposals which formed the basis for further

action and really set the stage for bringing this matter to fruition, for which we are all indebted to him.

I compliment particularly my colleague from New York, Mr. MOYNIHAN. He and I have discussed this matter on many occasions, in many forums—on the floor of the Senate, in the Finance Committee, the National Commission, on television. On practically every street corner in America, PAT MOYNIHAN and I have discussed these issues. We have agreed sometimes, and a lot of times we have not.

I must say that his mastery of the subject and his obvious understanding of the broad historical perspective in which social security must be viewed, his feeling for the technical ins and outs of the legislation, his scholarship and, like the others of whom I have already spoken, his faith that ultimately we would pull a rabbit out of the hat, have been an inspiration to me.

I compliment and congratulate him, and I announce that I have enjoyed working with him in this matter and others, but especially this most difficult of issues.

Mr. President, I wish also to say a word of congratulation to Alan Greenspan, who was the Chairman of the National Commission on Social Security Reform. We all know that Alan Greenspan is a brilliant man, but he is also a man of extraordinary patience. In fact, often, as the Commission deliberations droned on, I saw Alan, seated at the head of the table, patiently listening to all the points of view and then synthesizing the increments on which we could agree and, in a gentle and courteous way, proposing that we lay aside those matters about which we could not agree, and taking one tiny victory after another and building on it and finally leading us, by painful steps, to a compromise which was agreed to by a large majority of the Commission.

I say that as one who was not a part of the 12-member majority. I was part of the minority who did not think that, in the form recommended by the Commission, this was a satisfactory answer; but it does not lessen my admiration for the skill and dedication with which the Chairman of the Commission, Alan Greenspan, approached this task.

I will not mention them one by one, but I also want to say, for the benefit of my colleagues who did not have the privilege of serving on the Commission, that the public members who served did so with great distinction and did so with an understanding and expertise that I think is unusual in a citizen commission.

It is very difficult even for a Senator or for a Member of the House of Representatives, who has staff resources, who has experience dealing with legislation, to really come to grips with it. But for someone who is a businessman or a lawyer or who is not engaged in framing legislation every day, I think

it is remarkable that they were able to participate in such a productive way.

I must say that it enriched my life to know these people on the Commission and to work closely with them.

I doubt if there has been a single issue during my years in the Senate which has been as politically charged as the question of social security reform. I suppose that is only natural because social security is inherently such an important issue. It is the financial lifeline for 36 million Americans, and for some of them it is literally that—a lifeline. The arrival, in a timely manner, of the expected social security check is an issue which is not of passing importance or peripheral interest to some of these recipients. It is literally what they depend upon to have something to put on the table for the next meal and to pay their utility bills, rent, and so forth.

Over the years, social security has gradually become an extraordinarily important feature, not only in the economic life but also in the personal life of many Americans. We all know that, and I suppose it is for that reason that it has become an issue of such great political sensitivity.

I recall vividly that when I first convened a hearing about 2 years ago in the Senate Finance Committee Subcommittee on Social Security and Income Maintenance to explore the condition of the trust fund and to raise the question of whether or not the trust fund was on solid ground, it provoked a lot of comment. Some of it, I must admit, surprised me, because I thought it was obvious at that moment that social security was in deep trouble. Reserves had been drawing down for a decade. In those days, the fund was losing money at the rate of \$12,000 or \$13,000 a minute. It was clear that Congress had committed itself to benefits in excess of resources on hand.

Over the long term, the actuaries were saying at that time that there was a deficit in the trust fund, in 1981 dollars—because we were then talking about 1981—in excess of \$1.6 trillion.

I had no doubt that there was a problem, but it was interesting to me that many people, including some in Congress and a lot throughout the country, did not share my feeling that something needed to be done. I think perhaps the most important single achievement, among several achievements, of the National Commission on Social Security Reform was to help crystalize opinion in the country and in Congress that something must be done.

As one newspaper editorialized at the time, the first step to solving any problem is to admit it exists. In a way that was not confrontational, in a way that was not embarrassing to anybody, it permitted all of us to get under the same tent and agree that a large problem exists in the short term and the long term and that something should be done about it.

When the Commission issued this report, it said that we could expect a trust fund deficit during the remainder of this decade of between \$150 billion and \$200 billion and a potential deficit in excess of 1.8 percent of payroll—I guess 1.1 percent of payroll in the longer term. Since that time, the actuaries have adjusted the target a little and now say that the potential long-term deficit is a bit over 2 percent of payroll, a change which comes at a somewhat awkward moment, but something I think not to be too concerned about because, after all, we are talking about future projections. We are talking about things that, in the end, are unknowable until they occur. But I am pleased to note that the Commission's report, in the process of being considered by Congress, has been amended to include the full long-term deficit.

With that as a background, let me put the bill before us in the perspective of the Commission's report.

I objected, along with two other members of the National Commission on Social Security Reform—Mr. Waggoner of Louisiana, a former Member of the House of Representatives, and BILL ARCHER, a present Member of the House of Representatives and a member—perhaps others would agree, a very knowledgeable member—of the House Ways and Means Committee and a recognized authority on social security. The three of us—Mr. ARCHER, Mr. Waggoner, and Mr. ARMSTRONG—disagreed with the Commission's recommendations for several reasons, and our concerns basically were these:

First, we were determined that any final resolution of the social security issue ought to be on the basis of assuredly solving the problem.

Recognizing that there are no guarantees in this world, and recognizing that there is no 100-percent certainty of anything in the future, we wanted to fashion a package which would close the gap as surely as we could do so. We felt that the long-term solution as it came out of the Commission fell short of that, in that it left a sort of either-or process.

The Commission's recommendations provided nearly 1.22 percent of payroll rather than the full amount of long-term deficit and settled the short-term problem, which the Commission identified as between \$150 billion and \$200 billion at the low end of that range.

Moreover, I was fearful that the actuarial assumptions used in at least certain portions of the report might prove to be optimistic. My first concern that we close the gap and do so without any question.

I am pleased to come before the Senate today and say that, in my opinion, the bill which is recommended by the Senate Finance Committee, because of the amendments which have been adopted or recommended by the Finance Committee for adoption by the Senate, will in fact close the gap.

Now that does not say that there still could not be an unforeseen event intervene, but within the reasonable range of economic projections I think we can be confident that the benefit restraint which has been enacted, together with the increase in the age and the fail-safe mechanism which has been described earlier, can assure with a very high degree of certainty that social security will not be running short of money any time in the near future, perhaps for the remainder of our lives.

In my opinion, that is critical for reasons that have already been stated.

The Senator from Pennsylvania pointed out that many people, particularly younger workers, have expressed great criticism about whether or not social security was on a sound basis, whether it would be there when they retire. It is really crucial, in my opinion, that we secure public faith and confidence in the social security system because younger workers are not going to willingly pay taxes month after month, particularly rising taxes, into a system if they do not have the confidence at least when they get to the retirement age there will be something there for them to retire to.

Second, it is crucial for us to shore up public confidence because of the experience we had in 1977. At that time it was believed, and I am sure in good faith, that the action taken by Congress would put social security on a sound basis for a half century or more, and we were assured that that was the case. Five years later we were right back in the same dilemma that we had been in in 1977. I just do not think we can afford to have a repetition of that and come back in 1985, 1986, 1987, 1988 or 1989 or any time I hope within the service of the Senator from Colorado in this body, ever come back to this issue again.

The second concern that I felt about the long-term outlook for social security was the need to do something to raise the normal retirement age.

The idea of gradually increasing in some way or another the normal age of retirement had been previously recommended prior to the consideration of the National Commission on Social Security Reform by the Advisory Council on Social Security, the President's Commission on Pension Policy, the Council of Economic Development, the U.S. Chamber of Commerce, the American Association of Pension Actuaries, the National Association of Homebuilders, the National Association of Wholesalers and Distributors, the American Council of Life Insurance, the National Association of Life Underwriters, and for that matter by committees of Congress.

And each of these committees and groups had recommended that in one way or another we should increase the normal retirement age. The need to do so is obvious, it seems to me, and in fact I am convinced that the centerpiece of any kind of permanent sound

social security reform must be gradually increasing the retirement age. The need to do so is emphasized by the fact that the life expectancies of persons in this country have been rising and rising very rapidly so much so, Mr. President, that a person who is 71 years old today has the same life expectancy that someone who was 65 had at the time social security was enacted.

If we do nothing about increasing the age in some way, not drastically, not abruptly, but surely over time, if we do nothing, it will be impossible, in my opinion, for us to have a sound retirement system because the combination of taxes and/or benefit restraints that are implied if we keep funding longer and longer years of retirement when people are working fewer and fewer years is simply untenable, and we are right at the outer limits of that at the present time.

There are several proposals for increasing the age which have been suggested. Frankly, just about any of them are acceptable to me, provided that they are not abrupt, that they do not disrupt the retirement planning of people who are at or close to retirement and, second, that they get the job done over a gradual phase-in period of time.

I see in the Chamber the Senator from Idaho who I think may even offer an amendment on this subject, and I will support him. His amendment he can explain to the Senate, but it has to do with gradually increasing the retirement age over a 36-year period, I believe, doing it at the rate of 1 year each month.

Mr. SYMMS. One month each year.

Mr. ARMSTRONG. I beg the Senator's pardon. The Senator is correct, raising the retirement age by 1 month in each of the next 36 years so that 36 years from now people would retire at age 68 normally rather than age 65.

The House of Representatives adopted a slightly different approach which raises normal retirement age to 67, phased in after the turn of the century.

My our favorite proposal, as many Senators have heard me discuss before, was item F-12, option F-12 in the Commission book which simply said that after the turn of the century we would increase the normal retirement age from 65 to 66 and thereafter index future changes in the retirement age changes in longevity.

The actual proposal which is recommended to us by the Finance Committee is a combination of raising the retirement age from 65 to 66 gradually after the turn of the century and making the kind of changes in the replacement ratio which have been described earlier by the Senator from Pennsylvania.

In fact, it was he who engineered the compromise which worked out the various conflicting points of view which has led the Finance Committee to recommend this formula.

It is not my favorite approach. In my opinion option F-12 remains the best of these several ideas. But I think that the compromise which the Senator from Pennsylvania put together in the committee and is now the Finance Committee amendment on this subject is a good one and I intend to support it.

I say to my friend from Idaho that if he offers his amendment I intend to support that also, but it underscores the point that the issue is in some way gradually raising the retirement age and I am fairly flexible about exactly how to do it.

The third area of broad concern to me is the need for benefit restraint. We have not done as much in that area as I would like, although I have pointed out one aspect of the compromise put together by the Senator from Pennsylvania is a very modest degree of benefit restraint after the turn of the century to lower the replacement ratios.

In addition, the Commission has recommended a brief delay in the cost-of-living adjustment during this decade. That is not a very great degree of benefit restraint. It is a little something. In fact, it is priced out to be \$39 billion over the decade. That is the amount of savings from a 6-month cost-of-living adjustment delay.

This has to be measured, I think, against the fact that we are projecting cost-of-living adjustment benefit payments between now and the end of the decade of \$259 billion. In other words, we are going to pay out about \$2 trillion in benefits between now and 1990 and a part of that will be \$259 billion arising from COLA adjustments.

To save only \$39 billion on COLA adjustments in this decade does not seem to me to be very burdensome. In fact, it does not seem to me to be, frankly, enough either from an economic standpoint or from the standpoint of justice. And here is why I think it would really be just to save a bit more than \$39 billion.

During the last decade the cost-of-living adjustments in social security have risen about twice as fast as have the wages and salaries on which these benefits are based and significantly have gone up about 50 percent faster than the consumer price index which is the presently accepted measure of the cost of living for retirees.

So I think both economic issues and fairness issues could have called for a greater degree of restraint in the cost-of-living adjustment. However, I do note with satisfaction the proposal which was adopted and recommended by the Finance Committee for a graduated cost-of-living adjustment benefit restraint when the trust fund is in a less than 20 percent reserve ratio condition and when reserves are dropping.

That proposal which has been described earlier I think by the Senator from Kansas simply says that when the trust fund gets into trouble, when

it is below 20 percent, when the reserve ratio is dropping, then we will implement a degree of restraint but holding harmless those benefits of recipients at the lowest end of the spectrum, and that addresses itself I think very neatly to one of the problems in the COLA system at the present time and it is just this: When you try to save money out of the COLA's, you quickly run into the question of how can you say that a 3-percent adjustment or a 4-percent adjustment for someone who is only getting \$300 a month is too much. How can you say \$9 a month is too much of an increase? It just does not seem fair on the face of it to suggest that such an increase is excessive.

But under the present system, without the graduated COLA amendment contained in the Finance Committee bill, under the present system, in order to get \$9 to a \$300-a-month recipient, you have to give \$50 to someone who is at a higher level of benefits, and so the solution to this that I support and which I think really is an admirable approach is that in the event that automatic COLA restraint is required by the condition of the trust fund, we are going to hold harmless those who are at the lowest end of the spectrum and make the savings among those who are at the higher benefit levels and are, therefore, presumably better able to care for themselves without as much help from social security.

Mr. President, these are the changes that have been made which I heartily endorse. I think the bill is in many ways a good bill. It is vastly better, in my opinion, than the initial recommendation of the National Commission on Social Security Reform. It is a better bill in its present form than that which was passed by the House of Representatives, although I must say I was pleasantly surprised, I was pleased, I was gratified by the action of the House of Representatives and the statesmanship that was shown by the House of Representatives, but this is even a better bill.

(Mr. SPECTER assumed the chair.)

Mr. ARMSTRONG. There remains, however, one glaring area of problem in this bill. A number of Senators have referred today to an article in the Washington Post, an editorial comment, and I noted it was quoted repeatedly. So I also want to quote an editorial, not from the Washington Post but from the Wall Street Journal, which more accurately expresses my point of view. It comes to us under the headline of "An Imperfect Compromise" and I shall only read you a single sentence of this brilliant editorial which, by the way, I will send to the desk and ask unanimous consent it be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. But here is what the Wall Street Journal says about this compromise:

Congress idea of a compromise as usual relies heavily on tax increases.

Mr. President and my colleagues, that is the one real shortcoming that remains in this bill, which is it is too heavily dependent upon massive increases in taxes upon those who have already been heavily taxed.

In 1977 when we last faced this problem and when we designed a system of shoring up social security, which we believed would last for half a century, Congress was persuaded to concoct the largest tax increase that the world has ever seen, and now like *déjà vu* we are being asked once again to enact a massive tax increase.

As one reflects upon the proposed increases in taxes contained in this bill, it is good to remember that during the decade of the 1970's the social security tax maximum quadrupled and these taxes will triple again in the 1980's before we even start looking at the recommended tax increases in this bill.

Yes, I did say there will be a twelve-fold increase in social security tax maximums during the 1970's and 1980's before we consider the enactment of the tax increases contained in this legislation.

Today, Mr. President, the average working man and woman pays more in social security taxes than they pay in Federal income taxes. It is a burden of importance and keenly felt significance in the lives of working men and women in this country.

Nor is this burden inconsequential to the companies involved. Recently I was up in Detroit, Mich., where unemployment is a problem of truly poignant concern and not just an economic problem, it is a human tragedy of great proportions, and I learned to my surprise that the Big Three automakers paid twice as much in payroll taxes in the last 5 years as their combined net profits. Now that is a big bite into the resources of these great companies, and it is not just automobile companies. It is every manufacturing and service industry in this country. As a matter of fact, the CBO warned in 1977, when we last increased these taxes on a large scale, that the result would be rising unemployment. They estimated it would cost 500,000 jobs, and I personally do not think it is any coincidence that the unemployment, which has plagued America in the late 1970's and early 1980's, comes at the same time that we have seen large increases in payroll taxes and other taxes in this country.

I just do not think it makes sense at the very time when workers are already heavily burdened, the very moment when the economy is trying to lift itself up, when we are beginning to see the signs of recovery, when housing starts are up, when automobile sales are rising, when interest rates at long last are getting down to

viable levels, when the stock market is performing well, when there is a growing sense of optimism about the economy, I do not think it makes sense to further burden this Nation's economy with tax increases above those which are already scheduled to go into effect, and remember payroll taxes are going up whether or not we enact any of the recommendations of the National Commission on Social Security Reform.

Maybe this is a simple-minded approach, I do not think so, but whoever said if you tax something you get less of it I believe summed up an important economic reality. If you want to get less of something, whatever it is, put a tax on it. It does not matter whether it is oil or walnuts or whatever it is, if you tax something you are going to get a little less of it, and the higher the tax is and more of it, the greater the effect will be observed. That means if we go through with the proposed tax increases in this bill we are going to get a little less employment in this Nation's economy. I do not think that makes sense at this time. Therefore, Mr. President, at the right moment it is my intention to offer an amendment which will roll back the payroll tax which is suggested by this legislation.

I am not going to go after the other pieces of tax increases in this bill, not because I think they are justified, I do not, but simply because I recognize a compromise is a compromise and you cannot do everything. It does seem to me the most egregious single portion of the tax increase in this bill is the payroll tax, the part that bears the most heavily and most regressively on working men and women at a time when they can simply ill-afford it.

I do want to mention, in passing, I tried to get the Finance Committee to try to do away with the taxation of benefits. I think we are making a mistake in this bill to tax benefits. It is something we have not previously done. It falls unjustly, I think, on people who in some cases are 75, 80 years old or even older and who are in no position to rearrange their lifestyle, who cannot in many instances at least go out and get new employment to offset the effect of this new tax. Also I think in a sense it goes on pledges we have made to them for 50 years. It has been an article of faith that we would not tax the benefits under social security.

I stress, Mr. President, that I think a good case can be made intellectually for taxing social security benefits, and if the proposal before us were to do so in a phased-in manner, starting a few years from now and phasing it in so it would not be a drastic or abrupt change, then I would be a lot more sympathetic to it. I would particularly be more sympathetic to a phased-in approach if Congress had not over the years repeatedly gone on record as saying "Not only are we not taxing

benefits now, we have no intention of doing so." You will remember we considered this matter on a number of occasions here in the Senate and have resoundingly affirmed our desire not to tax benefits, so I think in doing so we are making a mistake, and really it is unfortunate that the Finance Committee has so recommended.

Mr. President, I also want to clarify one aspect of the benefit tax issue because I am not going to offer an amendment on that specific subject, but I want to make it absolutely clear if somebody has the notion this is only going to be a tax on the rich. It is only 7 percent of the beneficiaries who are going to be taxed as a result of the amendment which is proposed by the Senate Finance Committee, and that is perfectly true the first year. But I want to point out to you that the threshold of taxation is not indexed, and if we have the same kind of inflation in the next few years that we have had in the last few years, it will not be very long until everybody's benefits, or at least the largest majority of benefits, will be subject to taxation. Maybe that is a good thing. Some people think so. It is in fact the agenda of some people to get all of those benefits taxed, and if that is their desire, then I do not quarrel with it, but I do not like the notion that is abroad that somehow this is only going to be a tax on a handful of upper income, wealthy, affluent social security recipients, because in a very few years, unless our economic performance with respect to inflation is better than I think it is going to be, everybody's benefits are going to be subject to taxation.

Mr. President, I also regret the tax increase in this legislation as it falls on the self-employed many of whom frankly are in no position to take any tax increase, least of all the huge jolt that is contemplated by this legislation. I wish we could phase that in differently. I wish we could put it off altogether, particularly for farmers and others whose income is either very low or in some cases nonexistent. In many cases I think we are talking about people who will really have a great problem in coming up with additional tax revenues and we are talking about several hundreds of dollars a year in some cases.

Mr. BOSCHWITZ. Will you yield for a question?

Mr. ARMSTRONG. Yes.

Mr. BOSCHWITZ. In the event a tax credit is given to a farmer who, let us say, has no income and as a result has no tax paid, can that tax credit be carried forward or backward?

Mr. ARMSTRONG. I would say to the Senator from Minnesota that it is my impression that it was not a carry-forward, carry-back kind of credit. But, frankly, we discussed that issue so many different times and in so many different formats that I would want to be positive before I give him

that assurance. Can staff clarify that for me?

Mr. HEINZ. If the Senator will yield, my recollection is that the tax credit is not against income taxes. It is against social security taxes.

Mr. ARMSTRONG. The Senator is correct.

Mr. HEINZ. And, therefore, if you are paying any social security taxes, you get the credits right then and there. Therefore, it is not necessary in this instance to carry it forward and back.

Mr. ARMSTRONG. The Senator's point is well taken. I thank him for refreshing our recollections.

Mr. President, I wish to conclude my remarks very quickly. I appreciate the attention of my colleagues and the opportunity to share with them my general concerns about the legislation.

Let me mention quickly three amendments which I will propound at a later time and invite the attention of Members to those.

First is an amendment to delete the payroll-tax increase contained in this bill as recommended by the Senate Finance Committee. I anticipate that that may be subject to some controversy, but I have heard expressions of interest in this amendment by Senators from both sides of the aisle. It is my hope that we can see fit to do that, to grant at least that modest alleviation of the heavy tax burden suggested by this legislation.

The second amendment which I expect to offer I believe will not be controversial and I hope will be acceptable to all Senators. It will simply give some deposit date relief to small businesses. As the Senate knows, at present how often you are required to make deposits into the trust funds to the Government depends on the amount of withholdings and there are several thresholds. If you have \$3,000 a month in withholding taxes, you deposit on one schedule.

If you have \$5,000, you have another schedule.

Very large business concerns can be required to deposit as often as eight times per month. Now, for a small business, for a little company, that is almost an impossibility just administratively. So Congress wisely put a threshold in there that if you fall below a certain point you do not get into the multiple times per month reporting requirement. You can deposit the 15th of the month following the calendar month in which the earnings are withheld.

So the purpose of my amendment is to simply continue that system but to raise slightly the threshold at which you fall into the once-a-month reporting rather than the four, five, six, seven, eight times a month reporting. I trust that it will not be controversial.

The final amendment which I will submit has to do with nonprofit corporations. This legislation brings every nonprofit corporation under social security for the first time. As you know,

at the present time, it is optional. Some 90 percent of the nonprofit corporations have agreed that they want to be covered by social security, but among the 10 percent who have not are some who will be seriously injured if we do not modify, at least in some degree, the provision as it now appears in the Senate Finance Committee recommendation. That just says on January 1, 1984, you are in, without any chance to adjust, without any phase-in, without any consideration of what kind of problems it is going to cause for the programs involved, and without any consideration of how hard it is going to be to unscramble any existing pension plans they may have. We just, without notice, without warning, change the ground rules.

That is going to be a serious problem for some of these organizations. Many of them, by the way, are quite small—a number of them are not—but some of them are literally organizations that have four or five employees doing meals-on-wheels or various kinds of missionary work, youth activities, community services, and that kind of thing. So if we suddenly impose a 15-percent payroll burden—and that is what we are talking about here—it is going to mean, if they have five employees, some of these community organizations are going to have to lay somebody off and their program will be reduced accordingly.

Well, I do not object at all to the notion that they ought to be covered, but I do think that that is moving too abruptly. So the proposal in my amendment will be to treat nonprofit in the same way we are treating the Government. You know that we are covering the Federal workers for the first time in this proposal but we are not saying on January 1 that they are all covered. We are saying they will be phased in, that as new employees come onto the Federal employment rolls then they have to be covered by social security and that is exactly what I am suggesting for the new hires of nonprofits, that they be given exactly the same treatment as Federal employees.

So those are the three amendments that I will offer. I must admit that I could offer many other amendments, but we have come a long way and I am restrained in the proposals I am going to bring to the floor partly by the fact that my colleagues on the Finance Committee have been kind enough to accommodate me in adopting a number of other amendments I have offered. For that, I am grateful.

I just close as I began by saluting the chairman and the other members of the committee and those who have worked so hard on this bill. I think we are making good progress and I, for one, hope this really does prove to be a once-in-a-lifetime proposition. I hope that within 2 weeks we will have a bill on the President's desk and that he will sign it and that there will be no

extraneous amendments attached to it and that we never have to revisit this issue again anytime.

Mr. MOYNIHAN. Mr. President, may I share the prayerful wish and expectation of my friend and colleague in this matter—never again.

May I thank him for his great courtesy and his characteristic generosity. He observes, just by indirection, that the committee adopted a number of his proposals. As he knows, the one that I think will most impact upon the lives of present and future retirees is the abolition of the earnings test, which is a tax on benefits. It is not as horrendous as it once was. In the long history of this program there was a period near 1940 where, if you earned \$1, you lost every penny of your social security benefits.

Finally, Mr. President, I say to the Senator from Colorado that in the change in the actuarial estimates between 1982 and 1983 of plus 0.29 percent of payroll over that 75 years, it is interesting to note that 0.16, more than half, is a change in the demographic assumptions. I do not think we can know what families 50 years from now, new families, will be like.

The other was the opting-out assumptions of which I think we have effectively taken care.

Mr. ARMSTRONG. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. ARMSTRONG. Mr. President, I think the Senator's point is well taken. I share his feelings that these demographic projections are, in a sense, unknowable. But I believe it is significant that the bill we bring to the floor fulfills everything that could be asked of prudent trustees.

Now, I suppose we could imagine creating a system that was double-funded or triple-funded, but that would not be prudent. The prudent thing is to get our best estimates of what the need is, then fulfill that; not 90 percent of it or 80 percent of it or half of it, but the whole need, recognizing that future generations will have to keep an eye on this thing. I am reasonably confident, if enacted in the form that we have before us or close to that, that we have done our job and we will not have to come back again. I think that is the landmark that is set here.

Mr. MOYNIHAN. That is what is necessary. I thank the Senator.

EXHIBIT 1

AN IMPERFECT COMPROMISE

Social Security's rescue legislation comes before the Senate today, well on its way toward passage. The Senate bill and one passed by the House last week both contain important concessions to economic reality, something Congress has resisted for two years. But the historic compromise both sides are so pleased with still tilts against workers and savers. And there remains some danger that the tilt will become a waterlogged log by the time it reaches the president's desk.

Congress' idea of a compromise, as usual, relies heavily on tax increases. The Social Security payroll tax boost scheduled for

1985 will come a year early and there'll be another early bump in 1988, not to mention a brand new tax on middle-income benefits. Where the two bills disagree is on how benefit costs will be controlled, if they are to be controlled at all. Both houses finally accepted the principle of raising the retirement age and lowering benefits for early retirees after the year 2000. But while that's a step toward actuarial sanity, the immediate future interests us more.

A small cut in Social Security's burgeoning cost will come from postponing this year's cost-of-living increase six months. Where the two houses don't agree is on what happens the next time Social Security starts running low on money. The House proposes to meet that contingency by indexing cost-of-living adjustments to either prices or wages, whichever is lower (something that should have been done long ago as a matter of course). Senate Finance, in its wisdom, would meet this contingency by having Social Security administrators notify Congress six months in advance that the bill is running dangerously low. If Congress didn't act in that six months, let's say by taking another bite out of the workers' paychecks, then the shortage would be made up by stretching out cost-of-living adjustments in benefits. Our trust in future Congresses is such that we would prefer the House version, and now, not in 1988 as the bill proposes.

How likely is the fund to run short again? Very likely, we're afraid. The tax boost scheduled for next year will raise labor costs, killing jobs and cutting revenues. And we are not convinced that attempts to limit Medicare reimbursements will succeed in containing burgeoning Medicare costs to the extent its backers advertise. So don't be too surprised if Social Security has to activate, sooner, rather than later, the "fall-safe" provision, assuming there is one in the final bill.

Yet another innovation in the legislation of both the houses is a provision to tax Social Security benefits. In other words, a system that currently transfers income from workers to nonworkers will become, additionally, a system that transfers income from retirees who saved for their old age to retirees who did not. As Paul Craig Roberts wrote on this page last Friday, a retired couple with an income of \$36,000 will find themselves paying the same marginal tax rate as a working couple with an income of \$175,000. Young workers are getting hit with rising payroll taxes. Middle-class retirees are getting hit with a tax on their savings.

We wonder if the politicians who have been playing Social Security for cheap votes these many years understand where they are heading. At this rate, Social Security soon will become little more than a welfare program. When that happens, it will suddenly be politically vulnerable. There will be no trouble at all summoning up the votes to cut benefits then because neither middle-class workers nor middleclass retirees will have any stake in preserving the system. That could happen even before some of the senior members of both houses decide to lay down the burdens of office.

We respectfully suggest that the full Senate give the bill careful thought today. The public, we suspect, is getting very boring with being told every six years that Social Security is finally on sound footing, only to be informed a few years later that it's going to cost more money. Today's marvelous compromise will only be marvelous if the bill that finally lands on the president's desk has controls on benefit growth that match its bite out of payrolls and savings. We'll see.

Mr. LONG. Mr. President, first let me begin by thanking the distinguished chairman of the committee (Mr. DOLE), the Senator from New York (Mr. MOYNIHAN), the Senator from Colorado (Mr. ARMSTRONG), and the Senator from Pennsylvania (Mr. HEINZ) for the long hours and laborious, dedicated effort they have put into serving on the Commission and making it possible to bring this bill before the Senate.

This bill represents a combination of the views of all those on the Commission. Some parts of it I very much agree with it, and some parts of it I do not agree with.

Mr. President, I voted in committee to order the social security financing bill favorably reported. I did so with reservations.

I voted to order the bill favorably reported because the Senate and the Congress need to act now to assure the continued financing of the social security system. The bill reported by the committee generally follows the recommendations of the Social Security Commission. But the committee bill does two important things the Commission recommended be done even though they failed to reach a consensus on how these two things should be done.

First, the Finance Committee bill includes provisions to eliminate the long-range deficit in the social security cash benefit programs. It does this through a combination of gradually raising the retirement age to 66 and gradually modifying the social security benefit formula, both beginning with the year 2000.

Second, the Finance Committee bill includes a contingency plan to deal with situations which might arise when cash benefit trust fund reserves are less than 20 percent of annual outgo and are projected to decline. This provision is designed to avoid the kind of crisis situation we now face where a decline in the trust fund reserves jeopardizes the continued prompt payment of benefit checks.

Now let me express my reservations about the Finance Committee bill.

GENERAL FUND FINANCING

I am concerned that the Finance Committee bill relies so heavily on the use of general fund financing for the rest of this decade. Depending on what one categorizes as general fund financing, perhaps almost one-third of the short-range financing package represents an infusion of general revenues to shore up social security financing.

For the future, this action provides a dangerous precedent. There would be a strong temptation to simply increase this general fund portion when the need arises. For example, in the Finance Committee it was decided that the increased payroll tax burden on the self-employed was too severe. The committee solution was to scale back the payroll tax increase on the self-

employed and make up the difference with general funds.

This, in effect, is a matter of saying that whenever the cost goes up, just add it to the Federal deficit and be done with it. Of course, Mr. President, if we continue to do that type of thing, it will eventually lead to where the Federal Government itself cannot assure the value of its currency and where eventually our money would have no value. After all, if we cannot find the revenues or cannot find the courage to vote for a tax to pay the benefits under this program that is the essential income of some 36 million people, then I doubt that the Congress can find the revenues to finance anything in the Federal Government.

EXTENDING COVERAGE

In extending mandatory social security coverage to new Federal employees and employees of all nonprofit organizations, the committee bill simply assumes that by the end of the year, the Congress and the nonprofit organizations will be able to modify their existing survivorship, retirement and disability benefits to take into account social security coverage.

Federal employee organizations do not share that confidence. For all they know, much of the income security they count on through their existing plans may disappear. Nothing in the Finance Committee bill provides them any assurance that the impact on existing protections will not be severe.

In another area relating to coverage, the Congress has always taken a position that under the Constitution, Federal law cannot mandate social security coverage of State and local government employees. For this reason, those State and local governments that wish to voluntarily join the social security system pay contributions rather than taxes, and they can withdraw from social security coverage after giving 2 years' notice.

The committee bill would prohibit those State and local governments which have opted for social security coverage from terminating coverage for their employees. Aside from the constitutional question, which will ultimately be resolved in the courts, I believe it is unfair for the Federal Government to unilaterally change the agreements which State and local governments entered into on a voluntary basis, especially when they reached that agreement with the Federal Government itself.

I believe this is particularly unfair to those units of government which have already given notice of their intent to terminate. Many of these entities, relying on the word of the Federal Government, have already expanded great effort and expense in setting up alternative retirement programs.

TAXING SOCIAL SECURITY BENEFITS

Under the committee bill, half the social security benefits would be taxed if an individual's income exceeds \$25,000 or a couple's income exceeds \$32,000. However, the committee bill,

unlike the House bill, would include tax-exempt income for purposes of measuring whether total income exceeds the threshold above which social security benefits would be taxed. The effect of this is that for the first time tax-exempt income would be taxed. While the impact of this provision might be small in terms of the number of people affected, the principle is a big one. It suggests that Congress, which has not been willing to tax State and local bond interests directly, is willing to do so if the tax is disguised as a tax on something else. This point will not be lost on those in the Treasury Department who have long sought ways to tax State and local bond interest.

PROSPECTIVE REIMBURSEMENT UNDER MEDICARE

Up to this point, I have discussed my reservations that related to social security provisions of the bill. But I am equally concerned about two provisions whose descriptions were not even available to committee members until the day of our markup session.

The first provision would completely change our method of reimbursing hospitals under the medicare program. Many hospitals would do better under the new system, but many would do worse, perhaps even to the point of having to close. When the committee acted, it did not have the information it would need to determine which hospitals were winners and which were losers, and whether winning or losing had any relationship to the hospital's efficiency. An administration spokesman at the committee hearing could not even answer my question what the level of reimbursement would be for the diagnosis-related groups which serve as the new basis for reimbursement.

This new provision will not achieve budget savings in the next 2 years. It will not solve the hospital insurance trust fund financing problem. In my view, we should not be considering this fundamental change in medicare until we are in a better position to know the impact it will have on hospitals in our States. I fear that if we enact this provision now, we will soon find that it results in situations that we do not intend and that we will need to change.

Mr. President, I have been told that this provision would cause the hospitals in the State of Louisiana to gain as much as 15 percent in medicare reimbursement. That, of course, would be partly at the expense of hospitals in other States. On the surface you would think the Senator from Louisiana would be in here advocating that kind of change. But I also note that while gaining 15 percent, and while a majority of the Louisiana hospitals would get an increase, about one-third of them would get a cut, and that cut would be about 20 percent.

The information provided to me, Mr. President, is not adequate to tell me on what basis those hospitals would face a cut, or to give those people a

chance to make their case and defend themselves against the consequences.

Other States are going to find that their hospitals are not receiving an increase in net income like Louisiana would receive, and that more than one-third of their hospitals take a cut, and they will not know what the impact will be until the bill goes into effect and their hospital people come to Washington to complain about matters that could have been more carefully considered and matters which could have been corrected before they were enacted into law.

It has been my experience as a Senator for more than 30 years in this body that it is a lot better to find out about the problems and to try to take care of them in advance, than it is to pass a major bill without knowing what you are doing or how it is going to impact upon great numbers of people, and then try to take care of the many problems that will arise after the measure has become law and all the growing pains become obvious.

I think we would have done much better to have had a great deal more information before acting. This could have been available if we had taken even a few more months to develop this proposal and see how it would work throughout the 50 States in the Union.

UNEMPLOYMENT COMPENSATION STATE LOANS

Mr. President, a second area concerns loans to States under the unemployment compensation program. The committee approved major provisions affecting loans to States under the unemployment compensation program. Like hospital reimbursement, this provision bears no relationship to social security. Unlike prospective reimbursement, there is no equivalent provision in the House bill.

When we enacted legislation imposing interest on State loans, we intended that this interest would serve as an incentive for a State legislature to undertake reform to insure its unemployment program's fiscal soundness. I am particularly concerned that under the committee bill, if a State fails to repay the interest it owes the Federal Government, the Federal employer tax in that State would be raised by one-tenth of 1 percent. I fear that States will see this automatic increase in employer taxes as a signal that Congress intends the tax increase as an alternative to program reform.

I believe that if the committee had spent the time it should have spent considering this provision, it would have wanted to make clear that payment of interest is a compliance issue. This means that a State would need to take legislative action to assure the financial solvency of its unemployment compensation funds and not simply fail to act so that a Federal employment tax increase would go into effect.

IMPROVING THE BILL

When the National Commission on Social Security Reform issued its

report, I commended them on their efforts and said:

I would expect that some changes will occur as the proposal finds its way through the legislative process. As with any legislative proposal, I am sure there will be ways of improving it.

The Finance Committee has already made a series of modifications in the commission's recommendations. As I have suggested, more improvements can and should be made and I hope will be made as the bill finds its way through the Senate.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors on Senate Amendment No. 512, social security reform, dealing with Federal employees: Senators BAUCUS, BINGAMAN, DIXON, MATSUNAGA, SASSER, TRIBLE, and TSONGAS.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. SYMMS. I thank the Chair.

Mr. President, several months ago the Social Security Administration was forced to do something it never had done before. The social security OASDI trust fund had to start borrowing money so they could send out the monthly checks. When we reached that point, I think finally, the financial crisis of the social security program was realized. Up until that time, the warnings had been ignored.

I want to join with those who have passed out the bouquets to the chairman of the committee Senator DOLE and Senators MOYNIHAN, HEINZ, ARMSTRONG, and the others who worked on the Commission for the work they did in finding a compromise solution addressing the problems facing the social security system.

There are some amendments that the Senate Finance Committee added to the Commission's package which made substantial improvements. Senator LONG offered a fail-safe amendment which will insure the continued viability of the OASDI program.

I cannot say enough for the leadership the committee constantly has from our very able chairman and for the efforts that he made to try to bring this emergency situation to the floor to guarantee the rescue of the social security system.

I think, after having said that, Mr. President, that I must point out that I was the one lone dissenting vote in the Senate Committee on Finance; the one who did not vote for the bill in its present form. I would like to address that, but before I can do that, we should first recognize why it is that social security is in so much trouble. I think we have examined why there is a problem, what the solution to that problem is.

Mr. President, if you have a big gap between the income and the outflow of any program—and we have heard figures cast around here from \$13,000 to \$18,000 a minute that the Social Security Administration has been spending faster than they are taking in rev-

enues—how are we going to solve the problem? We are going to solve it one of three ways: raise taxes; change the costs by reducing future increases in benefits; or borrow more money. I think we have to recognize that the biggest part of this solution, or a big part of it, is to raise payroll taxes on the working people. Although I would say there have been some improvements in the rescheduling of benefits in the Senate version of the bill—and some in the House, I must say—I think there is more work that needs to be done.

However, in finding these solutions, Americans and the Congress must recognize and address common fallacies with regard to the social security system.

The first misunderstanding that needs to be addressed is the fallacy that recipients are only getting back in benefits what they and their employer paid into the program.

If an individual started paying into the system back in 1937 and paid in a maximum amount, paid your social security taxes all the way through, and retired in 1981 at age 65, that person would have paid in \$14,206. The first year of retirement that individual would have received in benefits \$14,767. So, in other words, in 1 year, they will almost take out the amount of money they put in over a 37-year period.

In the second year, of course, they take out what their employers put in. I think, for far too long, the American people believed that, somehow, this system was vested and they were getting back what they had invested in it, instead of the fact that it was operating more or less on the lines of a chain letter, with some people paying in while others were taking out. It started at \$30 a year and you had 16 or 17 paying in for every 1 taking out.

It worked pretty well, but as time went on, it continued to go down, so there are fewer and fewer people paying in and more and more taking out. By the year 2010 or 2020, I think it will be down to 2.2 workers paying in to 1 worker taking out.

If you just go back a short time ago to 1950, there were 15 taxpayers supporting each retired beneficiary. In 1980, the ratio was 3.2 to 1 and it will be down to 2 to 1 in the next 50 years.

So that is how we got into this problem, and I have to compliment my colleagues for finally addressing the problem. I think that we should consider amendments to this bill to solve the problem for the long and the short term and also to offer people the opportunity to trade in future social security benefits in order to have their own personalized private retirement pension program. I think that can be done. I am only disappointed that the commission did not recommend some things in the early part of the 1980's that were a little bolder and a little more aggressive. As it is, I hope we will be back. I do not share the view of my

good friend from Colorado who says he hopes we do not address this again.

I would just like to say, very briefly, that there are three major problems in my opinion with this program. No. 1 is the short-term problem, that is, the problem between now and out to about 1990. The commission agreed that the problem lies somewhere between \$150 billion to \$200 billion. It depends on the assumptions you look at. But I would like to see us solve that problem without raising the payroll taxes, because the working Americans are already burdened by payroll tax increases. Senator ARMSTRONG pointed out here earlier that many, many Americans are spending more of their taxable income on social security taxes than they are Federal income taxes. So how are you going to solve that problem if you do not raise the payroll taxes? We have already said we cannot afford to borrow any more money. We are borrowing it at such a rapid rate now that it is causing a lack of confidence with respect to the long-term capital markets in the country, so then I think you have to look at the benefit side of the equation. And without taking any benefits away from present recipients, Mr. President, I think what we could do is simply delay the cost-of-living adjustment until December 1985. It would save somewhere in the neighborhood of \$125 billion.

But I know what people are saying: "If you do that, what about Aunt Sarah who is living on \$300 a month?"

I will offer an amendment later on in the deliberation of this measure to hold harmless those people who are getting the SSI benefits and the low-income people but to delay the COLA's for the rest of the social security recipients until December 1985 and then at that point I think we should have a COLA adjustment and go on the basis of the wage index instead of the price index or whichever happens to turn out to be the lowest.

The reason I say that, Mr. President, is because from 1970 to 1981, the wages of America's workers rose 122 percent. The cost of living increased 136 percent, but the social security benefits increased 205 percent. Now, I am certainly one that is in favor of giving a full cost-of-living adjustment to that single person who is living on a fixed income in the low end of the social security spectrum, and I am talking about the person who is getting \$350 a month or in that range. They need the cost-of-living adjustment. But there are many, many millions of Americans out there who are receiving more benefits than many people will recognize. I say to all my colleagues, go back to your State and find out how many young people in your States work, pay taxes, try to raise a family and have a family income of \$15,000, \$14,000, \$12,000, in that range. I think you would be surprised to find that there are quite a few people out there struggling to do

that and paying taxes on it. Yet, with respect to social security, I have seen figures that say that there are up to 275,000 to 300,000 millionaires who are drawing the maximum social security benefits and yet have been continually realizing the benefits of the cost-of-living adjustments that have outpaced the scale of the wage index of the people who are paying in on the other end of the chain letter.

So I think the committee, the Commission, all deserve some credit that they did look to that problem. The solution that they came up with was to tax the benefits. I would have preferred to limit the future increases in those benefits rather than taxing them, but at least I would have to say that we should compliment the committee for recognizing that problem.

Now, with respect to the long-term solution where the large unfunded liability in the program lies, those figures, when we heard testimony before the committee, ranged anywhere from \$1 trillion to \$2 trillion. It depends on whose econometric models you want to look at. But we all recognize that there is a huge unfunded liability out there in the year 2020, 2010, past the turn of the century, that has to be reckoned with. Most people agree, because of the statistics and the evidence that people are living longer, that we should do something in a gradual way to raise the retirement age.

I have to say that I am pleased that the committee recognized this and did do something to that effect. I think that we should be a little more aggressive. We should recognize the problem is here now. People are living longer. All evidence statistically supports that. Therefore, at the proper time I intend to offer an amendment which will raise the retirement age starting in 1984 1 month every year for 36 years. That will put the retirement age for maximum benefits at age 68 and for early retirement at age 65. I think that would take care of the long-term problem.

But then, Mr. President, I believe there is still one area where we are sadly lacking, and that is the opportunity to encourage Americans to save. I think we could do something with respect to this that would be very simple and we should be doing it now.

One of the biggest problems that the social security system has brought upon the American economy is it has been a failure for the American people to save money with which to rebuild the tools and equipment that are necessary to drive a growing, strengthening, noninflationary economy. The way the system works is that those workers' savings get taxed in a regressive tax off the front of their income. It is paid out to the beneficiaries. The money never ends up in savings accounts, never ends up in the banks where it can be lent to increase the tools and equipment that provide the jobs and backbone of America's great productive might.

So what I suggest we do, and I will offer an amendment to this effect, is provide a social security option account (SSOA) for those people who can afford to do it. Individuals would be able to contribute up to 20 percent of their social security wage base into their own personalized SSOA over and above what the IRA laws now allow. For every \$1,000 contributed, individuals would forfeit one-half percent of their social security benefits in the future.

Now, you ask the question, "Would they still have to pay social security taxes?" Yes, they would, because the way the chain letter works we cannot allow people out. But how does that worker afford to do that? That decision would rest with each individual's ability to save, but I think we would find that many Americans would choose a tax deduction on the front end even if it would actually reduce their social security benefits in the future. Future Congresses, 40 or 50 years from now, will not be faced with the same political dilemma that this Congress is faced with, Mr. President.

The problem we have here, let us face it, is that there are 36 million Americans out there receiving benefits. Congress has to be conscious of that, and we are in fact sensitive to the fact that those 36 million people are our constituents; and we have to be sensitive to their wishes because, after all, those of us in this body do work for the people. I am not faulting that, but I think it would be an imaginative and ingenious way for us to actually develop savings in the private sector today.

In addition to savings in the private sector today, we could end up developing a constituency of people who own their own retirement accounts. They would be exchanging the privilege of owning their own accounts for future social security benefits. So that 40 or 50 years from now, we could remove some of this political pressure we have felt these many years.

That is why this problem has not been faced. We have to allow it to go to crisis proportions before we face it.

There are other things I would like to see in this system, but we want to address the short-term problem in order to get away from raising payroll taxes.

There is no doubt in my mind and in the minds of many economists in this country that this speeding up of the payroll taxes and the drain this is going to have on the private sector is going to exacerbate the unemployment problems in the United States; because when you look at where those payroll taxes are going in the near future, it is a tremendous burden on small business and on the working people just to pay the social security taxes. The result of this will be less jobs offered in the private sector because of the excessive, regressive tax that comes with this solution.

As to the long-term problem, I urge this body to carefully look at my amendment which will be offered to raise the retirement age in 1984 1 month every year for 36 years. That will cause no dislocation to an individual. It will allow people to plan their futures. It will be a very gradual change.

People are living longer. All the statistical evidence and other evidence point to the fact that people are healthier, are living longer. That is a compliment to our society. It is a good thing. But we need to start now and not put it off to the year 2000, and we should address the retirement age.

Third, Mr. President, I wish to offer an amendment which will address the problem of the lack of opportunities that most working Americans have in order to have their private retirement account. We could offer this as an alternative. It would take years and years, and I do not expect it to change in my lifetime, but at some point in the future we could remove the political pressure of those Americans totally dependent on the social security system, the ever-increasing pressure to raise benefits, raise benefits—and the benefits, frankly, have been raised much faster than the ability of the people to pay those benefits.

I say to my colleagues, "Look around in your States. How many people do you see receiving social security whose grandchildren are not as well off as the recipients of the social security?" Yet, the entire pressure in Congress and the entire pressure that has been focused on is that, somehow, all we have to do is to raise the payroll tax and we will not have to touch any future benefits.

I am saying that we do not have to take benefits away from anybody. We have to get the wage index and the benefit levels back into balance, and they are presently out of balance. The only way I can see to do that is to delay the COLA until December of 1985 and then put it on the sound footing of the wage index and the price index. Then we will have a system with solvency for the future, and then we will in fact see a restoration of the long-term capital markets in this country. Once the long-term capital markets are restored in this country, we will see activity in the steel mills in Pennsylvania, activity in the chemical plants in New Jersey, we will see building taking place, and the farms, the fields, and the forests will be rejuvenated. We will restore the true noninflationary growth in the United States.

However, I do not believe that will happen if we always walk into this Chamber and have our compromise solution of raising taxes to solve the problem because we do not have the political will to really bite the bullet on the problem, and that is that the

benefits have outstripped our ability to pay those benefits.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow. The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF H.R. 1960

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders tomorrow under the standing order, there be a period for the transaction of routine morning business, to extend from the expiration of yielding back of that time until not later than 9:30 a.m., in which Senators may speak for not more than 2 minutes each.

Also, I ask unanimous consent that at 9:30 a.m., the Senate resume consideration of the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY ACT AMENDMENTS OF 1983

UP AMENDMENT NO. 70

(Purpose: To require notice on social security checks that it is a violation of law to cash a check issued to a deceased individual.)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 70:

At the end of title I add the following new section:

NOTICE ON SOCIAL SECURITY CHECKS

Sec. 153. The Secretary of the Treasury and the Secretary of Health and Human Services shall take such steps as may be necessary to provide that all checks issued for payment of benefits under Title II of the Social Security Act, and the envelopes in which such checks are mailed, contain the following printed notice:

"The cashing or attempted cashing of a check which was erroneously issued for payment of benefits to a deceased person, and upon which the bearer has no legal claim, constitutes a felony punishable under the provisions of section 208 of the Social Security Act by a maximum penalty of \$5000 fine and 5 (five) years imprisonment."

This provision shall be effective with respect to checks issued for months after December, 1983.

Mr. HUMPHREY. Mr. President, there are many controversies swirling about the social security issue, but I think there is one point on which all parties agree, and that is that the continued fraudulent cashing of social security checks issued to deceased persons cannot be permitted to continue.

The amendment I have offered will address the need to bring this practice to an end. It will not completely eliminate it; I will admit that. But I think it is a substantial contribution to the solution of the problem.

Mr. President, very simply, this amendment requires that the envelopes in which the social security checks are mailed bear a legend making it clear to any potential casher of that check that the fraudulent cashing of a check issued to a deceased beneficiary is a felony under section 208 of the Social Security Act, carrying a maximum penalty of a \$5,000 fine and 5 years in prison. I think that will cause a great many people, those who have been involved in fraudulently cashing checks, to stop and consider the gravity of the act they are about to commit.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I am happy to yield to my colleague from Idaho.

Mr. SYMMS. Mr. President, I compliment the Senator for his amendment. The majority has reviewed the amendment. The Treasury believes that this amendment would be helpful for a more fair and equitable application of the act. I compliment the Senator for offering it. On this side of the aisle, we are prepared to accept the amendment.

It is my understanding that the minority also has accepted the amendment.

Mr. HUMPHREY. That is also the understanding of the Senator from New Hampshire.

Mr. President, if we may have a word from the manager of the minority side, I think we can dispose of this amendment.

Mr. BRADLEY. Mr. President, we have no objection on this side to the amendment offered by the Senator from New Hampshire. No one has expressed opposition.

Mr. HUMPHREY. Then, I believe, Mr. President, if I may have the floor for that purpose, we are ready to dispose of the issue and I have nothing further to say on the matter.

The PRESIDING OFFICER (Mr. WARNER). The question is on agreeing to the amendment of the Senator from New Hampshire.

(Putting the question.)

The amendment (UP No. 70) was agreed to.

UP AMENDMENT NO. 71

(Subsequently numbered amendment No. 520.)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 71.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 100, between lines 12 and 13, insert the following:

DISABILITY RETIREMENT BENEFITS

Sec. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

DISABILITY RETIREMENT BENEFITS

"Sec. 234. (a) Every individual who—

"(1) meets the criteria for entitlement to old-age insurance benefits which are specified in paragraphs (1) and (2) of section 202(a) (but only if he first meets the criterion specified in paragraph (2) of such section in or after the calendar year 2000),

"(2) is under an occupational disability (as defined in subsection (c) of this section); and

"(3) has filed application for disability retirement benefits,

shall be entitled to a disability retirement benefit for each month beginning with the first month for which he would be so entitled under clause (A) or (B) of section 202(a) if such benefit were an old-age insurance benefit, and ending with the month preceding whichever of the following months is the earlier: the month in which he dies, or the month in which he attains retirement age (as defined in section 216(1)).

"(b) Except as provided in section 202(q)(12), an individual's disability retirement benefit for any month shall be equal to his primary insurance amount (as defined in section 215(a)) for such month.

"(c) For purposes of this title, the term 'occupational disability' (with respect to any individual) means the inability of such individual, by reason of any medically determinable physical or mental impairment (as defined in section 223(d)(3)), to engage in substantial gainful activity of the type primarily performed by such individual during the 10-year period immediately preceding the onset of such inability (or, if such individual has not engaged in any one type of such activity for 2 years or more during such 10-year period, the inability to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time).

"(d) The Secretary shall by regulations prescribe the criteria for determining whether or not an individual is under an occupational disability; and an individual shall not be considered to be under an occupational disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require.

"(e) Except as otherwise specified in this section or in other sections of this Act, the provisions of this title shall apply with respect to disability retirement benefits in the same way they apply with respect to old-age insurance benefits."

(b)(1) Section 201(h) of such Act is amended by inserting "including payments of disability retirement benefits," after "226".

(2) Section 202(a)(3) of such Act (as amended by section 201(c)(1)(A) of this Act) is further amended by inserting "or disability retirement benefits" after "disability insurance benefits".

(3) Section 202(q) of such Act is amended by adding at the end thereof the following new paragraph:

"(12) Paragraph (1) of this subsection shall apply with respect to disability retirement benefits payable under section 234 in the same way it applies with respect to old-age insurance benefits; except that para-

graph (9) shall not apply and, with respect to an individual applying for or receiving disability retirement benefits, the reduction period and adjusted reduction period for any such benefit shall be determined under paragraph (7) as though retirement age (as otherwise defined in section 216(1)) were age 65."

(4) Section 226(b)(2)(A) of such Act is amended—

(A) by inserting "or 234" after "benefits under section 202" in subsection (a)(2)(A); and

(B) by adding after "or" at the end of subsection (b)(2)(A) the following new clause: "(iv) disability retirement benefits under section 234, or".

(c) The amendments made by this section shall apply only with respect to benefits for months after December 1999.

Mr. BRADLEY. Mr. President, I ask unanimous consent that a factsheet explaining the amendment be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BRADLEY. Mr. President, the amendment I am offering today, which was developed by Congressman RON WYDEN and myself, establishes a new social security program to aid older workers with major health problems. Under our proposal, beginning in the year 2000, a limited number of workers between the ages of 62 and 66 would receive a new "disability-retirement" benefit if they are unable to work in their current occupation because of poor health.

It is imperative that we take this step in conjunction with any increase in the social security retirement age. If the retirement age is increased, as now seems likely, it will mean a hardship for many older workers who cannot stay in their jobs because of poor health and also cannot qualify for regular disability insurance benefits. These workers should not be shortchanged in any way, but that will happen in a lot of cases unless steps are taken to protect these workers.

My amendment would allow workers to qualify for these benefits if they can demonstrate inability to perform the major occupation they had held during the 10-year period before the onset of their disability. If workers had not worked at any one occupation for at least 2 years, then their work history would be examined to determine if their medical condition prevents them from using skills or abilities comparable to those required by work they had previously performed.

Mr. President, it should be pointed out that the definition of "work" or "occupation" does not necessarily mean the same job or the same employer, but rather the same general occupation or type of work requiring the same skills. It must also be pointed out that the program will not take effect until the year 2000; Congress has the next 17 years to formulate a more exact definition of eligibility.

This program would be considered a separate OASI program, with benefits

payable from the OASI trust fund. Benefits for this program would be paid according to the OASI current law schedule for reduced benefits at ages under 65 and with full benefits paid at age 65. In effect, these workers would be "held harmless" to the proposed increase in the retirement age and reduction in early retirement benefits.

Mr. President, a majority of the members of the Social Security Commission, including Senators DOLE and HEINZ, recommended that the retirement age be raised. In addition, these same members recommended a liberalization of the disability program for those aged 62 and above.

I quote from the Commission report:

Disability benefits are now available under somewhat less stringent definitions for those aged 60-64. However because some workers, particularly those in physically demanding employment, may not benefit from improvements in mortality and be able to work longer, we assume that the disability benefits program will be improved prior to the implementation of this recommendation to take into account the special problems of those between age 62 and the normal retirement age who are unable to extend their working careers for health reasons.

Mr. President, the Finance Committee raised the retirement age but did not make improvements to the disability program. My amendment merely follows through on the recommendations made by a majority of the members of the Social Security Commission. The Social Security Commission's actuaries rough estimate is that only about 10 percent of future retirees would fit into this category. Therefore, the long-term cost of this change is minimal—0.04 percent of payroll—and this additional cost can clearly be accommodated in the bill before us now because the savings in the Finance Committee bill exceed by 0.08 percent the level necessary to achieve long-term solvency.

Mr. President, I believe that this proposal is a fair one. If we must raise the social security retirement age, we need to develop a safety net for older workers who, for health reasons, simply cannot keep working. I urge my colleagues to adopt the amendment.

EXHIBIT 1

BRADLEY DISABILITY-RETIREMENT AMENDMENT

WHAT IS THE PROGRAM?

The Amendment would establish a new program that will allow a limited group of workers aged 62 up to the "normal retirement" age (i.e. the age at which full OASI benefits are allowed) to qualify for "disability retirement benefits". This new program would not start to take effect until the year 2000—the year that the Social Security retirement age is scheduled to increase.

WHY DO WE NEED THIS PROGRAM?

There are many older workers whose health is too "good" to qualify for the regular disability insurance program, but too poor to allow them to keep working in the occupation for which they are trained. Raising the retirement age and reducing early retirement benefits for these older workers amounts to a significant cut in benefits be-

cause their poor health simply won't let them keep working.

WHO WOULD BE ELIGIBLE FOR THE PROGRAM?

Workers qualify for these benefits if they can demonstrate inability to perform the major occupation they had held during the 10 year period before the onset of their disability. If workers had not worked at any one occupation for at least 2 years, then their work history would be examined to determine if their medical condition prevents them from using skills or abilities comparable to those required by work they had previously performed with some regularity and over a substantial period of time.

"Work" or "occupation" does not necessarily mean the same job for the same employer, but rather the same general occupation or type of work requiring the same skills.

It must also be pointed out that the program will not take effect until the year 2000; Congress has the next 17 years to formulate a more exact definition of eligibility.

WHAT ARE THE LEVEL OF BENEFITS TO BE PAID?

This program would be considered a separate OASI program, with benefits payable from the OASI trust fund. Benefits for this program would be paid according to the OASI current law schedule for reduced benefits at ages under 65 and with full benefits paid at age 65.

| Age | OASI current law, percent of benefit | OASI Finance Committee bill, percent of benefit |
|-----|--------------------------------------|---|
| 62 | 80 | 75 |
| 63 | 86.7 | 80 |
| 64 | 93.3 | 87 |
| 65 | 100 | 93 |
| 66 | 100 | 100 |

WHAT ARE THE LONG TERM COSTS OF THE PROPOSAL?

The rough estimate by the Social Security Administration's actuaries is 0.04 percent of payroll. Adoption of the amendment will not lead to insolvency, since the savings in the Senate Finance Committee bill exceed the level necessary to achieve long term solvency by 0.08 percent.

Mr. DOLE. Mr. President, I thank the distinguished Senator from New Jersey.

I have indicated to the Senate that we have only had an opportunity to see the amendment for about 30 to 45 minutes. I know of no objection. It may depend on what other amendments might be adopted. Plus we wish the time to analyze it carefully on our side.

I am wondering if the Senator from New Jersey might be willing to let us set this amendment aside, give our staff and social security people a chance to review it carefully, and then we could either call it back up or in some way dispose of it. If we can agree on it, or with some modification, it could be accepted.

I have not checked either with the distinguished ranking minority member, Senator LONG. But we would certainly be willing to look at it carefully the next 24 hours.

Mr. BRADLEY. Mr. President, I would have no objection to temporarily laying the amendment aside until the next order of business is disposed

of, and then this amendment would be pending again, and it would be my hope that by that time maybe by tomorrow we could resolve this. I know that the chairman as he stated in the Commission report expresses considerable interest to meet this problem, and I have every expectation we will be able to solve it.

Therefore, I ask unanimous consent that the amendment be temporarily laid aside until the next order of business is disposed of and then this amendment again be pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I appreciate the cooperation of the Senator from New Jersey.

It may be that other Members have amendments which we can agree upon. If so, we could dispose of those amendments. It is my understanding we may want to adjourn between 6 and 7, nearer 6.

But I would say to Members who may be in their offices or members of the staff if there are noncontroversial amendments, we would like very much to dispose of this yet this afternoon, and we hope to come in—there has not been an order yet—but early tomorrow morning and go until some time late tomorrow afternoon and hopefully during the remainder of the day and all day tomorrow we can, first of all, dispose of noncontroversial amendments. We believe there are a number that can be agreed upon. There are some we cannot agree upon. There may be rollcall votes sometime after 1 p.m. tomorrow afternoon.

Mr. BENTSEN. Mr. President, as an original cosponsor of S. 1, I want to join my colleagues in commending Senator DOLE, the distinguished chairman of the Finance Committee, Senator MOYNIHAN, and others who have helped fashion a reasonable, effective, and broadly accepted proposal to address the difficult problem of financing our social security system.

This compromise, Mr. President, is of obvious and urgent importance to 152 million American workers who have put their trust in the commitments undertaken by this Government. For millions of our people social security spells the difference between dignity and despair for the future, and I am convinced that the compromise being considered by the Senate comes down squarely on the side of dignity.

There is another, equally important dimension to this legislation. It provides the most striking evidence I have seen in sometime that the American political system, despite the strains of partisanship accentuated by an economic environment of prolonged recession, is still capable of acting—rapidly, effectively, and with unity—to serve the vital interests of our people.

The social security package is a classic in the art of bringing the diverse elements of America together in the search for honest answers to the difficult problems facing our Nation. No

party, I am sure, is perfectly satisfied with this formulation. Everyone has been asked to sacrifice, to take up a part of the burden, to pay more, to defer increases, to suffer a little so that millions of older Americans will have to suffer much less.

I sincerely hope, Mr. President, that the obvious element of bipartisanship and good will so evident in our deliberations on the social security package can serve as the groundwork for broader sustained effort to respond to America's pressing economic problems and help us establish an agenda for the future.

With this compromise the Congress will be taking a giant step toward removing social security as a contentious, partisan, emotional issue in future elections. I sincerely believe this formulation reflects great credit on those who had the courage and foresight to bring it to the floor.

I commend my colleagues on both sides of the aisle for a job well done. I am pleased to be an original cosponsor of this legislation and I urge its prompt approval by the Senate.

Mr. DOLE. Mr. President, I do not see anyone rushing in with an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, so far today we have heard a few hours' debate on this very important issue and I want to take this opportunity to give you my views on the entire package, and to relay what I consider to be its strengths and weaknesses.

As this body begins consideration of the Social Security Act Amendments of 1983, I would like to share my hopes and goals, which have guided me throughout my involvement in this issue. The first goal, one which we all share, is to adopt a comprehensive package that will insure a sound social security system for as long into the future as we can predict.

Second, we must adopt a well-balanced plan that is fair, one which calls on all who are touched by this system to share in the sacrifices required to restore it to solvency.

When I first heard the National Commission's recommendations I was less than pleased. In my view the plan relied far too heavily on tax increases and it was far too short on reform. My misgivings were based on my past experience as a Member of the House of Representatives during deliberation of those very important 1977 social security amendments. At that time we heard promises from the House Democratic leadership and from the Democratic President that adoption of the 1977 bill would guarantee adequate fi-

nancing for social security until the year 2030.

Here we are, only a little over 5 years later, still wrestling with the issue of social security. If Congress has learned anything about this issue over the years it should be evident that continual reliance on tax increases does little to address the real problems with our social security system. Tax increases do not correct the generosity of past Congresses which greatly expanded benefits, nor do tax increases address the demographic changes which have radically affected the program.

Furthermore, greater and more taxes merely exacerbate our economic situation of prices increasing more rapidly than wages and of continued high unemployment.

We are rapidly approaching the limit which taxpayers can afford to pay for social security. I would argue that in many instances that threshold has already been crossed. Demographic changes are such that in 1950 we had 16½ workers supporting each retiree but by the year 2000 each retiree will be supported by less than 3 workers. Obviously the answer to this situation is not further tax increases.

I fully recognize the difficulty in trying to predict into the future what economic conditions will exist, but we surely must do a better job this go-around than we did in 1977 when we passed those incredibly high taxes.

If we must err in our economic forecast it is far better to err on the side of conservatism.

The bill reported out of the Senate Finance Committee not only closes the long-term deficit but also has a slight surplus over the course of the 75-year estimates. This cushion, this surplus, is a prudent measure.

My only hope is that present or future Members of this body do not see those extra dollars and decide it is time to vote for a few more sweeteners in the social security benefits structure.

In order to close that long-term gap, my colleagues and I on the Finance Committee adopted what I believe to be a balanced and fair plan. First, the retirement age would be gradually increased to age 66 but would not be indexed. I know many individuals who felt the retirement age should be increased but were troubled by the thought of continual increases through the indexing process.

Second, the outside earnings limitation would be phased out in our Senate Finance Committee plan. I have long been an advocate of repeal of this current law which penalizes the effort of elderly individuals to continue to be productive members of society in their later years.

Finally, our committee adopted a measure which would slightly reduce the initial benefit workers would receive upon retirement.

These measures are a fair approach to reconciling the long-term deficit. It recognizes the trend toward increased longevity, yet balances the needs of those individuals who must retire due to illness or disability.

The long-range benefit change is structured to minimize any impact on future retirees, and it should be stressed these provisions do not impact in any way on those individuals currently retired nor those for whom retirement is imminent. The adoption of these changes by the Senate Finance Committee greatly improves the overall balance and fairness of the original Commission report.

Additional changes approved by the Finance Committee also serve to make the plan more palatable to those of us who feel workers are burdened with enough taxes.

Senator LONG offered an excellent fail-safe plan which is exceedingly fair, and will indeed function as a true fail-safe mechanism should trust fund reserves be below 20 percent of annual outgo, and be projected to decline. The Secretary of Health and Human Services would be authorized to reduce the annual cost-of-living adjustment to the extent necessary to prevent a further decline in reserves. However, the Secretary must first inform Congress of the impending action, so Congress would have ample time to enact an alternative solution.

One other change the committee has recommended is to provide some relief to the self-employed of this Nation who will be hard hit with additional taxes in 1984. These individuals who serve as the backbone of our economy, and are pivotal in a recovery, would have been dramatically affected by the Commission's original proposal. While we did not eliminate the provision to equalize the self-employed tax rates with the combined employer-employee amount, we approved the use of SECA tax credits to help ameliorate the impact, particularly in the first year.

These changes, approved by the Finance Committee, greatly enhanced the overall package, so that a lot of people who might not otherwise vote for this bill on the floor of the Senate may now be able to do that. To give the Commission its due, their original report laid a strong foundation for Members of both Houses of Congress from which to make their final recommendations. Without the Commission's leadership and diligence, I fear the discussion on social security would be far more acrimonious.

I must register some concerns with portions of the package I find most troublesome. The authorization of continued interfund borrowing, no matter how carefully structured, spells nothing but trouble. It is our duty to develop a package that will actually solve the funding crisis. In my mind, this fall-back provision merely means we were not able to make some hard decisions and legislate all the needed

changes to solve the problem of the social security system. It also has grave implications for the solvency of the medicare fund, and conversely, for the O.A.S.D.I. fund should medicare be forced to borrow from its larger sister prior to 1988.

The combination of the interfund borrowing authority and the use of certain accounting "gimmicks" are more than just a little disturbing. The so-called normalization of tax transfers is a thin disguise for general revenue borrowing, albeit for a month at a time. I would, however, like to state that the Senate's version of this scheme is far better than what the House adopted in their version of the Commission recommendations. At least the normalization mechanism is triggered in our bill with a time certain payment, including interest.

The integration of the civil service system with social security poses another problem. While we have heard from the distinguished Senator from Alaska (Mr. STEVENS) that the formulation of a supplemental plan for new Federal employees is not an insurmountable problem, such assurances do little to placate this Nation's civil servants. Congress must work in earnest, and as expeditiously as prudence allows, to develop an adequate and fair retirement program for Federal workers who are hired after the first of next year. We also have the solemn obligation to those currently in Federal employ that we are solidly and completely committed to their right to accrued entitlements to future benefits under the Federal retirement system.

One final point I would like to make on the completeness of this package is the adequacy of financing over the next decade because I have some doubts about how adequate that is. We have heard comments from a wide variety of sources that the package provides for a razor thin margin within the next few years. I am deeply troubled by reports that this package may not be sufficient to cover the short-term funding problem. I refer to my earlier remark that it would be far better to be overly conservative in our estimates to guarantee a solvent system. While I find such a possibility abhorrent, the plan reported out of the Finance Committee, does provide for a fail-safe plan which would be implemented should the system face a crisis in the next few years. Should we receive further indications that the bill not be adequate to remedy the problem, prompt and honest action must be initiated to guarantee we do not fall into the same trap we did in 1977.

While many of the provisions contained in S. 1 are distasteful, I am well aware that no social security plan could have been embraced by so many different groups and elected officials had it not been broad based, and contained a mix of the sweet and the sour. The heavy reliance on tax increases, and back door general revenue

financing are difficult for me to accept. Balanced against these provisions are the 6-month COLA delay, reduction of windfall benefits and the long-term changes which I feel are necessary if we are to ever get a handle on the phenomenal growth in this program.

I am particularly pleased the package includes several women's equity provisions. All of which are paid for, I might add. Finally, several provisions which the Finance Committee saw fit to include are the elimination of prisoners' benefits, and the limitation of benefits to nonresident aliens. These provisions accomplish the much needed goal of returning a sense of equity and fairness to the social security system.

The bill we are debating today is far more than a measure to provide adequate funding for social security. It is an opportunity for this Congress to restore some faith and confidence in the entire social security program, and perhaps restore some credibility in this Congress and its ability to take action.

Although far from perfect, this bill is the culmination of tremendous efforts of all those individuals who participated in one way or another to fashion a concensus plan. My colleagues on the Senate Finance Committee who served on the National Commission deserve the highest praise and appreciation from Members of this body as do their able staff members. The private sector individuals who so freely gave of their time to work for a reform measure also deserve our thanks. The President, and other elected officials demonstrated their ability to compromise and bend a little, to insure the economic security of today's and tomorrow's retirees. Finally, special thanks need to go to Robert Myers for his tireless efforts and seemingly endless patience.

After careful and thorough evaluation, I am supporting this compromise plan as presented here today. I realize many individuals and special interest groups find particular provisions included in the package to be sufficiently onerous that the plan cannot have their support. I can only say that we must evaluate the package in its entirety and with the ultimate goal of a safe and secure social security system. With those thoughts in mind, I lend my support to this plan.

Mr. DOLE. Mr. President, I appreciate the statement of the Senator from Iowa. I wish to thank the Senator from Iowa, a member of the committee, for his assistance in what he has described as maybe not a perfect solution but certainly one that I believe was improved in the Senate Finance Committee with the assistance of the Senator from Iowa.

We believe that we have a good compromise. We believe that it will pass the Senate hopefully without any significant change and that we can go to

conference with the House early next week and have this on the President's desk sometime late next week.

But I do wish to thank the distinguished Senator from Iowa for his invaluable assistance.

Mr. GRASSLEY. I thank the Senator from Kansas very much. I appreciate his leadership. I know it has not been easy. He has had to listen to my complaints and the complaints of everybody else. Let me say this and I say it sincerely:

This bill has come out of the Finance Committee a much better bill, a much stronger bill. If the chairman will remember the comments I made in the committee as I asked question after question of the various people who were testifying in support and against this bill, it is very difficult for me to buy two-thirds of a loaf even though two-thirds of a loaf may be better than no loaf at all.

But what came out of the Finance Committee, quite unexpectedly what came out of the House of Representatives, is a complete package.

One of the things that I needed to be assured of the most if I was to vote for this plan was to be assured that I could go home and tell retirees that as best we can presently determine we have solved the social security problem well into the future.

We were assured of that in 1977 based on fantastic tax increases, and yet here we are almost 6 years later with the same situation we had then.

But because the chairman has made some reform in the system, we can tell the young workers who will pay into the system for the next 40 years, as well as the person who is retired or close to retirement, that we have given the people a complete and sound package.

The contribution of the chairman of the Finance Committee to something which has become an integral part of our society and of the social fabric of America, the social security system, should be received with all the compliments we can offer. I hope he gets such compliments for a long time because he does deserve them.

Mr. DOLE. I thank my friend.

Mr. SYMMS. Mr. President, I would like to join with my friend from Iowa in complimenting the Senator from Kansas. I share those comments.

Mr. President, I have not supported the package yet because I feel there are still a few amendments that need to be added to improve this package.

Having said that, I did vote against an amendment which I spoke about earlier this afternoon, but I do believe the chairman has made a lot of headway and made improvements over what I thought the committee would be able to do.

UP AMENDMENT NO. 72

(Subsequently numbered amendment No. 521.)

(Purpose: To increase the retirement age at which full benefits paid to age 68)

Mr. SYMMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 72.

On page 97, beginning with line 11, strike out all through line 9 on page 98, and insert in lieu thereof the following:

"RETIREMENT AGE

"(a)(1) The term 'retirement age' means—

"(A) with respect to an individual who attains the early retirement age (as defined in paragraph (2)) before January 1, 1984, 65 years of age;

"(B) with respect to an individual who attains early retirement age after December 31, 1983, and before January 1, 2020, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the year in which such individual attains early retirement age; and

"(C) with respect to an individual who attains early retirement age after December 31, 2019, 68 years of age.

"(2) The term 'early retirement age' means age 62 in the case of an old-age, wife's, or husband's benefit, and age 60 in the case of a widow's or widower's benefit.

"(3) The age increase factor for individuals who attain early retirement age in the period described in subparagraph (B) shall be equal to one-twelfth of the number of months in the period beginning with January 1984 and ending with December of the year in which the individual attains early retirement age.

Mr. SYMMS. Mr. President, this amendment would raise the retirement age 1-month per year beginning in calendar year 1984 for 36 years—which would bring the regular retirement age up to 68 and the early retirement age up to 65.

This amendment is needed as one of the measures to assure the long-term solvency of the social security trust fund. Increasing the retirement age gradually over a period of 36 years gives today's workers adequate time to adjust and plan for their own retirement.

Increasing the retirement age is well justified because of the increased longevity of Americans. When social security was initiated, the average life expectancy at the time of birth was about 50 years. Those setting up the social security trust fund set the social security retirement age at 65. Today, the average life expectancy at the time of birth is about 72 years, and yet the social security retirement age still remains at 65. It is time we brought this matter up to date to help insure the long-term solvency of the trust fund.

I know that there are many who are opposed to increasing the retirement age because of a variety of reasons, including bad health. But I would also like to mention that I have read considerable information indicating the benefits of working longer, remaining

involved, and so forth, which keeps a person physically and mentally healthy.

I will not belabor this matter anymore because I believe this has been discussed in the hearing process and today.

Mr. President, I ask for the yeas and nays. I know the chairman of the committee wants to set the vote over until tomorrow, but I would like to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, we do want to put the vote on that amendment over until tomorrow.

Mr. SYMMS. That will be fine.

Mr. STEVENS. Can we discuss the time later?

Mr. SYMMS. That will be fine with me.

Mr. DOLE. Mr. President, unless there are other noncontroversial amendments, we now have an amendment laid down. This is not a noncontroversial amendment, I might add. It might not be a controversial amendment to the Senator from Idaho, but it might be to others. With that amendment pending, this might be a good time to retire for the day.

Mr. HUMPHREY. Mr. President, I have an amendment which I believe would be acceptable inasmuch as it is in the House version. We might take care of it tonight.

Mr. DOLE. Perhaps we can have a brief quorum call while we look at it. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time for the vote on the Symms amendment be determined during the time allocated to the leadership on tomorrow when the Senate reconvenes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I will not object. I agree to that. I would just like to say to the acting majority leader that I hope we might have, if necessary, 5 minutes for all Senators to restate what his or her amendment does and then vote. I think if we can work that out, there will be no problem.

Mr. STEVENS. To make sure there is no misunderstanding, I ask that that be the case, that there be 5 minutes on each side on the Symms amendment prior to the time of the vote being agreed upon tomorrow between the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY BENEFITS TO THE DECEASED

● Mr. HUMPHREY. Mr. President, as the Senate turns attention to the long-awaited social security reform package, I plan to offer two amendments to address the problem of erroneous benefit payments to deceased individuals. Many of our constituents were justifiably angered by the disclosure late in 1981 that over \$60 million in benefits had been routinely mailed, for as long as 15 years, to over 8,000 individuals listed as dead on medicare records. In one documented incident, a gulf coast widow forged her deceased husband's signature, cashed his benefit checks, and told investigators that he was at sea on a shrimp boat. In another, a wealthy middle-aged businessman cashed his father's social security checks for many months after his death, explaining to investigators that he needed to maintain cash flow for his business. I believe we need to take action to stem this hemorrhage of the trust funds.

The first amendment I plan to offer focuses attention on those individuals who criminally negotiate the erroneously issued checks. The Secretaries of Treasury and Health and Human Services would be required to provide that all title II benefit checks, and the envelopes in which they are mailed, bear a printed legend warning that the cashing or attempted cashing of a check which was erroneously issued for payment of benefits to a deceased individual constitutes a felony punishable under the provisions of section 208 of the Social Security Act by a maximum penalty of \$5,000 fine and 5 years imprisonment. I believe it would be wise to plainly warn potential felons of the nature and consequences of such an act, in order to give them pause to reconsider an act of disrespect both for the dead and for the taxpayers who fill the trust fund coffers.

The second amendment I plan to offer would add a provision directing the Secretary of Health and Human Services to establish a program under which the States voluntarily contract with the Secretary to periodically furnish information concerning individuals with respect to whom death certificates—or equivalent documents—have been filed. The Secretary would be required to compare this information with SSA files, and to make necessary corrections.

Mr. President, my amendment is essentially the same as an existing provision of the House-passed reform bill—which reflects the efforts of Representative WILLIS GRADISON—and differs only in that it incorporates certain modifications recommended by GAO and SSA. The amendment stipulates that administrative funds are to be used for payments to the States, and that the Secretary may enter into information sharing agreements with Federal and State administrators of

other benefit programs, provided that such agencies provide reimbursement for reasonable costs. Finally, the amendment provides that information provided under this section to the Secretary may not be used for any other purpose, and that the Secretary shall report to Congress next year on the status of the program.

Mr. President, I am hopeful that these proposals will receive the support of my colleagues. At a time when the trust funds are facing severe financial hardship, this unacceptable state of affairs cannot be tolerated any longer. ●

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

The PRESIDING OFFICER. Under the previous order, the time of 9:30 a.m. having arrived, the Senator will now resume consideration of H.R. 1900, the Social Security Act Amendments of 1983, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I think we can do a lot of good here on the social security package in the next few hours. We have contacted a number of Members who have amendments that we believe can be accepted, the first of which is one to be offered by the distinguished Senator from Texas, Senator BENTSEN.

The PRESIDING OFFICER. The pending question is on the Symms amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 73

(Purpose: To require exceptions and adjustments in the prospective reimbursement system for large regional and national referral centers)

Mr. BENTSEN. Mr. President, I have an unprinted amendment I would like to send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself and Mr. Dole proposes an unprinted amendment numbered 73.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 195, line 21, strike out "of public" and insert "of regional and national referral centers, and of public".

Mr. BENTSEN. Mr. President, we are considering today historic legislation that will have far-reaching effects on the delivery of medical services in our Nation. This legislation, establishing a new prospective system for reimbursing hospitals under the medicare program, has sprung from the Congress concern over rising costs of health care and the need to take positive action to hold down future cost increases. What, in effect, you are going to see is a rationing of health care by its very economics. However, we must be equally concerned, as we move into the use of prospective reimbursement, that this system does not impair our ability as a nation to continue on the leading edge of technological innovation and advance in clinical medicine, some of the things that lead to the United States being out on the technological frontier for the delivery of health care services, nor impair our ability to provide the most critically ill patients suffering multiple complications a commensurate level of care.

In order to preserve and foster these great assets of our health care system, I am offering an amendment to authorize the Secretary to take account, as appropriate, of the special circumstances of facilities furnishing extraordinary medical and surgical care to the sickest and most resource intensive patient populations.

We have a number of hospitals that are national and regional referral centers where we can send patients who require an intensity of resources beyond the capabilities of general community hospitals. One example of such an institution in my State of Texas is the Methodist Hospital. This hospital is nationally recognized as one of the leading hospitals in sophisticated technological advances—pioneering in the treatment of cardiovascular diseases. As a result, Methodist Hospital became the primary teaching institution for many physicians who were later to become well-known and widely respected cardiovascular surgeons.

The Methodist Hospital is one example of such highly specialized facilities. There are others within the Texas Medical Center in Houston, St. Luke's Episcopal Hospital, Hermann Hospital, and the University of Texas Health Science Center. Such advanced institutions have made the Texas Medical Center a mecca of health care, annually attracting patients from all 50 States and from more than 80 foreign countries. Other States also possess institutions with similar characteristics—characteristics which make them regional and national assets.

These large, technologically sophisticated hospitals which serve as regional and national referral centers are characterized by high case mix indices, diverse geographical patient origin, and numerous multidisciplinary medical education programs. Leaders

as well in basic and clinical research, these institutions have furnished and must continue to furnish technological leadership in medicine. These hospitals incur costs above those of ordinary hospitals. These additional costs are attributable not merely to the costs of education, but as well to the technological innovation, specialized training, and specialty treatment capacities of these institutions.

These regional and national referral centers are leaders in providing quality health care and are an invaluable national resource. They are in the vanguard of developments in clinical practice, medical technology, and basic and applied research. They have a unique capacity to offer diverse, highly specialized training in all areas of medical and allied health care.

They serve the sickest people in their community, together with a broad international, national, and regional group of referred patients for whom these centers are the place of last resort. To the extent these centers are no longer able to serve the same number of referred patients, other local and regional hospitals will be forced to bear the burden of caring for this critically ill portion of the patient population.

I am delighted and pleased that the distinguished chairman of the committee has chosen to cosponsor this, and I want to say how appreciative I am of the cooperation and help that he has given and for the help of the staff in working to insure the achievement of the objective we seek.

Mr. DOLE. Mr. President, I know there is no objection to the amendment. I wonder if we might—my staff has not yet arrived—have a brief quorum call. I think Miss Burke is on the way.

I have a statement to put in the RECORD. I do not wish to detain the Senator from Texas. The amendment will be accepted, but I wonder if we might wait a minute or two?

Mr. BENTSEN. I have also discussed this with the ranking Democratic member, Senator LONG, who has been most helpful and who shares the same concerns. I urge the Senate to adopt the committee amendment regarding national and regional referral centers to insure that the Secretary will consider any deleterious effects on these centers of the new prospective reimbursement system and to insure that appropriate adjustments in payment rates to such hospitals will be made.

Mr. DOLE. Mr. President, the amendment offered by the Senator from Texas addresses one of the problems I mentioned in my opening statement which quite naturally occurs when a new system of reimbursement is devised—problems which need attention if the system is to be as equitable as possible.

Regional and national referral centers may be quite different from other hospitals. Certainly we know that such centers are magnets— attracting diffi-

cult cases that, for one reason or another, cannot be handled elsewhere. We do not have the data, nor can we perform at this time the analysis needed, to verify that such centers require \$10, \$100, or \$1,000 more per case than other hospitals. We do know, however, that some analysis is necessary and if the results so indicate, adjustments must be made for the special needs of these hospitals.

Our intention is to continue to support the enormously important work done by institutions like the Methodist Hospital in Texas. These institutions have a unique capacity to offer diverse, highly specialized care and education in all areas of health care.

The amendment offered by the distinguished Senator from Texas, (Mr. BENTSEN) directs the Secretary to examine the experience of these hospitals carefully and to make the necessary adjustments to their reimbursement to account for their special circumstances.

As I have indicated before, the Senator from Kansas supports this amendment. I know the Senator from Louisiana (Mr. LONG) is a cosponsor, and he raised the question in the committee during the committee deliberations.

There is no problem with the amendment except I think Senator COCHRAN wanted to offer a slight amendment to the Senator's amendment, to which I do not think you have any objection, which relates to Mississippi, and he is on his way to the floor.

I suggest the absence of a quorum.

Mr. BENTSEN. Mr. President, if the Senator will withhold, I suggest that Senator LONG, from Louisiana, be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the role.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 74

Mr. COCHRAN. Mr. President, I send to the desk an amendment to the Bentsen amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) for himself, Mr. STENNIS and Mr. SPECTER, proposes an unprinted amendment numbered 74 to the Bentsen amendment numbered 73.

After "referral centers" insert "(including those hospitals of 500 or more beds located in rural areas)".

Mr. COCHRAN. Mr. President, I am offering this amendment on behalf of myself, Senator STENNIS, and Senator SPECTER. The purpose of the amend-

ment is to attempt to address a special problem with the provisions of the bill for payment to hospitals for direct costs under medicare.

The bill provides a basic distinction between urban and rural hospitals, with the assumption that the cost incurred by urban hospitals is about 30 percent higher than cost of a rural hospital reflecting the more sophisticated equipment, procedures, and personnel that are necessary to deal with the more complex medical problems that are encountered in the larger urban areas.

This is true in some cases—maybe in many cases—but there are some special exceptions to that generalization. There is, for example, in my State of Mississippi a 650-bed hospital located in Tupelo, Miss. It is the North Mississippi Medical Center. For all purposes, other than the fact that it is located in an area that is not defined as an SMSA, it is a big hospital, the largest in our State. But because of this arbitrary distinction—maybe it is not arbitrary in all cases—but because of this distinction that is in the bill, it would be eligible for reimbursement at a rate of some 30 percent less than the hospitals in Jackson, Miss., for instance, which are located in the standard metropolitan statistical area.

We had hoped to be able to get the committee to go along with a simple amendment that would treat these large rural area hospitals, with 500 beds or more in their facility, as if they were urban hospitals. I still think that is the simplest way to do it—but because of objections from the Department and the committee, we are offering an alternative.

This will provide for the Secretary to permit payment to these large rural hospitals at the same rate as the urban hospitals if it is found that the cost they incur in delivery of health care justified that level of payment. I am hoping that that will be the decision of the Secretary.

The amendment specifically directs the Secretary of HHS to analyze the circumstances for those rural hospitals with over 500 beds—and there are only four hospitals like this that I know about in the United States—and to make adjustments so that those hospitals can be paid at the rate which reflects their actual cost, even though they would otherwise be in the rural category.

In addition to providing the Secretary with the authority to order payment as if these large rural hospitals were in an urban area, it also permits the Secretary to determine those medical functions where there are higher costs incurred by these large rural hospitals different from the costs for similar medical functions incurred by smaller hospitals in the same areas, and directs her to make reimbursements accordingly, to calculate reimbursement levels that would

be fair to the large hospitals based on their higher costs.

I am hoping that this amendment is going to meet the problem, it will, if the Secretary acts promptly and develops a set of rules that will reflect fair treatment for these very large hospitals in rural areas.

In talking with the chairman of the committee and others, I understand that it is the intention of the managers of the bill to accept this suggested change in the language of the legislation, and I appreciate that very much. The distinguished chairman of the committee and Senator BENTSEN have been very courteous and helpful in developing this language to meet this problem which exists in my State and three others. I understand there is a situation in Texas, as well, where they are dealing with a large rural center.

I appreciate the opportunity to offer this amendment at this point on behalf of myself and the other Senators mentioned.

Mr. DOLE. Mr. President, I thank the Senator from Mississippi. His amendment provides an opportunity for adjustments in the case of another small, but important, group of hospitals which could have been all too easily overlooked during the implementation of this new system. We intended to devise this new hospital reimbursement system so as to be responsive to as many concerns as possible.

In the case of the five institutions Senator COCHRAN is concerned with, each is quite large and located in a rural area. They are concerned that their services and their costs more closely approximate those of a large urban hospital.

Certainly the rural-urban split in the prospective rates may not be appropriate in the case of very large acute care hospitals located in rural areas. But rather than pose a simplistic answer to the problem at this time, this Senator feels strongly that we ought to direct the Secretary to make an adjustment that makes sense given the particular circumstances.

This kind of situation is a matter best addressed from an analytical standpoint. It is in our own best interest to see that the Secretary, as in the case of the referral centers, takes a close look at the details and is then required to make appropriate adjustments.

I thank the Senator for his amendment and for his concern.

Mr. BAUCUS. Mr. President, I commend the committee for its amendment regarding hospitals that serve as national and regional referral centers. While the driving force behind the prospective payment system has been the need to restrain cost increases in health care, the committee has shown that it is also mindful of the need to sustain research and development in clinical medicine at the Nation's great medical centers. Such institutions have special capabilities, not ordinarily

found in community hospitals, that require technological sophistication and innovation; multidisciplinary and highly specialized training programs; and the capacity, experience, and support systems necessary to care for the sickest, most resource-intensive, patient populations. The cost of care in such hospitals may far exceed the rates at which the hospital would otherwise be reimbursed under the prospective payment system. The committee amendment will insure that, as the Secretary implements this new reimbursement system, he makes appropriate adjustments to payment rates to insure that the ability of our regional and national referral centers to provide the highest quality of care for the sickest of our people is not impaired, and that our commitment as a nation to remain in the forefront of advance in clinical medicine is not diminished.

Mr. STENNIS. Mr. President, earlier this morning I was away from the floor when the Senate considered the Cochran amendment to the Bentsen amendment concerning medicare reimbursement. I was delighted to join my colleague from Mississippi in cosponsoring the amendment.

The North Mississippi Medical Center in Tupelo, Miss., is the largest hospital in my State, with 650 beds. It is a major referral hospital serving a number of surrounding counties in northeast Mississippi. It provides highly sophisticated services which are not available anywhere else within the region and are typically available only at urban hospitals. To provide these services, the hospital must employ specially skilled, technical personnel whose alternative employment opportunities are in urban areas. In short, Mr. President, its costs are greater than those of a normal urban hospital.

The committee bill, in basing reimbursement rates upon whether a hospital is rural or urban, fails to recognize the particular situation of these large, acute care facilities that are located in rural areas but which offer services and incur costs similar to urban hospitals.

The amendments offered by the Senator from Mississippi and the Senator from Texas would authorize the Secretary to make adjustments in the reimbursement rates for those large referral hospitals located in rural States in order to put them on an equitable basis with similar urban hospitals. These amendments are necessary to recognize the unique problems of a very limited number of hospitals. I am pleased that the Senate has accepted these important amendments, and I will continue to work for them until we get them enacted into law.

Mr. BENTSEN. Mr. President, I think the amendment offered by the Senator from Mississippi is a good amendment, a meritorious one. After looking at it and discussing it with the Senator, the chairman of the committee, the Senator from Kansas and I

are pleased to support it, and as the ranking minority member present from the Finance Committee. I urge its immediate consideration and adoption.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Texas very much. I appreciate his cooperation and assistance in this matter.

Mr. BENTSEN. I know of no objection to the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 74) was agreed to.

Mr. BENTSEN. Mr. President, I move adoption of the Bentsen amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the Bentsen amendment, as amended.

The amendment (UP No. 73, as amended) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. COCHRAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the Symms amendment.

Mr. RIEGLE. Mr. President, my intention is to make a brief set of comments about the social security package. Would that be appropriate at this time?

Mr. BENTSEN. I know of no one else seeking time, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to share with my colleagues my thoughts on this legislation we are considering today designed to secure the financial integrity of the social security system. Clearly, the bill we have before us on the floor is the product of the work and thoughts of many individuals. These individuals have struggled through many difficult choices in their attempt to arrive at a workable solution to the financial shortfall facing the social security system.

While I and others have reservations about certain aspects of the package, I think the Commission deserves praise for their hard work and their perseverance. In particular today I want to commend Senator DOLE, who, as a member of the National Commission and chairman of the Senate Finance Committee, has demonstrated important leadership and sensitivity on this vital matter.

The recommendations of the National Commission and the compromises worked out in the Senate Finance Committee are a remarkable achievement, given the complexity of the problem.

In addition to Senator DOLE, I want to praise the efforts of the senior Sen-

ator from New York, Senator MOYNIHAN, for his invaluable contribution in the development of this package. The work of these two colleagues particularly has been, in my view, an important national service.

The problems which the social security system faces in the next few years are overwhelmingly a product of the state of our economy. Several years of high, unprecedented inflation has resulted in a higher level of benefits than anyone had anticipated. At the same time, because of excessive levels of unemployment, a lower number of workers have been contributing into the system which resulted in lower than expected levels of revenue. So getting our national economy back on track and moving forward with real economic growth, with people back at work, is the most fundamental way to solve the problems of social security.

With regard to the package before us today, I am especially pleased that several provisions contained in the legislation are ones which I first introduced in September 1981 and again introduced in February of this year. These proposals are an integral part of the legislation that the Senate is now considering.

The critical elements are common to both my proposals and the plan we are now considering, and address the issues of complete interfund borrowing, recrediting the trust funds with unnegotiated checks, and establishing public participation on the board of trustees.

The fourth remaining component of my legislation which was included in the National Commission's recommendations but which is absent from the bill reported from the Senate Finance Committee, would remove social security from the Unified Federal budget. This would have the effect of removing social security from the political forces which are part of the congressional budget process.

As debate on the social security amendments unfolds, Senator HEINZ and I will address this situation by offering an amendment following the House-passed bill, which would remove social security from the unified Federal budget starting in fiscal 1988.

While I and many of my colleagues have strong reservations about some of the provisions of the pending bill, I am hopeful that we can join together to hammer out an acceptable compromise through the amendment process. I did, however, at the outset, want to take this opportunity to congratulate the participants who have been so instrumental in the development of this package and bringing it to the floor at this time.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUMPHREY). The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so ordered.

The Senator from New Hampshire is now recognized.

UP AMENDMENT NO. 75

(Purpose: To prohibit payment of benefits to inmates of facilities for the criminally insane)

Mr. HUMPHREY. Mr. President, in 1981, the Congress, with excellent justification, cut off social security benefits—

The PRESIDING OFFICER. Will the Senator suspend?

May we have order in the Chamber so the Senator can be heard and the Chair can hear the Senator? Those Senators conferring in the Chamber will please retire to the back of the Chamber so the Senator from New Hampshire can be heard.

Mr. HUMPHREY. I thank the Chair.

Mr. President, in 1981, the Congress, with excellent justification, suspended social security benefits to persons convicted of crimes; that is, to criminals. In the current social security reform package pending, the Congress proposes to tighten up further on that procedure to deny all benefits, not just disability benefits, but all benefits which are now being extended to convicted criminals.

Some months ago, during one of my frequent visits to the State which I have the honor of representing, one of my constituents came to me and complained that he knew of a number of instances where persons committed to the State hospital for having committed crimes but adjudged not guilty by reason of insanity were receiving social security benefits and using them to improve their standard of living, shall we say, to buy TV sets for their rooms and other unessential material possessions or were simply accumulating a savings account.

Mr. President, were it not for the finding that these people were adjudged insane, they would not be in hospitals but in penal institutions. So the category of not guilty by reason of insanity does not imply in any way that these people are innocent. Except for their mental condition they would have been found guilty and prosecuted under the law. But because of their mental deficiency, or whatever, they are categorized as not guilty by reason of insanity and placed in medical facilities instead of penal institutions.

The point I am trying to make is that this category of person is no more entitled to social security benefits accruing to his person than is someone adjudged a criminal and placed in a penal institution.

Therefore, Mr. President, I am offering this amendment which I now send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Hearing none, the pending amendment is set aside.

The clerk will report the Humphrey amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 75.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 106, line 4, before the period insert the following: "or would be so confined but for his confinement in a psychiatric or other medical facility, or for any month during which such individual is confined in a facility for the criminally insane, or any other psychiatric facility, by reason of his having been found not guilty of a crime (which would have constituted a felony under applicable law) by reason of insanity."

On page 106, line 21, after "applicable law," insert the following: "or would be so confined but for his confinement in a psychiatric or other medical facility or who is confined to a facility for the criminally insane or other psychiatric facility under the jurisdiction of such agency by reason of his having been found not guilty of a crime (which would have constituted a felony under applicable law) by reason of insanity."

Mr. HUMPHREY. The effect of the amendment is to cut off social security benefits to those adjudged not guilty by reason of insanity. This in no way affects benefits for which such persons' families might be eligible. This stricture applies to the person himself found not guilty by reason of insanity, just as the stricture enacted by Congress in 1981 applying to criminals applies only to that person found guilty and not to any benefits to which his family might be entitled.

The manager on the majority side has agreed to this amendment, I understand. I believe it has been cleared by the minority. I yield at this time. Perhaps the manager cares to comment on the amendment.

Mr. ARMSTRONG. Mr. President, I do not think this amendment requires much discussion because I believe that the case which has been set forth for its adoption by the Senator from New Hampshire is completely clear and entirely persuasive.

I just want to congratulate him for closing the loop here and for perceiving an area which had not been adequately treated by the bill as it came from the Finance Committee. It is, of course, typical of the scholarship and participation which he brings to this matter that he would propound such an amendment. We appreciate his doing so, and I hope all Senators will vote for this amendment.

Mr. HUMPHREY. I thank my colleague from Colorado.

If we could have the attention of the distinguished ranking member of the Appropriations Committee, I believe we are prepared to dispose of this amendment, but I want to give an opportunity to the minority to comment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Hampshire (Mr. HUMPHREY).

The amendment (UP No. 75) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTION TABLED TO RECONSIDER UP AMENDMENT NO. 70

Mr. HUMPHREY. Mr. President, I also move to reconsider the vote by which the Humphrey amendment was agreed to yesterday. This is the one dealing with requiring the Treasury to print on social security checks a legend indicating that fraudulent cashing of a check is a Federal felony.

Mr. ARMSTRONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. The question is on the bill.

Mr. HUMPHREY. Mr. President, I believe we have another noncontroversial amendment that has been cleared by both sides.

I spoke too soon, Mr. President, I yield the floor.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 76

Purpose: To require establishment of a program for obtaining death certificates to prevent erroneous benefit payments to deceased individuals

Mr. HUMPHREY. Mr. President, yesterday the Senate accepted an amendment which I offered and to which I alluded a moment ago, namely, that which requires the Treasury to print a legend on each social security check and the envelope in which it was mailed indicating it is a Federal felony to fraudulently cash or attempt to cash a check issued to a deceased person and indicating that that is a crime punishable by a maximum penalty of 5 years in prison or a \$5,000 fine.

The amendment agreed to yesterday addresses the problem of the millions of dollars being lost every year in benefits being paid to deceased persons and whose demise has not been brought to the attention of the Social Security Administration.

As I said yesterday, this approach, the printing of the legend on the check is not a perfect and full remedy for the situation.

Therefore, I propose another amendment which I send to the desk.

The PRESIDING OFFICER. Is the Senator asking unanimous consent to set aside the pending business?

Mr. HUMPHREY. I ask unanimous consent that the pending business be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the Humphrey amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 76.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I add the following new section:

USE OF DEATH CERTIFICATES TO PREVENT ERRONEOUS BENEFIT PAYMENTS TO DECEASED INDIVIDUALS

SEC. 153. Section 205 of the Social Security Act is amended by adding at the end thereof the following new subsection: "Use of Death Certificates to Correct Program Information

"(1) The Secretary shall undertake to establish a program under which—

"(A) States (or political subdivisions thereof) voluntarily contract with the Secretary to furnish the Secretary periodically with information (in a form established by the Secretary in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them;

"(B) There will be (1) a comparison of such information on such individuals with information on such individuals in the records being used in the administration of this Act, (2) validation of the results of such comparisons, and (3) correction in such records to accurately reflect the status of such individuals."

"(2) Each State (or political subdivision thereof) which furnishes the Secretary with information on records of deaths in the State or subdivision under this subsection may be paid by the Secretary from amounts available for administration of this Act the reasonable costs (established by the Secretary in consultations with the States) for transcribing and transmitting such information to the Secretary.

"(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this Act, the Secretary shall to the extent feasible provide such information through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

"(A) under such arrangement the agency provides reimbursement to the Secretary for the reasonable cost of carrying out such arrangement, and

"(B) such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(4) The Secretary may enter into similar agreements with States to provide information for their use in programs wholly funded by the States if the requirements of (r)(3)(A) and (r)(3)(B) are met."

"(5) The Secretary may use or provide for the use of such records as may be corrected under this section, subject to such safeguards as the Secretary determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical and research activities conducted by Federal and State agencies.

"(6) Information furnished to the Secretary under this subsection may not be used for any purpose other than the purpose described in this subsection and is exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title."

"(7) The Secretary shall include information on the status of the program established under this section and impediments to the effective implementation of the program in the 1984 report required under Section 704 of the act.

Mr. HUMPHREY. Mr. President, under Public Law 97-123, the Social Security Administration was required to conduct a pilot program under which it arranged with the States to obtain from them vital statistics; namely, death notices. The point, of course, was to devise a means of eliminating the waste and the fraud that occurs when checks are made out to deceased persons and are negotiated in one way or another; that is, cashed.

The pilot program required under 97-123 was highly successful, but because it was only a pilot program it has now concluded and there is no mechanism currently in place to insure its continuation.

Mr. President, in the House version of the bill before us, there is a provision authored by Representative GRADISON which would extend or begin a new program requiring the Social Security Administration to contract with the various States on a voluntary basis for obtaining vital statistics such that it can learn of the demise of beneficiaries in situations where it now does not learn of that event.

The amendment before us which I have just offered is very nearly identical to that which is already contained in the House version. However, there are a number of minor changes—in my view improvements—and likewise in the view of Congressman GRADISON, which have been made in this amendment, all of which are consistent with recommendations made by the General Accounting Office and the Social Security Administration on this score; namely, the obtaining of vital statistics from the States.

Mr. President, both the majority and minority sides have examined this amendment and are willing to incorporate it into the bill.

I yield the floor at this time in case the managers on either side desire to comment at this point.

Mr. ARMSTRONG. Mr. President, having conferred with the distinguished minority manager of the bill, the Senator from Louisiana, we are

prepared to accept this amendment. We think it is a constructive change and, in fact, addresses itself to a problem which, in the long run, could cost substantial amounts of money for the social security fund. We think this is a very useful approach and we are grateful to the Senator from New Hampshire for raising the issue. We urge an aye vote on the amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (UP No. 76) was agreed to.

Mr. **HUMPHREY**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **ARMSTRONG**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The question recurs on the Symms amendment.

Mr. **ARMSTRONG**. Mr. President, I ask unanimous consent that the Symms amendment be set aside and that I may be permitted to offer an amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

UP AMENDMENT NO. 77

(Purpose to permit employers with less than \$5,000 in monthly withholding to deposit taxes 15 days after the calendar month in which taxes are collected)

Mr. **ARMSTRONG**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. **ARMSTRONG**), for himself and Mr. **BAUCUS**, proposes an unprinted amendment numbered 77.

Mr. **ARMSTRONG**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

"SEC. () SIMPLIFIED PAYROLL PROCEDURES

(a) GENERAL RULES.—Effective for months beginning after December 31, 1983, in applying section 31.6302(c)-1(a)(1)(i)(b) of the Internal Revenue Regulations—

(1) "\$5,000" shall be substituted for "\$3,000 in such section with respect to the first deposit required to be made during any calendar month."

Mr. **ARMSTRONG**. Mr. President, the amendment addresses itself to a relatively simple matter but one which is of great interest to a number of small business concerns throughout the country. As Senators know, employer tax withholding deposit requirements are determined by the Internal Revenue Service in accordance with a series of thresholds that allow employers with \$500 or less in monthly withholding of social security and income taxes the opportunity to de-

posit once a month or once a quarter. For those employers who have withholdings in the amount of \$500 but not to exceed \$3,000, they deposit 15 days after the calendar month in which taxes are collected. Those employers who have more than \$3,000 a month in withholding deposit within 3 days after the liability incurs. Now, that could be up to eight times a month.

The purpose of the amendment which I have offered on behalf of myself and the Senator from Montana (Mr. **BAUCUS**) is simply to raise that threshold from 3,000 to 5,000. In other words, it would permit employers with less than 5,000 in monthly withholding to deposit taxes 15 days after the calendar month in which the taxes are collected. This amendment simply provides a degree of relief to small business in a matter that is of serious administrative concern to them. Now, we are talking about really very small companies. We are not talking about even medium size and certainly not in any even large companies, but we are talking about, first, the cash management problem which small businesses have and, second, the administrative problem, because while it may be possible, at least barely possible, for a large company that has substantial data processing resources to cope with the demands of depositing several times a month, it is very, very difficult for a small company, for a gas station or a small retailer or a dry cleaner or a service business to do that. And so this provision—

The **PRESIDING OFFICER**. Will the Senator suspend? May we have order?

Mr. **ARMSTRONG**. This merely provides a degree of relief from that problem.

So with that word of explanation and while awaiting the arrival on the floor of our colleague from Montana, who I believe may wish to say a word on this, I will ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **ARMSTRONG**. Mr. President, while awaiting the arrival of other Senators who may wish to speak on this matter, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BAUCUS**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAUCUS**. Mr. President, I join the Senator from Colorado in offering his amendment, and I thank the Senator for the work he has undertaken in crafting this amendment.

The Senator, as we all know, has spent many hours, many weeks, many

months—so far as we know, even years—on the general question of social security, and working on the Commission. He has labored very diligently and industriously, and I think he has as much knowledge as anyone else of the intricacies and the problems facing our social security system. He certainly knows the problems that face small business.

This is a simple amendment. It is very brief; it is equitable. It is designed to help small business, very simply, by providing that any businessman who holds less than \$5,000 in FICA payments need only deposit those payments on a monthly basis, 15 days after the end of each month.

The problem at this time is that businesses that hold \$3,000 or more have to deposit up to eight times a month. That is the same provision that applies to businesses of all sizes. This amendment would enable small businesses, those with about 15 to 20 employees, to deposit withheld payroll taxes once a month, 15 days after the end of each month.

This amendment would not cost very much. It is less than \$1 billion for the decade. That might sound like a lot of money, but we all know that in dealing with the social security system, it is minimal.

This amendment is endorsed by many organizations—the National Federation of Independent Business, the Chamber of Commerce, the National Association of Wholesalers and Distributors, and others. Obviously, it is one that is needed for our economy as we work ourselves out of the recession, on the road to recovery. Working capital will be increased for capital-starved small businesses, and the administrative savings from paying monthly will also be significant.

I have one final point which is often made but is one that I think we should keep in mind: Most innovation in America comes from small business. We might think that any innovation, new ideas, or increases in productivity come from big business. That is not the case. Studies show that, by far, most innovation, most new ideas, most increases in productivity come from small businesses. In the main, that is because smaller businesses enable the entrepreneur to develop new ideas; whereas, in larger business, often the size of the business and the bureaucracy tend to stifle new ideas, and increases in productivity.

Mr. President, I do not want to labor the point. This is a simple and fair amendment. It gives a bit of relief to America's small businesses.

Mr. President, a final point: I think that, by and large, the recommendations of the National Commission on Social Security are on the right track. Each of us might have minor adjustments we would make; but I think, by and large, it is pretty much on the right track, because there is no better alternative.

The problem, though, is that when you look at the whole realm of the burden business has to bear in contributing to the package of the National Commission, it is clear that big business can withstand some of the burdens a little easier than can small business. Big business tends to be in a little better position to pass on those cost increases in terms of higher prices. That is somewhat less true in the case of small business. Small business tends to be locked in a little more.

It is for that reason that the Senator from Colorado and I think small business deserves a little break to even out the burden, to even out the equities. This is truly more fair, so the package will be truly more balanced.

For those reasons, I hope our colleagues will support the amendment, and I urge its quick adoption.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I congratulate him on his statement. He has presented the amendment with great clarity, but also he has made a point that we need to emphasize every day of the year, and that is that the economic future of this country depends on small business. That is not to denigrate the enormous contribution large concerns make to our economy in the employment they provide. But, in reality, it is not the big companies that are the creative, energizing force of new ideas and new employment opportunities. It is the small companies, the companies which do not have elaborate administrative superstructures, which do not have the ability to cope with making deposits of withholding tax several times a month.

The Senator from Montana and I are talking about very small firms. We are not talking about even medium-sized companies when we say that their withholding might be \$4,000 or \$5,000 a month. This is perhaps a firm that has a dozen or 15 or, at most, 20 employees. So we are not talking about large companies.

I appreciate the Senator from Montana particularly making that point, because I would not want there to be any confusion. This is simply a practical problem that we are addressing, and I thank him for his participation and leadership on this issue.

Mr. BAUCUS. I thank the Senator.

Mr. President, one more point: Often, the first question Senators ask themselves about an amendment is, "Does this break up the package? Does this bust the package?" Some amendments do and some amendments do not bust the package. Certainly, amendments that cost large amounts will bust the package. Amendments that do not cost large amounts will not. This is in the latter category. This is a small amount amendment. Therefore, I submit that it will not bust the package. It is an amendment that is fair and equitable.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. BAUCUS. I yield.

Mr. SYMMS. Mr. President, I agree with what both Senators have said. I appreciate the Senator from Montana and the Senator from Colorado bringing this amendment to the floor.

It will not break the package, but it may save a lot of small businesses that are right on the margin now, because it will be one less headache. So, in the long run, the \$1 billion projected cost, as the Senator from Montana accurately points out, in terms of the social security program, is not going to make or break the system. In fact, it may not cost anything in the long run, just because it removes the necessity for some unnecessary redtape. Also, it will help some of those businesses facilitate their normal operations and pay their bills. It is an amendment that affects every State.

I think the Senator from Montana and the Senator from Colorado are correct. Small businessmen and businesswomen of America literally are the backbone of the enterprise system in this country.

This is one thing that we could and should do to improve this package. I hope that we can get an overwhelming majority vote for this amendment. It is just plain commonsense. I know from personal experience that it is very helpful to the small businessman who has cash flow and accounting difficulties.

I thank both Senators for offering the amendment.

Mr. BAUCUS. Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I do not know that the Senator from Kansas has any problem with the amendment, but again I think we should state for the RECORD that it is not cost free as far as the trust fund is concerned. We are concerned about the status of the social security trust funds.

We are advised that the budget effect of this amendment is \$500 million in 1984 and \$1 billion over the decade. It will decrease the trust fund receipts by \$200 million in 1984 and \$400 million over the decade. It will also reduce general revenues in the amount of \$300 million in 1984 and \$600 million over the decade.

As pointed out, the Senator from Kansas had to be absent from the Chamber, but this amendment was discussed in the Finance Committee by the distinguished Senator from Colorado, the Senator from Montana, and I believe the Senator from Idaho.

It is an expensive provision to both the social security trust fund and the Federal budget generally. We were trying to figure out some way to satisfy the concerns of small business without having such a significant impact on the trust funds and on the Federal budget generally. Apparently we did not get that worked out.

● Mr. LEVIN. Mr. President, I cosponsor and support the Armstrong-Baucus amendment which will reduce the paperwork burden on many small businesses by allowing them to deposit

social security payroll taxes on a monthly basis rather than more frequently.

The burdens that we have placed on small business are heavy. The struggle that they face in this recession is deep. We should be ever sensitive to the paperwork and redtape burdens which we impose upon them.

This amendment is one way of reducing those burdens and displaying that sensitivity and we should grasp the opportunity to do so. I am happy to be a cosponsor. ●

Mr. DOLE. Mr. President, I have now discussed this amendment with the principal sponsors, the Senator from Colorado, the Senator from Montana, and with the distinguished ranking minority member, Senator LONG. I am prepared to accept the amendment if there is no objection of the Senator from Louisiana.

Mr. LONG. Mr. President, I am willing to accept the amendment.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk preceded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, a parliamentary inquiry. Would the pending matter be the vote on the Armstrong amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. ARMSTRONG). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO) is necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO) would vote "yea."

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from New York (Mr. MOYNIHAN) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. SYMMS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 96, nays 0, as follows:

(Rollcall Vote No. 28 Leg.)

YEAS—96

| | | |
|-----------|-----------|-----------|
| Abdnor | Bingaman | Chafee |
| Andrews | Boren | Chiles |
| Armstrong | Boschwitz | Cochran |
| Baker | Bradley | Cohen |
| Baucus | Bumpers | Cranston |
| Bentsen | Burdick | Danforth |
| Biden | Byrd | DeConcini |

| | | |
|-------------|------------|----------|
| Denton | Inouye | Percy |
| Dixon | Jackson | Pressler |
| Dodd | Jepsen | Proxmire |
| Dole | Johnston | Quayle |
| Domenici | Kassebaum | Randolph |
| Durenberger | Kasten | Riegle |
| Eagleton | Kennedy | Roth |
| East | Lautenberg | Rudman |
| Exon | Laxalt | Sarbanes |
| Ford | Leahy | Sasser |
| Garn | Levin | Simpson |
| Glenn | Long | Specter |
| Goldwater | Lugar | Stafford |
| Gorton | Mathias | Stennis |
| Grassley | Matsunaga | Stevens |
| Hart | Mattingly | Symms |
| Hatch | McClure | Thurmond |
| Hatfield | Melcher | Tower |
| Hawkins | Metzenbaum | Trible |
| Hecht | Mitchell | Tsongas |
| Heflin | Murkowski | Wallop |
| Helms | Nickles | Warner |
| Helm | Nunn | Weicker |
| Huddleston | Packwood | Wilson |
| Humphrey | Pell | Zorinsky |

NOT VOTING—4

| | |
|----------|----------|
| D'Amato | Moynihan |
| Hollings | Pryor |

So Mr. Armstrong's amendment (UP No. 77) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LEVIN, Senator SASSER, Senator MITCHELL, Senator BRADLEY, Senator LAUTENBERG, and Senator JEPSEN be added as cosponsors of the amendment that was just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill the following new title:

TITLE — VETERANS' ADMINISTRATION REORGANIZATION
 Sec. . The requirements of section 210(b)(2)(A) of title 38, United States Code, shall not apply to the planned administrative reorganization at the Veterans' Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees from the Office of Data management and technology to the Department of Medicine and Surgery of the Veterans' Administration.

Mr. DOLE. Mr. President, as I indicated, this is an amendment that I have offered on behalf of the distinguished Senator from California, Senator CRANSTON, and the distinguished Senator from Wyoming, Senator SIMPSON. It is a noncontroversial amendment relating to the transfer of a small number of VA employee positions from one VA department to another in Los Angeles. It is one that there has been an agreement upon. It is technical in nature. I know of no objection to the amendment.

Mr. BAUCUS. Mr. President, as far as I understand on this side of the aisle, there is no objection.

This amendment does not relate to social security. It relates to an internal reorganization problem in the Veterans' Administration, and the Administration needs the amendment in order to transfer 25 full-time equivalent employees from one agency to another within the Veterans' Administration.

I am not aware of any opposition to the amendment.

Mr. CRANSTON. Mr. President, I am pleased to join with my good friend, the chairman of the Veterans' Affairs Committee (Mr. SIMPSON), in submitting for printing a noncontroversial amendment to S. 1 that we intend to offer during Senate consideration of S. 1 later this week. The substance of the amendment—relating to a staffing reorganization in the Veterans' Administration—is not related to the subject matter of S. 1. Rather, we are proposing to add it to S. 1 because of the need to insure early enactment of the provisions of our amendment.

Mr. President, I will ask that a February 1, 1983, letter from Administrator of Veterans' Affairs Harry N. Walters to me be printed in the RECORD at the conclusion of my remarks. In that letter, Mr. Walters explains in some detail the situation that prompts our amendment. Stated very briefly, the VA is seeking to accomplish an intra-agency transfer of 25 full-time equivalent employees from an office in one VA department to an office in another in connection with the agency's efforts to develop a decentralized automated data processing—ADP—system in the VA health-care system. As Administra-

tor Walters noted in his letter, the transfer is considered necessary by the VA in order to comply with the thrust of provisions in Public Law 97-377, the current fiscal year 1983 continuing resolution signed into law on December 21, 1982, that are aimed at eliminating certain centralized ADP activities at VA medical facilities. The 25 employees proposed to be transferred have been operating a centralized ADP system that the VA considers outdated and wished to eliminate in light of the congressional mandate in that public law. However, under a provision applicable only to the VA—section 210(b)(2) of title 38, United States Code—generally prohibiting the VA from reducing the staff at any of its offices by more than 10 percent in any fiscal year without advance notice to the Congress approximately 8 months prior to the beginning of that fiscal year, this transfer cannot take place until October 1, 1983, the start of the fiscal year 1984.

Mr. President, I know of no opposition to the proposed transfer; it is important for the transfer to take place much sooner than October 1, and enactment of the amendment we are proposing will allow the transfer to take place in a more appropriate time frame. I note also, Mr. President, that the transfer will not involve any actual moving of staff; rather, those transferred will remain at the same location but under a different VA organizational unit.

Mr. President, I ask unanimous consent that the letter mentioned earlier from the Administrator of Veterans' Affairs, dated February 1, 1983, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

FEBRUARY 1, 1983.

HON. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: The continuing resolution signed into law on December 21, 1982. Pub. L. No. 97-377, states that no appropriated funds shall be used to further develop or maintain this Agency's Computerized Medical Information Support System (COMISS). It also mandates the transfer of a full-time equivalent employment (FTEE) ceiling of 69 positions (on an annualized basis), previously assigned to COMISS development, from the Office of Data Management and Telecommunications (ODM&T) to the Department of Medicine and Surgery (DM&S) for the support of the Decentralized Hospital Computer Program (DHCP). However, the law states that funds can also be used to operate the Automated Pharmacy, Prescription Labeling, Editing and Storage (APPLES) system at locations where that system is currently operating.

We are taking the actions that are necessary to transfer the specified 69 FTEE ceiling, plus an additional 11 positions previously assigned to COMISS development, from ODM&T to DM&S. This transfer includes the total FTEE ceiling for COMISS in Central Office and at the Hines Data Processing Center and therefore complies with both the letter and intent of Pub. L. No. 97-377.

**SOCIAL SECURITY ACT
 AMENDMENTS OF 1983**

UP AMENDMENT NO. 78

(Purpose: To permit an administrative reorganization of certain Veterans' Administration offices)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from California, Senator CRANSTON, and the distinguished Senator from Wyoming, Senator SIMPSON.

I might say, before sending it to the desk, that it is a technical amendment that they have asked we try to dispose of when we had an opportunity.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object. I have no objection.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), on behalf of the Senator from California (Mr. CRANSTON) and the Senator from Wyoming (Mr. SIMPSON), proposes an unprinted amendment numbered 78.

In order to further comply with the thrust of that law, I have decided that the transfer should also include an FTEE ceiling of 25 positions that currently support the operation and maintenance of the APPLES system at the Los Angeles VA Data Processing Center. The APPLES system is a centrally maintained and operated hospital outpatient pharmacy system that currently supports VA hospitals in Southern California. The intent of the Congressional directive to terminate COMISS development is to ensure that hospital-based automation is accomplished by DM&S through DHCP. The APPLES system is an outdated centralized system which will eventually be replaced by a DHCP system. Logically, therefore, the FTEE ceiling for APPLES should also reside within DM&S and not ODM&T.

However, since including this FTEE ceiling of 25 positions exceeds 10% of that office's total FTEE ceiling of 80 positions, I am reporting to you, in accordance with 38 USC 210(b)(2), my intention to transfer that FTEE ceiling to the West Los Angeles VA Medical Center on October 1, 1983. Later, during fiscal year 1984, it may become necessary to further realign that FTEE within DM&S to ensure support for the orderly development of DHCP. The purpose of the reorganization is to help accomplish the gradual transition from centralized to decentralized hospital computer support. The Congress has spoken clearly in Pub. L. No. 97-377 and on pages 8 through 10 of House Report No. 97-359 to point the VA in this direction.

We wish to maintain ADP support during this transition period while minimizing potential adverse impact on affected VA employees. We believe that we can best accomplish these goals by moving the FTEE for APPLES at the Los Angeles DPC as soon as possible.

I will be pleased to provide any additional information which you may desire concerning this planned reorganization.

Sincerely,

HARRY N. WALTERS,
Administrator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 78) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I understand that my colleague from Kansas, Senator KASSEBAUM, and the Senator from Connecticut, Senator DODD, may have noncontroversial amendments. I also know that the Senator from New Jersey has one, but it is going to be controversial. We have been asked by the majority leader not to get into any "controversial" areas. This would not mean that those amendments may not be adopted, but if there is some dispute we would defer debate, so that we can move to the jobs bill if and when the unanimous-consent request is made and agreed to.

I might suggest, if someone could notify Senator DODD and Senator KASSEBAUM, we might dispose of those two amendments.

I might say to the Members who may be listening that there are not all

that many amendments on this bill. The Senator from Montana and the Senator from Oklahoma have one on illegal aliens. We are in the process of reviewing that amendment. We are reviewing the amendment of the Senator from New Jersey, Senator BRADLEY. There will be, of course, Senator LONG's amendment. That will take some time and may lead to other amendments.

In any event, at this point there are probably not more than a dozen amendments. We would hope that if some of those are not controversial, we could dispose of them before we go back on the jobs bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized.

COSPONSORS—AMENDMENT NO. 512

Mr. LONG. Mr. President, I ask unanimous consent that the following Senators be added as original cosponsors on Senate amendment No. 512, social security reform: PELL, GLENN, RIEGLE, PRESSLER, BIDEN, and WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 521

(Formerly UP Amendment No. 72.)

Mr. DOLE. Mr. President, it is my understanding that the distinguished majority leader will soon propound a unanimous-consent request. But while contacts are being made, perhaps we can dispose of the amendment of the Presiding Officer, the Senator from Idaho (Mr. SYMMS). I understand that is the pending business. Is that correct?

The PRESIDING OFFICER. That is the pending business.

Mr. DOLE. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BYRD. Mr. President, a clarification. Will the Chair state the question again?

The PRESIDING OFFICER. The question is on agreeing to unprinted amendment No. 72, by the Senator from Idaho. The yeas and nays were ordered yesterday.

Mr. BYRD. Mr. President, that amendment would change the retirement age to 68. Is that correct?

Mr. DOLE. Yes; that is the understanding of the Senator from Kansas.

(Mr. MATTINGLY assumed the chair.)

Mr. SYMMS. Mr. President, if the distinguished majority leader will yield, I was in the chair, and I could not respond.

Very simply, the amendment raises the retirement age 1 month every year for 36 years, so it is a very gradual change, and it will not disrupt anybody's plans. It will save billions of dollars for the long-term problem and several billion dollars in the next 10 years when there is a squeeze on the trust fund.

Mr. BYRD. I thank the Senator. I just thought Senators should know what the question is.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO) is necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO) would vote nay.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 12, nays 84, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—12

| | | |
|-----------|-----------|-----------|
| Armstrong | Goldwater | Mattingly |
| Denton | Hatch | McClure |
| East | Helms | Nickles |
| Garn | Humphrey | Symms |

NAYS—84

| | | |
|-------------|------------|----------|
| Abdnor | Gorton | Nunn |
| Andrews | Grassley | Packwood |
| Baker | Hart | Pell |
| Baucus | Hatfield | Percy |
| Bentsen | Hawkins | Pressler |
| Biden | Hecht | Proxmire |
| Bingaman | Heflin | Pryor |
| Boren | Heinz | Quayle |
| Boschwitz | Huddleston | Randolph |
| Bradley | Inouye | Riegle |
| Burdick | Jackson | Roth |
| Byrd | Jepson | Rudman |
| Chafee | Johnston | Sarbanes |
| Chiles | Kassebaum | Sasser |
| Cochran | Kasten | Simpson |
| Coburn | Lautenberg | Specter |
| Cranston | Laxalt | Stafford |
| Danforth | Leahy | Stennis |
| DeConcini | Levin | Stevens |
| Dixon | Long | Thurmond |
| Dodd | Lugar | Tower |
| Dole | Mathias | Trible |
| Domenici | Matsunaga | Tsongas |
| Durenberger | Meicher | Wallop |
| Eagleton | Metzenbaum | Warner |
| Exon | Metcalf | Weicker |
| Ford | Moynihan | Wilson |
| Glenn | Murkowski | Zorinski |

NOT VOTING—4

Bumpers Hollings
D'Amato Kennedy

So Mr. SYMMES' amendment (No. 521) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was defeated.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate.

The majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, earlier this afternoon, I described the terms of a proposed unanimous-consent agreement that I hope the Senate will agree to.

Mr. President, I have no changes, except minor language changes, to make in the request as I described it earlier. I will put that request in just a moment. I would like to make sure that all the principals and the minority leader are on the floor. I thought that was the case, but it apparently is not at the moment.

I do not want to put this request until I am sure everybody is here who expressed an interest in it or who wants to be on the floor, so let me wait just a minute.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—KASTEN AMENDMENT NO. 504

Mr. BAKER. Mr. President, as I said earlier, I want now to propound a unanimous-consent request that is identical, I believe, with the one I described on the floor a little while ago, with certain minor changes that I believe do not affect in any way the substance of the agreement but do, in fact, contribute to its clarification. I hope the agreement will be granted by the Senate.

Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside and that the Senate proceed to the consideration of the reciprocity bill, S. 144.

I further ask unanimous consent, when that measure is before the Senate this afternoon, that it will be before the Senate only for one purpose, and that is to permit the Senator from Wisconsin (Mr. KASTEN) to offer one amendment dealing with dividend and interest withholding.

I further ask unanimous consent that no amendment to the Kasten

amendment be in order this afternoon; that no debate be in order this afternoon; that no point of order be in order to be made at this time; that immediately after the reporting of the Kasten amendment, the Senate, without further action, then resume consideration of the jobs bill; that no further amendment dealing with withholding of dividends and interest be in order to that bill; and that on April 15, 1 hour after the Senate convenes, the Senate resume consideration of the reciprocity bill, at which time the Kasten amendment will be the pending question for debate and with no waiver of any Senator's rights.

I further ask unanimous consent that the Kasten amendment to the Abdnor amendment be withdrawn and that the Kasten amendment to the committee amendment be withdrawn.

I further ask unanimous consent, Mr. President, that the order for the Senate to convene on Saturday be vitiated. I ask unanimous consent that the order for a vote on cloture which would mature tomorrow be vitiated.

Mr. President, that is the request.

Mr. LONG. Mr. President, reserving the right to object, and I do not intend to object, Mr. President, I just want to make it clear that, as far as the Senator from Louisiana is concerned, if Mr. KASTEN is willing to agree to that unanimous-consent request with regard to his amendment, I will respect his decision.

Mr. BAKER. Will the Senator yield?

Mr. LONG. Yes.

Mr. BAKER. Mr. President, that is entirely appropriate and I think we should ask the Senator from Wisconsin if he is agreeable with the request.

Mr. KASTEN. I am agreeable to this request. I would like to say to the Senator from Louisiana that this is similar to what he and I and others have been working for now for 2 or 3 days. It means this will be the pending amendment. It means we will be able, within a short period of time, by working the will of the Senate, to have a vote up or down on the withholding question.

Mr. LONG. Let me say further, it is the judgment of the Senator from Louisiana that the jobs bill was not the most appropriate bill on which to offer the amendment.

If the Senator from Louisiana had been planning to offer that amendment, he would have offered it on the social security bill. I do not know that I am going to offer it on the social security bill, but I want to make clear that a Senator has that right, if he wants to do so.

When one studies the amendment, I am not sure that the Kasten amendment will get from here to the House of Representatives even if the Senator has a majority of votes here in the Senate.

I have read Mr. DOLE's remarks which appear earlier in today's RECORD. They make it clear that the Senator from Kansas and those who agree with him would have a right to

debate the Kasten amendment on the trade bill as long as they want to, and they would have a right to conduct a postcloture filibuster on it, if that be their desire.

It is clear that that is the right of Senators.

This Senator is willing to go along with the unanimous consent agreement.

This Senator salutes the Senator from Wisconsin for the noble fight he has made on this matter. At least he did succeed in getting a showing of strength. He gave the Senate an opportunity to go on record in favor of repealing withholding, and he did have a majority of the votes, 59 votes, as I recall. So he has made a noble contribution to the cause.

I am frank to say that many Senators—in fact, by the time they think it over, maybe a majority of those who favor what Mr. KASTEN is trying to do—may feel that they are compelled to offer a similar amendment on the social security bill or some other bill. As I understand it, that is their privilege if the unanimous-consent agreement is agreed to.

Mr. BAKER. Yes. As the Senator knows, Mr. President, I had earlier hoped we could include in this agreement a prohibition against the interest withholding amendment on either the jobs bill or social security. As the Senator from Louisiana points out, that would be unlikely to be agreed to by the Senate. There are a number of Senators on both sides of the aisle who have indicated they wish to preserve that right. I continue to hope they do not do that because we do need to pass social security. But I did not include that request at this time for that very reason. Of course, any Senator is free to offer any amendment that they wish and that qualifies to the social security bill without any effect on this agreement.

Mr. LONG. I just want the Senator to understand that if a request had been made that no such amendment be offered to the social security bill, I would have been compelled to object today. I might have wanted to reconsider my position over the weekend, but today I would be compelled to object to the request. I will not object to the pending request, and I hope other Senators will not object.

Several Senators addressed the Chair.

Mr. BAKER. Let me yield to the Senator from Wisconsin once more.

Mr. KASTEN. I want to thank the majority leader for yielding. I wanted to direct my comments to the Senator from Louisiana.

He is correct. The possible flaw in this agreement is that this particular bill will not have the power or legislative strength, if you will, to go all the way through the process. I recognize that. It is my feeling that at this time we wanted to get a vote by which we

could pass it out of the Senate Chamber without slowing down the jobs bill.

If it turns out that the Senator's remarks are correct, that this will be tucked away in some back corner desk in the Way and Means Committee, we have not in any way cut off our chances for amending the debt ceiling bill, for amending other appropriations matters, for amending a tax bill when it comes.

This issue is going to be before the Senate and this issue is going to be before the American people until it is repealed. We are going to repeal it. The question is how are we going to get from where we are to there. We are in no way precluded from any other mechanisms or benefits.

Mr. LONG. I just want to make clear Mr. President, that that is the situation, that the Senator from Wisconsin, certainly he or any other Senator, is not barred if he feels he wants to offer this amendment on the social security bill or any other bill. In my judgment, such an amendment should have been offered on what is clearly a revenue bill.

Over in the House of Representatives they have a way of doing business where they regard an appropriations bill as being a bill to raise revenue. Just read the Constitution. It says bills to raise revenue must originate in the House of Representatives. My imagination defies me to see how an appropriations bill to spend money can be determined to be a bill to raise revenue.

If we try to send them an appropriation bill that originates in the Senate, they will say it is a revenue bill and send it back to us. If we take another bill that has nothing to do with revenue, and if we put on an amendment to reduce revenue, not raise it, they will send it back. We do not get a chance to appeal their action because we have no right to make an appeal over there in the House or to make a motion there. We have to act over here when it gets sent back to us. We are powerless to do anything about it when those people in the House put a construction on a bill that is obviously wrong. But, who are we going to appeal to?

We have no recourse. We just have to go along with them on the theory that you can offer an amendment on a revenue bill, and while at it you might as well offer it on a real revenue bill.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, you have heard from a man who never served in the House, and I am one of those who never served in the House. [Laughter.]

I confess freely I do not understand the ways of the House. But I do understand that the Senator from Louisiana is absolutely right. They will do that to us. The Founding Fathers gave us nothing to do in return, I am afraid, so

there is not much we can do about that, at least right now.

I want to subscribe absolutely and totally to the description of that situation by the distinguished Senator from Louisiana.

Now I will yield to the Senator from Nebraska and then to the Senator from Iowa.

Mr. EXON. Reserving the right to object, and I will not object, I would like to take the time to ask two questions, if they will answer, first a question to the Senator from Wisconsin and then to the Senator from Louisiana.

Mr. BAKER. Mr. President, I yield for that purpose.

Mr. EXON. I will first ask a question of the Senator from Wisconsin, reminding him and the body that I am a cosponsor of the amendment he has fought so hard for, to eliminate the withholding on interest and dividends come July 1.

My question has to do with a news report that I read earlier today that was attributed to the Senator from Wisconsin indicating that he was suggesting that we move up the cloture petition vote to this afternoon, that he intended at that time to vote for cloture and then move to overrule the likely ruling of the Chair that his amendment would not be germane.

Is it in order and could he answer the question as to whether that effort has failed, or does the Senator think that the recommendations that have just been outlined by the majority leader better serve the cause that the Senator and I are dedicated to?

Mr. KASTEN. In response to the Senator from Nebraska, I want to say that I thank him for his strong support and coauthorship of the amendment and his strong support in the effort to repeal this regulation concerning withholding on interest and dividends.

This morning when I spoke, I said to the Senate it would be my hope that we not delay this whole process, that either we follow the outline just described by the Senator or that we work with the leadership to try to accommodate our needs. We have been trying to work with them since last Thursday. Significant changes were made today which made it possible for a bill to be brought up, for an amendment to be attached to it, and for that to be, if you will, boxed into a date certain. These were not agreements possible before today.

I think the fact that we talked about pushing the cloture vote and, frankly, pushing the Senate into a postcloture situation where that ruling would have been difficult and that vote on postcloture germaneness would have started to push against the rules of the Senate, although there have been precedents in 1980, thinking of the Kassebaum amendment, I chose, and I believe our cause is best served, to not push on that at this time, by not forcing ourselves into a postcloture filibuster

situation, and by not slowing down the jobs bill any further.

We have what we wanted from last Thursday. We now have the opportunity for the up or down vote on a particular date certain and without intervening business that can be used to fence us out.

We have what we wanted. Last Thursday, we got to it in part by talking about going through the cloture situation this afternoon.

Mr. EXON. I thank my friend from Wisconsin for his explanation. Now I would like to pose a question to my learned friend and master of the parliamentary procedure, the Senator from Louisiana.

The measure upon which the compromise is based is the reciprocity bill; is that correct?

The Senator from Nebraska happens also to be a cosponsor of that reciprocity bill. I do not know whether or not this idea has been cleared with the sponsors of that bill, but I am inquiring of the Senator from Louisiana as to what he thinks the chances are of the amendment ever getting to the House of Representatives and being passed if we follow the route that has been suggested by the majority leader. Or might it be that attaching this measure that I am a cosponsor of with the Senator from Wisconsin to the reciprocity bill that I am a cosponsor of might not, indeed, mean that neither one of them will ever see the light of day?

Mr. LONG. Mr. President, I have no doubt that they will see the light of day on the Senate floor, because that is called for in the unanimous consent request. They will see the light of day on the Senate floor.

Mr. EXON. I mean off the Senate floor.

Mr. LONG. I assume that if the opponents of this measure are as firm in their opposition as they are now—and the statement of Mr. DOLE, the chairman of the Committee on Finance, indicated that he is still as firm in his views as he has been up to this point—I would say that the chances of anything happening other than the bill coming back from the House with a blue slip on it are little or none. All it takes is a single objection over there and it comes back to us with a blue slip on it, and that is the end of it. We can pass the bill and it will come back from the House with a blue slip.

Mr. BAKER. Mr. President, a few minutes ago I indicated that I do not know anything about the House rules. I do not know much, but I know a little, because I have been enlightened on this subject by the chairman of the House Ways and Means Committee and others. I understand that a majority of the House would have to support a challenge of that bill with a blue slip. If the majority of the House wants to accept that bill, a single objection would not stop it.

Mr. LONG. Mr. President, that may be, and I would be glad to check it out the best I know how.

My understanding is that the reciprocity bill is an S-numbered bill, a bill originating in the Senate. We on the committee know that that bill itself violates the Constitution. If we send the House a bill that is unconstitutional on the face of it then under the Constitution, they have no business considering it.

Mr. BAKER. Mr. President, we are talking as professed Members of the Senate who know the least about House procedures.

Mr. LONG. But I know something about the Constitution.

Mr. BAKER. I recommend that we defer to our friends in the House about it.

Mr. LONG. If he wants to plead ignorance about the Constitution, the Senator from Tennessee is free to do that. I do not plead ignorance.

Mr. BAKER. I do not plead ignorance, Mr. President, but I do not know.

Mr. LONG. Well, I do. If the Senator wants to come to me and ask questions on the point of constitutional law, I will be glad to talk to him. I have studied it many times.

Mr. EXON. If the Senator will yield, Mr. President, the majority leader has always been courteous and candid with me. I do not wish to go against his wishes, but I feel I must play ball with the people I have cosponsored the amendment with.

Mr. SYMMS. Will the Senator yield to me?

Mr. BAKER. Yes; I yield.

Mr. SYMMS. Mr. President, if I had not given my word to the distinguished majority leader that I would not object to this amendment, I am not sure just what my attitude would be. I wanted to propound a question.

To which bill was the Senator from Louisiana speaking that is going to get the blue slip on it? Was he talking about the jobs bill, or the reciprocity bill?

Mr. LONG. I said that the reciprocity bill is a revenue bill; it is plainly a bill to raise revenue, because it has to do with tariffs.

Mr. SYMMS. This reciprocity bill, did it not pass the Senate previously and never come out of the Ways and Means Committee?

Mr. LONG. No, Mr. President, it has not passed the Senate. But there is no doubt about it, if the reciprocity bill on the calendar goes from here to the House, it is not going to be acted on in the House. The House is going to tell us that is a revenue bill, and with an S. number on it, that is just like a red flag to make them send it back over here. If I had a blue slip, I would show it; the blue slip says the House reminds the Senate that a revenue bill must originate in the House of Representatives, period, and here is your bill back. It is a very polite thing to do.

They could just burn the bill. [Laughter.]

Mr. SYMMS. As is so often the case, Mr. President, I think, from my experience in the other body, the Senator from Louisiana is right. But it may be that the Senator from Louisiana also is right that the proper bill for the proponents of the repealing the withholding on interest and dividend income is the social security bill. Maybe that is the bill to which it should be attached. Maybe the Senators from Nebraska and Wisconsin and the other Senators who are authors of this amendment could offer it there instead of having it on the jobs bill if it pleases the leadership to have it there.

Mr. LONG. It was the thought of the Senator from Louisiana that if somebody wanted to ask me what bill to put his amendment on, I would have suggested the social security bill. I salute the Senator from Wisconsin for the try he made. It takes the hide of a rhinoceros to tackle one of those big bills against the leadership on his side of the aisle, or this side of the aisle, for that matter, when he is told that a bill is urgent, we cannot take time to think about matters, this bill has to pass right now, people are hungry, they have needs across the width and breadth of America and there is some unemployment insurance money here, and something has to happen. I think the Senator from Wisconsin has stood up nobly against the kind of pressure he has faced. But as a practical matter, if one wants to amend this bill or that one, he had better to prepared to face that type of calumny.

At the same time, it seems to the Senator from Louisiana that if you want to offer your amendment, you would do well to try to amend what is clearly a House revenue bill to begin with, because when it gets to the House side, they are going to challenge it if it is not a House revenue bill.

Mr. SYMMS. I thank the Senator. If I may reserve the right to object a little further, I shall not object. I would like to join in those compliments of the Senator from Wisconsin for his noble efforts. I am sorry to be at odds with my distinguished chairman, whom I have so much respect for on the Finance Committee. I do think when we passed the 1982 TEFRA Act, we made a mistake to include that in the bill. I was one of those who voted for it, and I am willing to admit I made a mistake.

I wish we could stop fighting this issue and allow the American people—whom we have told for years and years they ought to take an active part in politics. I have told my own people, "You ought to take the time to try to influence the people you do business with, whether it is on the payroll slips or anything else." That is all they have done in this case. The people have responded.

I think as rapidly as possible, we ought to give them a vote on the House floor and the Senate floor and let the President make the decision that he wants to. I wish we could bring up a clean bill, pass it, and send it over to the House. But that is not the choice of the leadership.

I do not object.

Mr. BAKER. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, let me see if I have the scenario straight. First of all, we are going to lay aside the social security bill temporarily and proceed to S. 144, which is sponsored by Senator DANFORTH, Senator LONG has correctly said that that is a cadaver on its face. It is a legislative corpse. So what we are looking at are two legislative corpses if this unanimous-consent request is agreed to. I say to my friend from Wisconsin, as I have said to him in private, that for all practical purposes, the fight is over on the proposal to repeal 10-percent withholding of dividend and interest income.

What we are talking about, I say to the majority leader, is simply giving Senator KASTEN a rollcall vote on this amendment this afternoon on the reciprocity bill. Is that it?

Mr. BAKER. No, Mr. President, it is not that. What we are talking about is calling up the reciprocity bill this afternoon for the purpose of permitting the Senator from Wisconsin to offer his amendment dealing with dividend and interest withholding.

But after the Kasten amendment is reported, then we would go off that bill and back to the jobs bill. There would be no vote on that today.

Mr. HELMS. So we will not even get a show of strength out of this unanimous-consent agreement?

Mr. BAKER. I think he has shown about all the strength we can handle.

Mr. HELMS. I beg the Senator's pardon? I am sorry, I did not understand.

Mr. BAKER. I say that I think our friend from Wisconsin has shown about all the strength we can handle.

Mr. HELMS. He at one time this morning had 62 votes.

Mr. BAKER. Fifty-nine is strength.

Mr. HELMS. It had been watered down to 59 in the well. [Laughter.]

Mr. BAKER. The Senator and I were in the well together, as I recall.

Mr. HELMS. Yes. He just outwatered me.

There is nothing implicit, let alone explicit, no misunderstanding, no hard feelings if this proposal comes back on social security?

Mr. BAKER. No, Mr. President, the Senator is absolutely right. I made it clear, and I will reiterate here, nothing in this agreement affects in any way the right of any Senator to offer a dividend and interest withholding amendment to any other bill including social security. I hope that does not happen, but the answer to the ques-

tion of the Senator is that he is correct.

Mr. HELMS. I understand. Mr. President, my dear friend, the majority leader, knows my affection for him, and he also knows that we have been to this well before time and time again and always came out all right. I will say to him that if it were my judgment call to make, if it were my amendment—and I have said this to the Senator from Wisconsin—I would object to the unanimous-consent.

But it is not my judgment call to make. It is, uniquely, the judgment of the Senator from Wisconsin and I respect that, whatever the reason.

Mr. BAKER. I thank the Senator.

Mr. MATTINGLY. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. MATTINGLY. Would it be out of order to bring up the reciprocity bill today and just vote on the first amendment thereto and then come back April 15?

Mr. BAKER. Mr. President, the Senator from Georgia is my friend, he is my colleague, he adjoins me to the South. We have a common unfortified boundary between Tennessee and Georgia, but I earnestly ask him not to disturb one comma, not one letter in this agreement. I do not believe he knows how much trouble we have gone through over a period of days to see this done. I hope the Senator will not object to this agreement. I must say to him, in all candor, that it is not possible in my opinion to change this agreement at all.

Mr. MATTINGLY. I can tell by the pained expression.

Mr. DOLE. Will the Senator from Georgia yield

Mr. MATTINGLY. Yes.

Mr. DOLE. It might not be out of order, but the Senator from Kansas would not be going to Savannah with the Senator from Georgia for some Hibernian event this evening. [Laughter.]

Mr. MATTINGLY. We might be able to get somebody else. [Laughter.]

Mr. BAKER. Mr. President, I hope the Chair—

Mr. DOLE. It is not too late for that.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. I hope the Chair will put the request.

The PRESIDING OFFICER. Is there objection to the agreement?

The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT
AGREEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now temporarily lay aside the jobs bill and resume consideration of the social security bill but that at 3:10 p.m. today the Senate then once again lay aside the social security bill and resume consideration of the jobs bill and that without intervening action by the Senate or debate the vote occur on final passage as previously ordered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Without objection, it is so ordered.

SOCIAL SECURITY ACT
AMENDMENTS OF 1983

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the Medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from New Jersey to the amendment of the Senator from Kansas to the social security measure.

Mr. HELMS. Mr. President, is a further amendment in order?

The PRESIDING OFFICER. The amendment of the Senator from New Jersey is a first-degree amendment. A second-degree amendment would be in order.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from New Jersey be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 80

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 80.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment insert the following new matter:

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Guarantee and Individual Retirement Security Act of 1983".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—INDIVIDUAL RETIREMENT SECURITY ACCOUNTS

- Sec. 101. Establishment of individual retirement security accounts.
- Sec. 102. Tax credit for amounts contributed to individual retirement security account.
- Sec. 103. Exclusion from gross income of income earned on amounts contributed to individual retirement security account.
- Sec. 104. Reduction of OASI tax and establishment of mandatory IRSA contributions.
- Sec. 105. Reduction in primary insurance amount to reflect reduction in OASI tax.

TITLE II—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

- Sec. 201. Certificate of guaranteed tax-exempt benefits.
- Sec. 202. Annual contribution and benefit statement.

Sec. 203. Tax credit for benefit amounts to OASDI returned to trust funds.

Sec. 204. Repeal of 1985 and 1990 tax increases.

Sec. 206. Shift of cost-of-living adjustments.

Sec. 207. Proration of cost-of-living adjustment.

Sec. 208. General revenue funding for administrative costs.

Sec. 209. Crediting amounts of unnegotiated checks to trust funds.

Sec. 210. Transfer to trust funds for benefits attributable to military service before 1957.

Sec. 211. Payments to trust funds of amounts equivalent to taxes on service in the uniformed services performed after 1956.

Sec. 212. Increase in dropout years for time spent in child care.

Sec. 213. Benefits for surviving divorced spouses and disabled widows and widowers who remarry.

Sec. 214. Determination of primary insurance amount for deferred survivor benefits.

Sec. 215. Benefits for divorced spouse regardless of whether former spouse has retired.

Sec. 216. Increase in benefit amount for disabled widows and widowers.

Sec. 217. Sharing of earnings by married couples.

Sec. 218. Restrictions on payment of benefits to nonresident aliens.

Sec. 219. Due process requirements for termination of disability benefits.

Sec. 220. Repeal of earnings limitation for beneficiaries age 65 or older.

TITLE I—INDIVIDUAL RETIREMENT SECURITY ACCOUNTS

ESTABLISHMENT OF INDIVIDUAL RETIREMENT SECURITY ACCOUNTS

SEC. 101. Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF INDIVIDUAL RETIREMENT SECURITY ACCOUNTS

"SEC. 234. (a) After December 31, 1993, the Secretary of Health and Human Services and the Secretary of the Treasury shall establish for each individual—

"(1) upon whom section 1401(a) or 3101 of the Internal Revenue Code of 1954 imposes a tax, and

"(2) who does not have an individual retirement security account with a qualified fiduciary pursuant to section 130(d)(1)(A)(i) of the Internal Revenue Code of 1954, an individual retirement security account, to be maintained in the Treasury as a separate book account.

"(b)(1) The Secretary of the Treasury shall pay into the individual retirement security account established under subsection (a) or under section 130(c)(1)(A)(i) of the Internal Revenue Code of 1954 with respect to such individual an amount equal to the amount of taxes paid with respect to the wages and self-employment income of such individual under sections 1401(d), 3101(e), and 3111(d) of the Internal Revenue Code of 1954.

"(2) The Secretary shall pay such amounts into such account within 30 days of the date on which such taxes are paid.

"(c) An individual may contribute to such account amounts other than the amounts contributed to such account on his behalf by the Secretary of the Treasury under subsection (b).

"(d) The Secretary of the Treasury shall invest amounts deposited in individual retirement security accounts in obligations of

the United States, and amounts so invested shall earn interest in accordance with the terms of such obligations.

"(e) Amounts deposited in an individual retirement security account established with respect to an individual under subsection (a) may be withdrawn before such individual attains age 62 only if—

"(1) the amount withdrawn from such account is used for a purpose described in section 130(a)(2)(B) of the Internal Revenue Code of 1954, or

"(2) the amount withdrawn from such account is deposited immediately in an individual retirement security account established by such individual with a qualified fiduciary (as defined in section 130(c)(2) of the Internal Revenue Code of 1954).

"(f) The interest of an individual in the balance of an individual retirement security account established with respect to such individual pursuant to subsection (a) shall not be forfeitable."

TAX CREDIT FOR AMOUNTS CONTRIBUTED TO INDIVIDUAL RETIREMENT SECURITY ACCOUNT

SEC. 102. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT SECURITY ACCOUNT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amounts contributed by the taxpayer to an individual retirement security account of the taxpayer during the taxable year (other than amounts paid into such account on behalf of such individual under section 234(b) of the Social Security Act).

"(b) LIMITATION.—The amount of any contributions taken into account under subsection (a) shall not exceed the amount of taxes paid by the taxpayer to the Federal Old Age and Survivors Insurance Trust Fund under section 3101 for the taxable year.

"(c) INDIVIDUAL RETIREMENT SECURITY ACCOUNT.—For purposes of this section, "the term 'individual retirement security account' shall have the meaning given to such term by section 130(c)(1)."

(b)(1) Subsection (b) of section 6401 of such Code (relating to excessive credit is treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44H (relating to contributions to individual retirement security account)," and

(B) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44H".

(2) Paragraph (2) of section 55(f) of such Code (defining regular tax) is amended by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44H".

(c) In prescribing the forms by which any individual liable for any tax imposed by subchapter A of the Internal Revenue Code of 1954 shall make a return for taxable years beginning after December 31, 1983, the Secretary of the Treasury shall ensure that any such individual who is eligible for a credit under section 44H of such Code may claim the credit allowable under such section on any such form.

(d) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44H. Contributions to individual retirement security account."

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1983, and before January 1, 2004.

EXCLUSION FROM GROSS INCOME OF INCOME EARNED ON AMOUNTS CONTRIBUTED TO INDIVIDUAL RETIREMENT SECURITY ACCOUNT

Sec. 103. (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. INCOME FROM INDIVIDUAL RETIREMENT SECURITY ACCOUNT.

"(a) IN GENERAL.—Gross income does not include income which—

"(1) accrues on amounts contributed to an individual retirement security account, and

"(2)(A) remains in such account until the taxpayer attains age 62, or

"(B) is withdrawn from such account before the taxpayer attains age 62 for the purchase of life insurance, health insurance, or disability insurance for the taxpayer.

"(b) ACCOUNT EXEMPT FROM TAX.—Any individual retirement security account is exempt from taxation under this subtitle.

"(c) DEFINITIONS.—For purposes of this section—

"(1) INDIVIDUAL RETIREMENT SECURITY ACCOUNT.—The term 'individual retirement security account' means an account—

"(A) which is established by—

"(i) the taxpayer with a qualified fiduciary, or

"(ii) the Secretary of Health and Human Services and the Secretary of the Treasury on behalf of the taxpayer pursuant to section 234 of the Social Security Act;

"(B) which by written agreement or applicable law provides that—

"(i) amounts may be withdrawn therefrom before the taxpayer attains age 62 only for the purposes specified in subsection (a)(2)(B), and

"(ii) the interest of the taxpayer in the balance of his account is not forfeitable; and

"(C) to which—

"(i) the taxpayer makes contributions,

"(ii) contributions are made on behalf of the taxpayer pursuant to section 3101 (e), 3111 (d), or 1401 (d), or

"(iii) contributions are made in the manner described in both clause (i) and clause (ii);

in order to ensure the taxpayer an adequate retirement income upon attaining age 62.

"(2) QUALIFIED FIDUCIARY.—The term 'qualified fiduciary' means a bank or other person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section. An account shall not be disqualified under this paragraph merely because a person other than the fiduciary so administering the account may be granted, in the instrument creating the account, the power to control the investment of the account funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, and exchanges)."

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

REDUCTION OF OASI TAX AND ESTABLISHMENT OF MANDATORY IRSA CONTRIBUTIONS

Sec. 104. (a) (1) Section 3101 (a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees), as amended by section 204 of this Act, is amended—

(A) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following new paragraphs:

"(6) With respect to wages received during the calendar year 1994, the rate shall be 4.975 percent;

"(7) with respect to wages received during the calendar year 1995, the rate shall be 4.2 percent;

"(8) with respect to wages received during the calendar year 1996, the rate shall be 4.145 percent;

"(9) with respect to wages received during the calendar year 1997, the rate shall be 3.73 percent;

"(10) with respect to wages received during the calendar year 1998, the rate shall be 3.315 percent;

"(11) with respect to wages received during the calendar year 1999, the rate shall be 2.9 percent;

"(12) with respect to wages received during the calendar year 2000, the rate shall be 2.485 percent;

"(13) with respect to wages received during the calendar year 2001, the rate shall be 2.07 percent;

"(14) with respect to wages received during the calendar year 2002, the rate shall be 1.655 percent;

"(15) with respect to wages received during the calendar year 2003, the rate shall be 1.24 percent;

"(16) with respect to wages received during the calendar year after 2003, the rate shall be .825 percent."

(2) Section 3111(a) of such Code (relating to rate of tax on employers is amended—

(A) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following new paragraphs:

"(6) with respect to wages paid during the calendar year 1994, the rate shall be 4.975 percent;

"(7) with respect to wages paid during the calendar year 1995, the rate shall be 4.2 percent;

"(8) with respect to wages paid during the calendar year 1996, the rate shall be 4.145 percent;

"(9) with respect to wages paid during the calendar year 1997, the rate shall be 3.73 percent;

"(10) with respect to wages paid during the calendar year 1998, the rate shall be 3.315 percent;

"(11) with respect to wages paid during the calendar year 1999, the rate shall be 2.9 percent;

"(12) with respect to wages paid during the calendar year 2000, the rate shall be 2.485 percent;

"(13) with respect to wages paid during the calendar year 2001, the rate shall be 2.07 percent;

"(14) with respect to wages paid during the calendar year 2002, the rate shall be 1.655 percent;

"(15) with respect to wages paid during the calendar year 2003, the rate shall be 1.24 percent;

"(16) with respect to wages paid during calendar years after 2003, the rate shall be .825 percent."

(3) Section 1401 (a) of such Code (relating to rate of tax on self-employment income) is amended—

(A) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following new paragraphs:

"(6) in the case of any taxable year beginning after December 31, 1993 and before

January 1, 1995, the tax shall be equal to 7.4625 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1994 and before January 1, 1996, the tax shall be equal to 6.3 percent of the amount of the self-employment income for such taxable year;

"(8) in the case of any taxable year beginning after December 31, 1995 and before January 1, 1997, the tax shall be equal to 6.2175 percent of the amount of the self-employment income for such taxable year;

"(9) in the case of any taxable year beginning after December 31, 1996 and before January 1, 1998, the tax shall be equal to 5.595 percent of the amount of the self-employment income for such taxable year;

"(10) in the case of any taxable year beginning after December 31, 1997 and before January 1, 1999, the tax shall be equal to 4.9725 percent of the amount of the self-employment income for such taxable year;

"(11) in the case of any taxable year beginning after December 31, 1998 and before January 1, 2000, the tax shall be equal to 4.35 percent of the amount of the self-employment income for such taxable year;

"(12) in the case of any taxable year beginning after December 31, 1999 and before January 1, 2001, the tax shall be equal to 3.7275 percent of the amount of the self-employment income for such taxable year;

"(13) in the case of any taxable year beginning after December 31, 2000 and before January 1, 2002, the tax shall be equal to 3.105 percent of the amount of the self-employment income for such taxable year;

"(14) in the case of any taxable year beginning after December 31, 2001 and before January 1, 2003, the tax shall be equal to 2.4825 percent of the amount of the self-employment income for such taxable year;

"(15) in the case of any taxable year beginning after December 31, 2002 and before January 1, 2004, the tax shall be equal to 1.86 percent of the amount of the self-employment income for such taxable year; and

"(16) in the case of any taxable year beginning after December 31, 2003, the tax shall be equal to 1.2375 percent of the amount of the self-employment income for such taxable year."

(b)(1) Section 201(b)(1) of the Social Security Act is amended by striking out all beginning with "and before January 1, 1985" through "December 31, 1989."

(2) Section 201(b)(2) of such Act is amended by striking out all beginning with "(L) 1.4250 per centum" through "December 31, 1989."

(c)(1) Section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees) is amended by adding at the end thereof the following new subsection:

"(e) INDIVIDUAL RETIREMENT SECURITY ACCOUNT.—In addition to other taxes, a mandatory contribution shall be made from the income of every individual to the IRSA account of such individual in an amount equal to the following percentages of the wages (as defined in section 3121 (a)) received by him with respect to employment (as defined in section 3121 (b))—

"(1) with respect to wages received during the calendar year 1994, the rate shall be .425 percent;

"(2) with respect to wages received during the calendar year 1995, the rate shall be 1.2 percent;

"(3) with respect to wages received during the calendar year 1996, the rate shall be 1.615 percent;

"(4) with respect to wages received during the calendar year 1997, the rate shall be 2.030 percent;

"(5) with respect to wages received during the calendar year 1998, the rate shall be 2.445 percent;

"(6) with respect to wages received during the calendar year 1999, the rate shall be 2.860 percent;

"(7) with respect to wages received during the calendar year 2000, the rate shall be 3.275 percent;

"(8) with respect to wages received during the calendar year 2001, the rate shall be 3.690 percent;

"(9) with respect to wages received during the calendar year 2002, the rate shall be 4.105 percent;

"(10) with respect to wages received during the calendar year 2003, the rate shall be 4.520 percent;

"(11) with respect to wages received during the calendar year 2003, the rate shall be 4.575 percent."

(2) Section 3111 of such Code is amended by adding at the end thereof the following new subsection:

"(d) **INDIVIDUAL RETIREMENT SECURITY ACCOUNT.**—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121 (a) and (f)) paid by him with respect to employment (as defined in section 3121 (b))—

"(1) with respect to wages paid during the calendar year 1994, the rate shall be .425 percent;

"(2) with respect to wages paid during the calendar year 1995, the rate shall be 1.2 percent;

"(3) with respect to wages paid during the calendar year 1996, the rate shall be 1.615 percent;

"(4) with respect to wages paid during the calendar year 1997, the rate shall be 2.030 percent;

"(5) with respect to wages paid during the calendar year 1998, the rate shall be 2.445 percent;

"(6) with respect to wages paid during the calendar year 1999, the rate shall be 2.860 percent;

"(7) with respect to wages paid during the calendar year 2000, the rate shall be 3.275 percent;

"(8) with respect to wages paid during the calendar year 2001, the rate shall be 3.690 percent;

"(9) with respect to wages paid during the calendar year 2002, the rate shall be 4.105 percent;

"(10) with respect to wages paid during the calendar year 2003, the rate shall be 4.520 percent;

"(11) with respect to wages paid during the calendar years after 2003, the rate shall be 4.575 percent."

(3) Section 1401 of such Code is amended by adding at the end thereof the following new subsection:

"(d) **INDIVIDUAL RETIREMENT SECURITY ACCOUNT.**—In addition to other taxes, there shall be made for each taxable year, from the self-employment income of every individual, a mandatory contribution to the IRSA account of such individual as follows:

"(1) in the case of any taxable year beginning after December 31, 1993, and before January 1, 1995, the contribution shall be equal to .6375 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1994, and before January 1, 1996, the contribution shall be equal to 1.8 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1995, and before

January 1, 1997, the contribution shall be equal to 2.4225 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1996, and before January 1, 1998, the contribution shall be equal to 3.045 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1997, and before January 1, 1999, the contribution shall be equal to 3.6675 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1998, and before January 1, 2000, the contribution shall be equal to 4.29 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1999, and before January 1, 2001, the contribution shall be equal to 4.9125 percent of the amount of the self-employment income for such taxable year;

"(8) in the case of any taxable year beginning after December 31, 2000, and before January 1, 2002, the contribution shall be equal to 5.535 percent of the amount of the self-employment income for such taxable year;

"(9) in the case of any taxable year beginning after December 31, 2001, and before January 1, 2003, the contribution shall be equal to 6.1575 percent of the amount of the self-employment income for such taxable year;

"(10) in the case of any taxable year beginning after December 31, 2002, and before January 1, 2004, the contribution shall be equal to 6.75 percent of the amount of the self-employment income for such taxable year; and

"(11) in the case of any taxable year beginning after December 31, 2003, the contribution shall be equal to 6.8625 percent of the amount of the self-employment income for such taxable year."

CHANGE IN PRIMARY INSURANCE AMOUNT TO REFLECT REDUCTION IN OASI TAX

SEC. 105. Section 215 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) For purposes of determining old-age and survivors insurance benefits based upon the wages and self-employment income of an individual with respect to whom contributions are made to an individual security retirement account, such primary insurance amount shall be reduced by an amount that bears the same ratio to such primary insurance amount (as determined without regard to this subsection) as the IRSA offset amount determined with respect to such individual bears to the present value of the OASI annuity amount determined with respect to such individual.

"(2) For purposes of this subsection—

"(A) The term 'individual retirement security account' shall have the meaning given to such term in section 130(c)(1) of the Internal Revenue Code of 1954.

"(B) The term 'IRSA offset amount' means, with respect to an individual described in paragraph (1), an amount equal to the sum of—

"(i) amounts—

"(I) contributed by such individual to the individual retirement security account established with respect to such individual, and

"(II) taken into account for purposes of determining a credit allowed to such individual under section 44H of the Internal Revenue Code of 1954.

(compounded, for the period beginning with the date on which the return in which such credit was claimed was required to be filed and ending with the date on which such individual retires, by the social security yield rate determined with respect to such individual); and

"(ii) amounts paid to the individual retirement security account of such individual under sections 1401(d), 1301(e), and 1311(d) of the Internal Revenue Code of 1954 (compounded, for the periods beginning with the date on which such amount was paid into such account and ending with the date on which such individual retires, by the social security yield rate determined with respect to such individual);

"(C)(i) The term 'present value of OASI benefit annuity amount' means an amount that would, if invested at a rate of interest equal to the rate of interest payable on United States Treasury bills at the beginning of the period of entitlement determined with respect to the wages and self-employment income of an individual, produce by the end of such period of entitlement, an amount equal to the amount of benefits which would be payable under section 202 on the basis of such wages and self-employment income (but for the application of paragraph (1)) for such period of entitlement.

"(ii) In determining the amount of benefits which would be payable for the period of entitlement determined with respect to the wages and self-employment income of an individual, the rate of the cost-of-living increase under subsection (i) for the cost-of-living computation quarter immediately preceding the beginning of such period of entitlement shall be assumed to apply to each base quarter in such period of entitlement.

"(D) The term 'period of entitlement' means, with respect to the wages and self-employment income of an individual described in paragraph (1), the period beginning with the date on which such individual retires and ending with the date on which such individual would attain the expectation of life (determined in accordance with the official life table and in accordance with the applicable provisions of this Act as in effect on the first day of such period).

"(E) The term 'social security yield rate' means, with respect to an individual described in paragraph (1), the rate of yield that, if earned on the OASI tax amount determined with respect to such individual, for the period beginning with the date on which such taxes were paid and ending with the date on which such individual retires, would produce an amount equal to the present value of the OASI benefit annuity amount determined with respect to such individual.

"(F) The term 'OASI tax amount' means with respect to an individual described in paragraph (1), the amount of taxes paid to the Federal Old-Age and Survivors Insurance Trust Fund with respect to such individual under sections 3101(a), 3111(a), and 1401(a) of the Internal Revenue Code of 1954 during the 80 highest quarters of coverage for such individual.

"(G) The term 'cost-of-living computation quarter' shall have the meaning given to such term in subsection (i)(1)(B).

"(H) The term 'base quarter' shall have the meaning given to such term in subsection (i)(1)(A).

"(I) The term 'quarter of coverage' shall have the meaning given to such term in section 213(a)(2).

"(J) The term 'official life table' means the life table for total persons in the United States that is prepared decennially by the National Center for Health Statistics for

the 3-year period centering around the year of the decennial population census.”

TITLE II—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

CERTIFICATE OF GUARANTEED TAX-EXEMPT BENEFITS

SEC. 201. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

“CERTIFICATE OF GUARANTEED TAX-EXEMPT BENEFITS

“Sec. 235. (a) The Secretary shall issue to each individual who is entitled to an old-age insurance benefit, or who has attained age 62 and is entitled to any other benefit under this title, a certificate of guaranteed tax-exempt benefits. Such certificate shall be issued at the time such individual first becomes entitled to a benefit under this title, or attains age 62, whichever is later.

“(b) The certificate issued pursuant to this section shall pledge the full faith and credit of the United States to guarantee that benefits shall be paid to such individual (and to other individuals on the basis of such individual’s wages and self-employment income) under the provisions of this title as in effect on the date of issuance of such certificate (or as such benefits may be increased thereafter by Congress or under any automatic cost-of-living adjustment), and that such benefits shall not be subject to the tax on income under subtitle A of the Internal Revenue Code of 1954.

“(c) The certificate issued under this section shall also contain—

“(1) a statement of the total amount of the taxes paid by such individual and his employers under sections 3101(a), 3111(a), and 1401(a) of the Internal Revenue Code of 1954 with respect to such individual’s wages and self-employment income; and

“(2) a statement that the certificate is nonnegotiable and nontransferable.”

(b) The amendment made by subsection (a) shall apply to all individuals entitled to a monthly benefit under title II of the Social Security Act on or after the date of the enactment of this Act. The Secretary shall issue such certificates to those individuals who have attained age 62 and are entitled to such benefits on the date of the enactment of this Act within six months after such date of enactment, in the same manner as if they had first become entitled to an old-age insurance benefit on such date of enactment.

ANNUAL CONTRIBUTION AND BENEFIT STATEMENT

SEC. 202. (a) Section 205(c) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(9)(A) The Secretary shall issue an annual statement to each individual having a social security account number which shall indicate the amount of the taxes paid by such individual under sections 3101(a) and 1401(a) of the Internal Revenue Code of 1954 with respect to his wages and self-employment income for such year. The statement shall be issued prior to March 31 with respect to the wages and self-employment income for the preceding calendar year.”

“(B) The annual statement issued under subparagraph (A) shall also include a chart developed by the Secretary which shall list the approximate amount of the primary insurance amount of an individual who will attain age 65 during the succeeding 40 year period (broken down into such incremental time periods as the Secretary determines to be appropriate), based on current annual earnings levels (broken down into increments of \$5,000) from covered employment, and based upon the projections of future

wage and price levels then being used by the Secretary to predict long range actuarial status of the Federal Old-Age and Survivors Insurance Trust Fund. Such chart shall also show the amount of the taxes which are payable at each stated earnings level under section 3101(a) of the Internal Revenue Code of 1954. The chart shall also indicate that the benefit level of a worker aged 65 is equal to the primary insurance amount, and shall indicate the proportion of such primary insurance amount which is payable as an old-age or survivors benefit to other persons. In addition to such worker.

“(C) For the year in which an individual attains age 62, the Secretary shall also issue to each such individual a statement showing the amount of the monthly benefit for which such individual is eligible for the first month after attaining such age.”

(b) The amendment made by subsection (a) shall be effective with respect to calendar year 1983 and each calendar year thereafter.

TAX CREDIT FOR BENEFIT AMOUNTS RETURNED TO OASDI TRUST FUNDS

SEC. 203. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44H (as added by section 102 of this Act) the following new section:

“SEC. 44I. BENEFIT AMOUNTS RETURNED TO OASDI TRUST FUNDS.

“(a) **GENERAL RULE.**—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount of social security benefits which are—

“(1) paid to the taxpayer from the Federal Old Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, and

“(2) returned by the taxpayer to such Trust Fund, during such taxable year.

“(b) **LIMITATION.**—The amount of any credit allowed to a taxpayer under subsection (a) shall not exceed—

“(1) \$100, or

“(2) in the case of a married individual filing a joint return, \$200,

for a taxable year.

“(c) **SOCIAL SECURITY BENEFIT.**—For purposes of this section, the ‘social security benefit’ means any amount paid to the taxpayer by reason of entitlement to a monthly benefit under title II of the Social Security Act.”

(b)(1) Subsection (b) of section 6401 of such Code (relating to excessive credit is treated as overpayments) is amended—

(A) by striking out “and 44H (relating to contributions to individual retirement security account)”, and inserting in lieu thereof “44H (relating to contributions to individual retirement security account), and 44I (relating to benefit amounts returned to OASDI trust funds)”, and

(B) by striking out “43 and 44H” and inserting in lieu thereof “43, 44H, and 44I”.

(2) Paragraph (2) of section 55(f) of such Code (defining regular tax) is amended by striking out “43 and 44H” and inserting in lieu thereof “43, 44H, and 44I”.

(c) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting before the item relating to section 45 the following new item:

“Sec. 44I. Benefit amounts returned to OASDI trust funds.”

(d)(1) Social security benefits returned to the Treasury of the United States pursuant to section 44I of the Internal Revenue Code

of 1954 shall be credited to the trust fund from which such benefits were paid.

(2) For purposes of this subsection, the term “social security benefit” shall have the meaning given to such term in section 441(c) of such Code.

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

REPEAL OF 1985 AND 1990 TAX INCREASES

SEC. 204. (a) Section 1401(a) of the Internal Revenue Code of 1954 is amended by inserting “and” at the end of paragraph (4) and by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

“(5) in the case of any taxable year beginning after December 31, 1981 and before January 1, 1994, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year.”

(b) Section 3101(a) of such Code is amended by inserting “and” at the end of paragraph (4) and by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

“(5) with respect to wages received during the calendar years 1982 through 1993, the rate shall be 5.40 percent.”

(c) Section 3111(a) of such Code is amended by inserting “and” at the end of paragraph (4) and by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

“(5) with respect to wages paid during the calendar years 1982 through 1993, the rate shall be 5.40 percent.”

COVERAGE OF ALL FEDERAL EMPLOYEES

SEC. 205. (a) Section 210(a) of the Social Security Act is amended—

(1) by repealing paragraph (5); and

(2) by amending paragraph (6) to read as follows:

“(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

“(A) in a penal institution of the United States by an inmate thereof;

“(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

“(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;”

(b) Section 210(p) of such Act is amended—

(1) by inserting “performed prior to January 1, 1984” after “any service”; and

(2) by inserting “, as in effect in January 1983,” after “provisions”.

(c) Section 3121(b) of the Internal Revenue Code of 1954 is amended—

(1) by repealing paragraph (5); and

(2) by amending paragraph (6) to read as follows:

“(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

“(A) in a penal institution of the United States by an inmate thereof;

“(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency";

(d)(1) Section 3121 of the Internal Revenue Code of 1954 is amended by striking out subsection (u) thereof.

(2) Section 1402(b) of such Code is amended in the second sentence thereof by inserting "and" before "(B)" and by striking out ", and (C)" and all that follows through "3111(b)".

(3) Section 3122 of such Code is amended by striking out "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))."

(e) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

SHIFT OF COST-OF-LIVING ADJUSTMENTS

Sec. 206. (a)(1) Section 215(i)(2)(A)(ii) of the Social Security Act is amended by striking out "June" and inserting in lieu thereof "September".

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "May" and inserting in lieu thereof "August".

(3) Section 215(i)(2)(B) of such Act is amended by striking out "May" each place it appears and inserting in lieu thereof in each instance "August".

(4) Section 203(f)(8)(A) of such Act is amended by striking out "June" and inserting in lieu thereof "September".

(5) Section 230(a) of such Act is amended by striking out "June" and inserting in lieu thereof "September".

(6) Section 215(i)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "June" in subparagraph (A)(ii) and inserting in lieu thereof "September", and by striking out "May" each place it appears in subparagraph (B) and inserting in lieu thereof in each instance "August".

(7) Section 202(m) of such Act (as it applies in certain cases by reason of section 2 of Public Law 97-123) is amended by striking out "May" and inserting in lieu thereof "August".

(8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1982.

(b)(1) Section 215(i)(1)(A) of the Social Security Act is amended by striking out "March 31" and inserting in lieu thereof "June 30", and by striking out "1974" and inserting in lieu thereof "1982".

(2) Section 215(i)(1)(A) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "March 31" and inserting in lieu thereof "June 30".

(3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1983.

(c) Section 215(i)(4) of such Act is amended by inserting ", and as amended by section 201 (a)(6) and (b)(2) of the Social Security Amendments of 1983," after "as in effect in December 1978".

PRORATION OF COST-OF-LIVING ADJUSTMENT

Sec. 207. (a) Section 215(i)(2)(A)(ii) of the Social Security Act is amended, in the second sentence, by inserting before the semicolon the following: ", and by adjusting such amount as required by paragraph (5) in the case of the initial cost-of-living increase".

(b) Section 215(i) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The primary insurance amount, maximum benefit amount under section 203(a), and benefit amount under section 227 or 228 of any individual for the initial cost-of-living increase (as defined in subparagraph (B)(i)) shall be determined under paragraph (2)(A)(ii) by substituting for the percentage increase in the Consumer Price Index otherwise applicable under such paragraph, a percentage equal to—

"(i) such otherwise applicable percentage, multiplied by the number of months in the initial cost-of-living computation period (as defined in subparagraph (B)(ii)) which follow the month in which such individual becomes eligible for an old-age or disability insurance benefit, dies, or (in the case of benefits under section 227 or 228) becomes eligible for such benefit, divided by

"(ii) the number of months in such initial cost-of-living computation period.

"(B) For purposes of this paragraph—

"(i) the term 'initial cost-of-living increase' means the first increase under this subsection applicable to the primary insurance amount, maximum benefit amount under section 203 (a), or benefit amount under section 227 or 228 of such individual; except that if a new primary insurance amount is determined with respect to an individual previously entitled to a disability insurance benefit (as described in subsection (a)(2)(C)), the first increase under this subsection applicable to such new primary insurance amount and maximum benefit amount shall also be an 'initial cost-of-living increase'; and

"(ii) the term 'initial cost-of-living computation period' means the period ending with the last day of the cost-of-living computation quarter (as determined under paragraph (1)(B)) used for purposes of the initial cost-of-living increase, and beginning with the first day of the quarter following (I) the most recent calendar quarter prior to such cost-of-living computation quarter which was a base quarter under paragraph (1)(A)(ii), or (II) if later, the most recent prior cost-of-living computation quarter."

(c) The amendments made by this section shall be effective with respect to any "initial cost-of-living increase" (as defined in section 215(i)(5) of the Social Security Act) occurring after the date of the enactment of this Act.

GENERAL REVENUE FUNDING FOR ADMINISTRATIVE COSTS

Sec. 208. (a) Section 201 (g) of the Social Security Act is amended—

(1) by striking out paragraph (1);

(2) in paragraph 93, by striking out "(or 2)"; and

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2).

(b) The amendments made by this section shall be effective with respect to costs incurred after the date of the enactment of this Act.

CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO TRUST FUNDS

Sec. 209. (a) The Secretary of the Treasury shall take such actions as may be necessary to ensure that amounts of checks for benefits under title II of the Social Security Act which have not been presented for payment within a reasonable length of time (not to exceed twelve months) after issuance are credited to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever may be the fund from which the check was issued. Amounts of any such check shall be recharged to the fund from which they were issued if payment is subsequently made on such check.

(b)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all currently unnegotiated benefit checks. After the amounts appropriated by this subsection have been transferred to the Trust Funds, the provisions of subsection (a) shall be applicable. There are hereby appropriated into such Trust Funds such sums as may be necessary to reimburse such Trust Funds for the amount of currently unnegotiated benefit checks. The first such transfer shall be made within 30 days after the date of the enactment of this Act with respect to all such unnegotiated checks as of such date of enactment.

(2) As used in paragraph (1), the term "currently unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Act, which remain unnegotiated after the twelfth month following the date on which they were issued.

TRANSFER TO TRUST FUNDS FOR BENEFITS ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957

Sec. 210. (a) Section 217(g) of the Social Security Act is amended to read as follows:

"APPROPRIATION TO TRUST FUNDS

"(g)(1) Within 30 days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amounts which are the amounts estimated to be necessary to be transferred into each of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund on such date of enactment so that each such Trust Fund will be in the same position at the close of September 30, 2015 as each such Trust Fund would otherwise be in at the close of September 30, 2015 if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted (less any amounts previously transferred under the provisions of this subsection as in effect prior to the date of the enactment of the Social Security Amendments of 1983). The rate of interest to be used in initially determining such amount shall be the rate determined under section 201(d) for public debt obligations which were or could have been issued for purchase by such Trust Funds on the date of the enactment of the Social Security Amendments of 1983, and the assumptions with respect to future increases in wage and price levels shall be consistent with such rate of interest. The Secretary of the Treasury shall transfer the amounts determined under this paragraph into such Trust Funds from the general fund in the Treasury within 30 days after the date of the enactment of the Social Security Amendments of 1983. There are hereby appropriated into such Trust Funds sums equal to the amounts to be transferred in accordance with this paragraph into such Trust Funds.

"(2) The Secretary shall revise the amount determined under paragraph (1) within one year after the date of the transfer made under paragraph (1), and every five years thereafter, as warranted by data which may become available to him after the date of the transfer under paragraph (1) based upon actual benefits paid under this title and title XVIII. Any amounts determined to be needed for transfer shall be transferred annually by the Secretary of the Treasury into the appropriate Trust

Fund from the general fund in the Treasury, or out of the appropriate Trust Fund into the general fund in the Treasury, as may be appropriate. There are authorized to be appropriated to such Trust Funds sums equal to the amounts to be transferred in accordance with this paragraph into such Trust Funds."

PAYMENTS TO TRUST FUNDS OF AMOUNTS EQUIVALENT TO TAXES ON SERVICE IN THE UNIFORMED SERVICES PERFORMED AFTER 1956

Sec. 211. (a) Section 229(b) of the Social Security Act is amended to read as follows:

"(b) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for each fiscal year, amounts equal to the additional amounts which would be appropriated into each such Trust Fund for such fiscal year under sections 201 and 1817 of this Act if the amounts of the additional wages deemed to have been paid by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954."

(b) The amendment made by subsection (a) shall be effective with respect to wages deemed to have been paid for calendar years after 1982.

(c) (1) Within 30 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the amounts equal to the additional amounts which would have been appropriated into the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act, if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1983 had constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

(2)(A) The Secretary of the Treasury shall, within 30 days after the date of the enactment of this Act, transfer into each such Trust Fund, from the general fund in the Treasury, an amount equal to the amount determined with respect to such Trust Fund under paragraph (1), less any amount appropriated into such Trust Fund under the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under paragraph (1) with respect to wages deemed to have been paid for calendar years prior to 1983. There are hereby appropriated into such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

(B) The Secretary shall revise the amount determined under subparagraph (A) within one year after the date of the transfer made under paragraph (1), as warranted by data which may become available to him after the date of the transfer under subparagraph (A) based upon actual benefits paid under this title and title XVIII. Any amounts determined to be needed for transfer shall be transferred by the Secretary of the Treasury into the appropriate Trust Fund from the general fund in the Treasury, or out of the appropriate Trust Fund into the general fund in the Treasury, as may be appropriate. There are authorized

to be appropriated to such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

INCREASE IN DROPOUT YEARS FOR TIME SPENT IN CHILD CARE

Sec. 212. (a) Section 215 (b)(2)(A) of the Social Security Act is amended, in the third sentence thereof—

(1) by striking out "clause (ii)" each place it appears and inserting in lieu thereof in each instance "clause (i) or (ii)";

(2) by striking out "the age of 3" each place it appears and inserting in lieu thereof in each instance "the age of 6";

(3) by striking out "a combined total not exceeding 3" and inserting "a combined total not exceeding 11"; and

(4) by striking out "had no earnings as described in section 203(f)(5) in such year" and inserting in lieu thereof "had earnings in such year (as described in section 203(f)(5) of not more than an amount equal to 50 percent of the average of the total wages (as determined by the Secretary for purposes of paragraph (3)(A)(ii)(I) for the second calendar year preceding such year".

(b) The amendments made by this section shall apply with respect to monthly benefits payable for months beginning after the date of the enactment of this Act.

BENEFITS FOR SURVIVING DIVORCED SPOUSES AND DISABLED WIDOWS AND WIDOWERS WHO REMARRY

Sec. 213. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

(2) Section 202(e)(4) of such Act is amended to read as follows:

"(4) For purposes of paragraph (1), if—

"(A) a widow or a surviving divorced wife marries after attaining age 60, or

"(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred."

(b)(1) Section 202(f)(4) of such Act is repealed.

(2) Section 202(f)(5) of such Act is amended to read as follows:

"(5) For purposes of paragraph (1), if—

"(A) a widower marries after attaining age 60, or

"(B) a disabled widower described in paragraph (1)

"(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred."

(c)(1) The amendments made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

DETERMINATION OF PRIMARY INSURANCE AMOUNT FOR DEFERRED SURVIVOR BENEFITS

Sec. 214. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) If a person is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual whose primary insurance amount would otherwise be determined under paragraph (1), the primary insurance amount of such deceased individual shall be determined, for purposes of determining the amount of the benefit under such subsection, as if such deceased individual died in the year in which the person entitled to benefits under such sub-

section first became eligible for such benefits or, if earlier, the year in which such deceased individual would have attained age 60 if he had not died (except that the actual year of death of such deceased individual shall be used for purposes of section 215(b)(2)(B)(ii)(II)).

"(i) is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual, and

"(ii) was entitled to benefits under this title on the basis of the wages and self-employment income of such deceased individual in the month before the month in which such person became eligible for the benefits described in clause (i).

the primary insurance amount of such deceased individual shall be the primary insurance amount determined under the rules which would apply (but for subparagraph (A)) or the primary insurance amount determined under subparagraph (A), whichever is larger.

"(C) For purposes of determining the maximum family benefit amount with respect to a deceased individual for whom a primary insurance amount is determined under this paragraph, the primary insurance amount of such deceased individual shall be the primary insurance amount determined under the rules which would apply (but for this paragraph) of the primary insurance amount determined under this paragraph, whichever is larger."

(b) The amendments made by subsection (a) shall apply to the benefits of individuals who become eligible for benefits under sections 202 (e) and (f) of the Social Security Act after December 1983.

BENEFITS FOR DIVORCED SPOUSE REGARDLESS OF WHETHER FORMER SPOUSE HAS RETIRED

Sec. 215. (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of determining the entitlement of a divorced wife to a benefit under this subsection and the amount of such benefit, in the case of a wife who has been divorced from her former husband for a period of not less than 24 months—

"(A) such former husband shall be deemed to be entitled to an old-age insurance benefit if he would be entitled to such a benefit if he applied therefor; and

"(B) the amount of such benefit for such divorced wife shall be determined without regard to reductions which are or would be made under section 203 on account of work performed by such former husband."

(b)(1) The amendment made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendment unless proper application for such benefit is made.

INCREASE IN BENEFIT AMOUNT FOR DISABLED WIDOWS AND WIDOWERS

Sec. 216. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(ii) and all that follows and inserting in lieu thereof a period.

(2) Section 202(q)(6) of such Act is amended to read as follows:

"(6) For purposes of this subsection, the 'reduction period' for an old-age, wife's husband's, widow's, or widower's insurance benefit is the period beginning—

"(A) in the case of an old-age or husband's insurance benefit, with the first day of the

first month for which such individual is entitled to such benefit,

"(B) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

"(C) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is later.

and ending with the last day of the month before the month in which such individual attains retirement age."

(3) Section 202(q)(7) of such Act is amended by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following:

"(7) For purposes of this subsection, the 'adjusted reduction period' for an old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—"

(4) Paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii) of section 202(q) of such Act are each amended by striking out "(6)(A)" and inserting in lieu thereof in each instance "(6)".

(5) Section 202(q)(3)(G) of such Act is amended by striking out "paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))" and inserting in lieu thereof "paragraph (6)".

(6) Section 202(q)(10) of such Act is amended—

(A) by striking out "or an additional adjusted reduction period";

(B) in subparagraphs (B)(i), (C)(i), and (C)(ii) by striking out ", plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent"; and

(C) in subparagraph (B)(ii), by striking out ", plus the number of months in the additional reduction period multiplied by 43/240 of 1 percent".

(b)(1) The amendments made by this section shall be effective with respect to monthly benefits under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

SHARING OF EARNINGS BY MARRIED COUPLES

SEC. 217. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"SHARING OF EARNINGS BY MARRIED COUPLES

"SEC. 236. (a)(1) The combined earnings of an individual and his or her spouse, to the extent that such earnings are attributable to the period of their marriage (as determined under paragraph (2)), shall be divided equally between them and shared in accordance with this section for purposes of determining their eligibility for old-age or disability insurance benefits and the amount of the old-age or disability insurance benefits to which each of them is or may become separately entitled, if they are divorced, and either of them elects, in such manner and form as the Secretary shall prescribe but in any event within 12 months after the divorce becomes final, to have such combined earnings so divided and shared.

"(2) For purposes of this section with respect to any two individuals who are married to each other and are then divorced, the 'period of their marriage' is the period—

"(A) beginning with the first day of the calendar year in which their marriage occurred, and

"(B) ending with the last day of the calendar year in which their divorce becomes final.

"(b)(1) Except to the extent otherwise provided in subsections (c) and (d), whenever two individuals are to have their combined earnings divided and shared in accordance with subsection (a) they shall each be credited for all of the purposes of this title with wages and self-employment income, for each calendar year for which either of them is credited with any wages and self-employment income without regard to this section during the period of their marriage, in an amount equal to 50 percent of the combined total of the wages and self-employment income otherwise credited to both of them for that year.

"(2) Nothing in this section shall have an effect upon the crediting of wages and self-employment income to any individual for any calendar year not included in the period of such individual's marriage; but to the extent that wages and self-employment income are credited pursuant to this section the other provisions of this title specifying the manner in which wages and self-employment income are to be credited shall (to the extent inconsistent with this section) not be applicable.

"(c) This section shall not apply with respect to any surviving divorced spouse for any month, and any widow's, widower's, or mother's insurance benefit payable to which such spouse is entitled under this title for any month shall be determined as though this section has not been enacted, if the application of this section would result in either divorced spouse becoming ineligible for any benefit under this title by reason of an insufficient number of quarters of coverage.

"(d) Notwithstanding any of the preceding provisions of this section—

"(1) benefits payable under subsection (d) or (h) of section 202 on the basis of the wages any self-employment income of any individual, and benefits payable under subsection (b), (c), (e), (f), or (g) of such section 202 (on the basis of such wages and self-employment income) to any person other than a divorced spouse or surviving divorced spouse who has shared in or been credited with a part of such individual's earnings under subsections (a) and (b) of this section, shall be determined as though this section had not been enacted if (A) the application of this section has changed such individual's primary insurance amount from what it would otherwise have been, and (B) the crediting of wages and self-employment income to such individual and his or her former spouse without regard to this section would increase the amount of such benefits; and

"(2) in the application of section 203(a) (relating to maximum family benefits) with respect to benefits payable on the basis of the wages and self-employment income of any individual, where all or any part of the wages and self-employment income of such individual and his or her former spouse was credited to them in accordance with this section, the primary insurance amount of such individual (and the crediting of his or her wages and self-employment income) shall be determined in accordance with this section but the benefits payable to any other person on the basis of the wages and self-employment income of such individual shall be determined as though this section had not been enacted and as though such person had made application for any benefit or benefits to which he or she would (upon such application) be entitled."

(b) Section 205(c)(5) of the Social Security Act is amended—

(1) by striking out "or" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(K) to reflect any changes in the crediting of wages and self-employment income which may be necessitated by section 236."

(c) Section 215(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) The determination of the wages and self-employment income to be credited to an individual under this subsection shall in all cases be made after the application of section 236."

(d) The amendments made by this section shall apply only with respect to divorces occurring or becoming final after the date of the enactment of this Act, and with respect to the payment of benefits for months after such date of enactment.

RESTRICTIONS ON PAYMENT OF BENEFITS TO NONRESIDENT ALIENS

SEC. 18. (a) Section 202(t)(1) of the Social Security Act is amended to read as follows:

"(1) (A) Notwithstanding any other provision of this title, any monthly benefits otherwise payable under this section or section 223 for any month to any individual who is not a citizen or national of the United States, if such individual—

"(i) has not been lawfully admitted to the United States for permanent residence, or

"(ii) has been outside the United States for a period of more than six consecutive calendar months while entitled to benefits under this title;

and any monthly benefits otherwise payable to any person for any month under this section or section 223 on the basis of the wages and self-employment income of an individual who is himself subject to the preceding provisions of this subparagraph for that month, shall be subject to the limitations set forth in subparagraph (B).

"(B) The total amount of any monthly benefits described in subparagraph (A) payable to an individual described in such subparagraph shall be limited to—

"(i) in the case of an individual entitled to such benefits who is the only individual so entitled to benefits on the basis of the wages and self-employment income upon which such benefits are payable, an amount equal to the sum of—

"(I) the total amount of taxes paid under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or the corresponding provisions of prior law) with respect to such wages and self-employment income; and

"(II) the interest payable on the taxes so paid (computed at the prevailing rate of interest payable on United States Treasury bills for the period after such taxes were paid and before such individual became entitled to such benefits); or

(ii) in the case of an individual entitled to such benefits who is one of several individuals so entitled to benefits on the basis of the wages and self-employment income upon which such benefits are payable, an amount equal to that portion of such taxes and such interest which is attributable to such individual's entitlement, as determined in regulations by the Secretary.

After monthly benefits totalling such amount have been paid, such individual shall have no further entitlement to benefits based upon the same wages and self-employment income.

“(C) For purposes of subparagraph (B) benefits paid under section 202 or 223 before the date of enactment of this paragraph to an individual to whom subparagraph (A) applies shall be taken into account in determining the total amount of monthly benefits paid to such individual.

“(D) Subparagraph (A)(i) shall not apply with respect to any individual within the United States if the benefit involved is payable to such individual as the wife, husband, child, or survivor of a citizen or national of the United States or of an alien lawfully admitted to the United States for permanent residence.

“(E) Subparagraph (A)(ii) shall not apply with respect to any individual if—

“(i) the benefit involved is payable to such individual as the dependent or survivor of a citizen or national of the United States who resides outside the United States and has attained age 50 (or who died outside the United States after attaining that age), and

“(ii) the spousal, filial, parental, or other relationship upon which the entitlement of such individual to such benefit is based existed at the time such citizen or national attained age 50.

“(F) The application of subparagraph (A) to an individual by reason of clause (ii) thereof shall not preclude such individual from being paid benefits under this title under an entitlement to such benefits established on the basis of wages and self-employment income other than the wages and self-employment income on the basis of which he was entitled to benefits at the time he was outside the United States for more than six consecutive months.

“(G) An individual to whom subparagraph (A) applies by reason of clause (ii) shall not, upon returning to the United States, become entitled to the benefits which would be payable to such individual (but for such subparagraph) on the basis of the wages and self-employment income with respect to which he was entitled to benefits at the time he was outside the United States for more than six consecutive months.

“(H) For purposes of this paragraph, an individual shall be considered to have been outside the United States for any calendar month if the Secretary, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, determines that such individual was outside the United States during all of such calendar month. In applying the preceding sentence, an individual who has been outside the United States for any period of 30 consecutive days shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

“(I) For purposes of this paragraph, the term ‘United States’ (when used in either a geographical or political sense) means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.”

(b) Paragraphs (2) and (3) of section 202(t) are repealed.

(c) Section 202(t)(4) of such Act is amended—

(1) by striking out subparagraphs (A) and (B);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C); and

(3) by striking out the semicolon at the end of subparagraph (C) (as so redesignated) and all that follows and inserting in lieu thereof a period.

(d) The heading of section 202(t) of such Act is amended by adding at the end thereof

the following: “; Restrictions on Payment of Benefits to Nonresident Aliens”.

(e) The amendments made by this section shall apply with respect to months after the month in which this Act is enacted.

BUS PROCESS REQUIREMENTS FOR TERMINATION OF DISABILITY BENEFITS

SEC. 219. (a) Section 221(d) of the Social Security Act is amended by inserting “(1)” before “(d)” and by adding at the end thereof the following new paragraph:

“(2)(A) In any case where—

“(i) an individual is a recipient of disability insurance benefits, or of child’s, widow’s, or widower’s insurance benefits based on disability, and

“(ii) a preliminary finding is made that the physical or mental impairment on the basis of which such benefits are payable has ceased, did not exist, or is no longer disabling (as determined in accordance with subparagraph (B)),

such benefits may not be terminated until such preliminary finding has been upheld after a hearing by the Secretary as provided in section 205(b). The Secretary shall provide opportunity for such hearing at a time and place reasonably accessible to the individual. Failure without good cause to appear at such hearing shall constitute a waiver of the right to such a hearing prior to termination.

“(B)(i) Except as provided in clause (ii), no benefits described in subparagraph (A) may be terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is no longer disabling, unless the Secretary makes a finding that there has been a medical improvement in the case of such individual’s impairment such that the individual is no longer under a disability under the standards for disability in effect at the time of such prior decision, or that the prior decision that such individual was under a disability was clearly erroneous under the standards for disability in effect at the time of such prior decision.

“(ii) Clause (i) shall not apply in the case of a termination of benefits based upon a finding made in accordance with section 223(d)(4) that services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity, or to a termination based on a finding of fraud.”

(b) Section 223 of such Act is amended by striking out subsection (g).

(c) Section 205(b) of such Act is amended by striking out “(1)” after “(b)” and by striking out paragraph (2).

(d) Section 5 of Public Law 97-455 is repealed.

(e) The amendments made by this section shall apply with respect to determinations (that individuals are not entitled to benefits) made after the date of the enactment of this Act.

REPEAL OF EARNINGS LIMITATION FOR BENEFICIARIES AGE 65 OR OLDER

SEC. 220. (a) Section 203(c)(1) of the Social Security Act is amended by striking out “seventy” and inserting in lieu thereof “65”.

(b) The last sentence of section 203(c) of such Act is amended by striking out “nor shall any deduction” and all that follows and inserting in lieu thereof “nor shall any deduction be made under this subsection from any widow’s or widower’s insurance benefits if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 50.”

(c) Section 203(d)(1) of such Act is amended by striking out “seventy” and inserting in lieu thereof “65”.

(d) Section 203(f)(1) of such Act is amended—

(1) in clause (B), by striking out “seventy” and inserting in lieu thereof “65”;

(2) by amending clause (D) to read as follows: “(D) for which such individual is entitled to widow’s or widower’s insurance benefits if such individual became so entitled prior to attaining age 60;” and

(3) by striking out “the applicable exempt amount” each place it appears and inserting in lieu thereof in each instance “the exempt amount”.

(e) Section 203(f)(3) of such Act is amended—

(1) by striking out “applicable exempt amount” and inserting in lieu thereof “exempt amount”; and

(2) by striking out “70” and inserting in lieu thereof “65”.

(f) Section 203(f)(4)(B) of such Act is amended by striking out “applicable exempt amount” and inserting in lieu thereof “exempt amount”.

(g) Section 203(f)(8)(A) of such Act is amended by striking out “exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable” and inserting in lieu thereof “exempt amount which is to be applicable”.

(h) Section 203(f)(8)(B) of such Act is amended—

(1) by striking out “Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be” and inserting in lieu thereof “The exempt amount for each month of a particular taxable year shall be”;

(2) in clause (i), by striking out “corresponding”; and

(3) in the matter following clause (ii), by striking out “an exempt amount” and inserting in lieu thereof “the exempt amount”.

(i) Section 203(f)(8) of such Act is amended by striking out subparagraph (D) thereof.

(j) Section 203(h)(1)(A) of such Act is amended—

(1) by striking out “applicable exempt amount” and inserting in lieu thereof “exempt amount”; and

(2) by striking out “70” each place it appears and inserting in lieu thereof in each instance “65”.

(k) Section 203(j) of such Act is amended—

(1) by striking out “Seventy” in the heading thereof and inserting in lieu thereof “Sixty-five”; and

(2) by striking out “seventy” and inserting in lieu thereof “65”.

(l) Section 202(w)(2) of such Act is amended by inserting “prior to January 1, 1984” after “the total number of months”.

(m) The amendments made by this section shall be effective with respect to taxable years beginning on or after January 1, 1984.

Mr. STENNIS. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from North Carolina.

Mr. DOLE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. We are back on the social security bill?

The PRESIDING OFFICER. The Senator is absolutely correct.

The Senator from North Carolina.

Mr. HELMS. Mr. President, the amendment I am offering today substitutes for the pending amendment the provisions of S. 541, the Social Security Guarantee and Individual Retirement Security Act of 1983.

Mr. President, S. 541 is the bill I introduced this past month to strengthen the social security system and to guarantee once and for all the retirement security of elderly Americans.

Before I discuss the provisions of the pending amendment I want to commend my very good friend, the distinguished Senator from Kansas (Mr. DOLE) for his remarkable leadership in this effort to salvage social security.

As all Senators know who followed the deliberations of the so-called Social Security Reform Commission, there were many and divergent viewpoints about which way to proceed. So what emerged was a compromise which was not really acceptable to any member of the Commission. I do not think, once the American people learn of the provisions, that they will find it acceptable either. But in any case we should all be grateful to BOB DOLE's tireless search for the solution to the immediate funding problems of the system.

Also, I would pay my genuine respects to the distinguished Senator from Colorado (Mr. ARMSTRONG) for his diligent study of this matter and the enormous amount of work that he did—truly an incredible job under the circumstances. And I am grateful to Senator DOLE and Senator ARMSTRONG and others.

I would say, furthermore, that every member of the Finance Committee deserves our gratitude for offering the American people a better reform package than the one recommended by the National Commission on Social Security Reform. That is not to say that the Senator from North Carolina is pleased with H.R. 1900 or will even vote for it, but in no way do I want my personal convictions or those of so many citizens of North Carolina who have contacted me to detract from the diligence of the Senator from Kansas. I reiterate he has done a remarkable job.

Second, I am pleased that the Finance Committee dealt favorably with a number of the sections of the reform bill that I introduced. Of course I refer to S. 541. In fact, upon examination, I find that the Finance Committee bill that we are now considering includes 11 of the 20 sections of my bill. And that is a pretty good average, Mr. President.

The bill before us does cure, for example, a number of inequities that women suffer under social security as it now exists. It gradually phases out the retirement earnings test for people 85 and over and it cuts off benefit payments to aliens and their dependents and survivors who reside outside the

United States and its territories. Several other sections of S. 541 are included in the bill now before us, but I will not use the Senate's time to discuss these in any great detail.

Let me simply say that the bill under consideration is certainly an improvement over its predecessor legislation.

Having said that, Mr. President, despite the improvements made thus far, the social security reform bill, in my judgment, still lacking. I am convinced that Americans, young and old, want and I think deserve more than the bill before us now provides. The more than 36 million elderly Americans who receive social security checks each month need a retirement system they can depend on. Equally important, the 119 million workers whose payroll taxes make those checks possible deserve a fully funded system that will be able to pay benefits when they retire.

Mr. President, one of the problems with social security in the United States is that so few know anything about it. Some weeks back I met with members of the news media and it occurred to me that it might be interesting to see how much those who daily report on social security developments know about social security itself. So we prepared 20 multiple choice questions. I gave part of the test to media representatives and, I must say, they did very poorly. And I will say also that before I began looking into the social security system, I would have done perhaps even more poorly.

For example, let me read two or three of the questions and the multiple choice answers for each and see how the Chair would do if he can follow these in his mind as we go along. The first question:

If you went to work when social security began in 1937 and earned enough to pay the maximum tax from 1937 to 1982, today you would have paid into the system: A. \$127,650; B. \$98,450; C. \$16,950; D. \$47,650.

The answer is C, \$16,950, Mr. President.

The second question:

If you retired today and paid the maximum tax possible since 1937, your annual social security benefits for you and your spouse would be: A. \$19,000; B. \$12,200; C. \$14,000; D. \$8,000.

The correct answer is B.

Mr. President, I ask unanimous consent that this test given to the news media be printed in the Record at this point.

There being no objection, the test was ordered to be printed in the Record, as follows:

Social Security is the Nation's largest domestic program, and affects the lives of almost every American. How much do you know about this important program? Here are 20 multiple choice questions to test your knowledge.

1. If you went to work when Social Security began in 1937, and earned enough to pay the maximum tax during 1937 to 1982, today you would have paid into the system: A. \$127,650; B. \$98,450; C. \$16,950; D. \$47,650.

2. If you retired today, and had paid the maximum tax possible since 1937, your annual Social Security benefits for you and your spouse would be: A. \$19,000; B. \$12,200; C. \$14,000; D. \$8,000.

3. The social security deficit projected over the next 75 years is: A. \$3.3 billion; B. \$2.7 billion; C. \$1.6 trillion; D. \$9 billion.

4. The average number of years that a woman lives after reaching age 65 in 1982 is: A. 11; B. 15; C. 19; D. 9.

5. The average number of years that a man lives after reaching age 65 in 1982 is: A. 11; B. 15; C. 19; D. 9.

6. Social Security pays full retirement benefits for those age 65. Social Security also pays benefits, though at a reduced amount, for those who opt for early retirement after age 62. Today, what percent of Americans opt for early retirement? A. 28 percent; B. 65 percent; C. 90 percent; D. 50 percent.

7. For all current Social Security retirees, their lifetime Social Security benefits they and their families will receive exceed by what ratio their lifetime Social Security taxes paid? A. 11:1; B. 10:1; C. 2:1; D. 5:1.

8. To be fully eligible for Social Security retirement benefits, what is the minimum number of years you have to have worked in a Social Security covered job, and therefore had paid Social Security taxes? A. 7½; B. 21½; C. 30; D. 50.

9. President Roosevelt, when he proposed the Social Security Act in 1935, said its basic goal was:

A. To fully meet all of the economic needs of the elderly, the nation's most cherished national resource.

B. To provide supplemental retirement income to replace earnings lost by industrial and commercial workers because of retirement.

C. To guarantee that taxes paid to Social Security by workers would be fully repaid, with interest, when the worker attained retirement.

10. Since 1970, Social Security benefit increases have:

A. Increased faster than average increases in wages and prices.

B. Stayed the same as increases in average wages and prices.

C. Have not kept pace with average wage or price increases.

11. What percent of all American families pay more in Social Security taxes than federal income taxes? A. 27 percent; B. 51 percent; C. 62 percent; D. 11 percent.

12. Since 1935, how much in Social Security benefits have been paid out? A. \$655 billion; B. \$235 billion; C. \$1 trillion; D. \$300 billion.

13. In the next four years, how much Social Security benefits will be paid out? A. \$655 billion; B. \$235 billion; C. \$1 trillion; D. \$300 billion.

14. In 1959, what percent of the elderly had incomes below the official poverty level? A. 35 percent; B. 14 percent; C. 52 percent; D. 17 percent.

15. In 1978, what percent of the elderly had incomes below the official poverty level? A. 35 percent; B. 14 percent; C. 52 percent; D. 17 percent.

16. U.S. citizenship is currently not a requirement to receive Social Security benefits. How many dollars are paid annually in benefits to non-U.S. citizens living outside the United States? A. \$35 million; B. \$700 million; C. \$235 million; D. \$94.6 million.

17. The OASDI Trust Fund pays benefits out of current reserves. The funds have enough reserves to pay benefits at present levels for how long? A. 2 years; B. 4 months; C. 10 years; D. 7 week.

18. Social Security is a "pay as you go" system . . . meaning benefits paid today are financed through taxes paid by today's workers. In 1940, there were 16 workers for every beneficiary. How many workers are there today for each beneficiary? A. 3; B. 25; C. 12; D. 17.

19. Since 1935, the maximum Social Security taxes have increased what percent A. 2,000 percent; B. 200 percent; C. 6,900 percent; D. 4,000 percent.

20. What percent of Social Security current beneficiaries are over age 65, the full retirement age? A. 92 percent; B. 65 percent; C. 78 percent; D. 51 percent.

Mr. HELMS. I will run down the answers. 1, C; 2, B; 3, C; 4, C; 5, B; 6, C; 7, D; 8, A; 9, B; 10, A; 11, B; 12, C; 13, C; 14, A; 15, B; 16, B; 17, D; 18, A; 19, C; 20, D.

Mr. President, my bill, S. 541, the Social Security Guarantee and Individual Retirement Security Act of 1983, would guarantee to every American the social security benefits to which he or she is now entitled without raising taxes. As a matter of fact, it would repeal all future scheduled payroll tax increases. It has both a long-term and a short-term goal for addressing the funding problems facing social security.

In the long run, Mr. President, it would phase in a new kind of private savings account, called an individual retirement security account (IRSA), in which each working American could invest for his or her own retirement. These federally insured accounts would guarantee for all time absolute retirement security for every American. They would also help the Nation's economy by providing a capital pool for investment to create jobs and put people back to work, lower interest rates, boost GNP, and help this Nation toward a much needed economic recovery.

In the short run, it would keep our present social security system solvent while the long-term plan has a chance to take effect.

THE PRESENT PROBLEM

We will be deceiving ourselves if we do not face up to the seriousness of the social security crisis. In my view, it is both a national tragedy and a national disgrace. What is more, too few Americans understand the nature and extent of these problems. Certain politicians and members of the media have made a political football out of social security.

Let us examine for a moment how so many Americans have been misled, even deceived, by political and bureaucratic words and phrases that have created false impressions in their minds. To put it bluntly, the people have been hoaxed by expressions that have crept into the American vocabulary.

First, how many times have we heard references to the "Social Security Trust Fund"? There is no trust fund. It does not exist. It has never existed. Just ask someone to point out the vault where the money is kept. From the first days of social security,

the American people have been led to believe that every worker has an accumulated savings account in Washington with his or her name and social security number on it. That is what employer and employee payroll taxes were supposed to be paying for. But such accumulated savings accounts do not exist, they have never existed.

Second, how many times have American workers been told that they "contribute" a specified sum of money to social security, and their employer "contributes" a like amount? But that is not correct either. All of the money—what workers contribute and what employers contribute—all of it is a part of the total payroll expenses that an employer has allotted for a particular job, including salary and other costs involved in his having hired someone in the first place. So every penny is really the worker's money, the money an employer has to pay in a dozen different ways to employ someone.

So, Mr. President, that contribution is not a contribution. It is a tax, and nothing more. Social security, as it now exists, is not really a retirement insurance and savings program. It is a program of taxation that is in fact bankrupt; and the retirement benefits of every American are, and have been, at the mercy of politicians who decide how much money from the Federal Treasury retired Americans will receive.

THE COMMISSION PLAN

Along with other Americans, I waited—perhaps too patiently—for the 15-member, blue-ribbon, bipartisan Social Security Reform Commission to come up with proposals that, we had all hoped, would realistically and honestly address the problems facing the social security system. But after more than a year's work, the Commission submitted proposals to the President that reflect a total absence of creativity and imagination—and, worse still, a total lack of understanding of where they would lead the American economy. The Commission asks Congress to raise taxes and reduce social security benefits. Taxes on working people and their employers would be increased. Taxes on self-employed persons such as farmers, doctors, and lawyers would be increased. For the first time ever, the benefits of social security recipients would be taxed. Nonprofit organization employees would be brought into the system, and employees of State and local governments would be prohibited from withdrawing from the system.

But these painful changes and others recommended by the Commission may still not, by the Commission's own admission, be enough to cover either the short-term funding needs and surely will not cover the long-term social security deficit.

According to the Commission's report, the short-term deficit—that is, the deficit that would accumulate between now and 1989—would come to

between \$150 and \$200 billion. Their short-term remedy would take care of \$168 billion of that projected shortfall.

Estimates of the long-term deficit—that is, for the next 75 years—vary depending on your source of information. Or perhaps I should say it gets worse each time it is calculated.

The Commission report estimates a long-term deficit of 1.82 percent of payroll—estimated to be roughly \$1.6 trillion. The Commission's proposal would reduce this deficit by only two-thirds. The members came to no agreement on whether to recover the remaining one-third by gradually raising the retirement age or by increasing the payroll tax on employers and employees.

Shortly after the report was published social security actuaries revised their estimate of the deficit. They now project it will amount to 2.1 percent of payroll, which is equal to several hundred billion dollars more than previously estimated. The Commission plan, then, falls woefully short of resolving the long-term deficit, even if the retirement age were to be raised or payroll taxes increased.

Clearly, then, Mr. President, however well intended the report of the Social Security Reform Commission is, it not only fails to address all the problems facing our social security system, but it does not adequately solve even those it does address.

DISTRUST OF SOCIAL SECURITY

Is it any wonder, then, that the American people have lost faith in social security? Some weeks back, I saw the results of two polls that had been taken among younger Americans now in the work force. A 1982 Washington Post-ABC News poll stated 66 percent of those under 45—and 70 percent of those under 30—believe that social security will not be in existence when they retire. A 1981 New York Times-CBS News poll found that 75 percent between ages 25 and 34 doubt they would receive any of the social security benefits they have been promised. The same poll found that 73 percent of all Americans have lost confidence in social security.

The same doubts and fears have been expressed to me in letters and telephone calls from countless Americans—young, middle aged, and elderly, including some who are already retired. These people are concerned, and rightly so, about their futures, and about the futures of their children and grandchildren.

HELMS PLAN WILL NOT

In a moment I will describe in greater detail what my proposal would do, but first let me emphasize what it will not do.

It will not—I repeat not—reduce any promised benefits to anyone—not to retired Americans, not to those about to retire, and not to anyone else who has a right to any retirement benefits.

It will not—and again I repeat not—raise social security taxes in the

future. In fact, it would repeal the social security tax increases already scheduled to take effect in 1985 and 1990.

It will not raise taxes on self-employed individuals.

It will not bring any employees of nonprofit, tax-exempt organizations into the social security system.

It will not require employees of State and local governments to participate in social security.

It will not tax benefits of social security recipients.

It will not make our senior citizens wait 6 months for the annual cost-of-living adjustment they depend on so much.

It will not raise the retirement age.

THE IRSA ACCOUNT

My plan would authorize every American worker to establish an "Individual Retirement Security Account" in whatever authorized institution he or she chooses, be it a local bank, credit union, savings and loan association, or whatever. These fiduciaries would be qualified under standards similar to those under Treasury Regulations section 1.401-12(n).

This new kind of account would be similar to the IRA accounts most people know about already, but with a big difference. The difference would be that a tax credit, instead of a tax deduction, would be given for deposits in these individual retirement security accounts. A tax credit means a dollar-for-dollar tax writeoff, the kind that means something to the small- and medium-income taxpayer.

Individuals could contribute to these IRSA's any amounts they choose. For every dollar contributed to an IRSA, the individual would be entitled to claim a 20-cents-on-the-dollar credit against the income tax liability, up to a maximum credit of 20 percent of the amount paid that year by the individual to the social security trust fund. To the extent the individual elects to take advantage of the income tax credit, his future pension claims against the common social security trust fund would be reduced according to an actuarial formula. Maximum utilization of the income tax credit each year for 20 years would reduce the individual's OASI claims to zero. Lesser utilization would reduce the trust fund's liabilities proportionately.

GUARANTEED BENEFITS

My proposal would guarantee all current pension obligations with the full faith and credit of the United States. Many Americans are surprised when they learn that social security benefits are not guaranteed under current law. In fact, in 1960, the U.S. Supreme Court rules in *Flemming v. Nestor* (363 U.S. 603) that the Federal Government can renege on social security benefits at any time. That case is still the law today. If Congress wants to reduce social security benefits, it is free to do so. I want to change that.

Under my plan, every participant, upon retirement, would receive a cer-

tificate made out in his or her name. It would be an obligation backed by the "full faith and credit of the United States." This bond would guarantee continued social security benefits. Never again will a retired American feel that his or her social security benefits would be cut by an act of Congress, the courts, or any other agency of Government. No one could ever be denied the credits he or she has earned or will earn in the future under the Government system.

Everyone's retirement credits must be guaranteed.

MOBILIZE PRIVATE SECTOR VIA IRSA'S

But in the long run, we also need to offer workers something more—a supplement, an alternative to the Government-managed system.

No system of taxes can improve real benefits to Americans because taxes are not productive. They destroy the incentive to create jobs and the incentive to save. What we need is a system of savings and investment. A lot of people originally thought that was what the social security system was supposed to be. But in fact we have a system where the taxes collected this month are paid out in benefits next month, and this system is bankrupt. I want to expand the system to create individual worker's investments in the private sector. I want to encourage savings and investment, create jobs, help lower interest rates, and thereby restore the strength and vitality of America.

Interest, dividends, and capital gains accumulated in the IRSA account would be tax exempt, and annuities and withdrawals from it upon retirement anytime after age 62 would be tax free. Funds held in an IRSA account could be used tax free by a worker before age 62 to acquire life insurance, health insurance, or disability insurance. The individual could participate with his fiduciary in managing the IRSA account as a fully funded individual retirement program.

For the first 10 years after enactment, an individual could set up an individual retirement security account and receive tax credits. Then, starting in 1994, there would begin a phased transfer in which employers and employees would be required to pay part of their social security taxes to the respective worker's individual retirement security account instead of to the Federal Government. As more of the individual's and employer's taxes go to the worker's IRSA, less would be paid to the common OASI trust fund to pay benefits for a declining number of social security beneficiaries.

By the year 2004 the phased transfer would be complete, and all payroll tax payments would be made to employees' IRSA's. Tax credits would be available between 1994 and 2004 for amounts invested in an IRSA above the amount deposited by employees and employers via the FICA deduction. The credit would phase to zero as the OASI component of the FICA de-

duction phased to zero by the year 2004.

I asked experts to estimate the amount of money that would be saved and invested in the private sector as gradually increasing percentages of the population began to participate in IRSA's. For example, if only 38 percent of our Nation's workers elect to establish IRSA's during the next 10 years, a whopping \$271,401,000,000 will have been invested. Think what this new supply of savings could do for our economy.

The following table provides a breakdown of the experts' estimates:

ESTIMATED IRSA PARTICIPATION AND INVESTMENT
(Dollars in billions)

| Year | Participation rate to IRSA's | Amount Invested |
|-------|------------------------------|-----------------|
| 1984 | 0.01 | \$9 894 |
| 1985 | .03 | 3,672 |
| 1986 | .07 | 7,802 |
| 1987 | .10 | 12,050 |
| 1988 | .13 | 16,926 |
| 1989 | .16 | 22,432 |
| 1990 | .19 | 31,037 |
| 1991 | .24 | 42,268 |
| 1992 | .30 | 57,000 |
| 1993 | .38 | 77,900 |
| Total | | 271,401 |

OASI liabilities would shrink as participation in IRSA's increased. By the year 2045, according to my projections, residual OASI liabilities would be reduced to zero.

The following table shows projected OASI and IRSA participation and fiscal impact through the year 2050:

PROJECTED OASI AND IRSA PARTICIPATION AND FISCAL IMPACT¹

(Thousands of individuals)

| Year | FICA covered workers | OASI annuitants | IRSA annuitants | OASI cost (percent of payroll) |
|------|----------------------|-----------------|-----------------|--------------------------------|
| 1982 | 115,308 | 31,483 | 0 | 10.42 |
| 1985 | 123,300 | 33,106 | 0 | 10.32 |
| 1990 | 132,410 | 63,428 | 33 | 9.87 |
| 1995 | 137,644 | 83,403 | 53 | 8.29 |
| 2000 | 142,248 | 39,814 | 4,460 | 7.14 |
| 2005 | 146,798 | 41,725 | 16,697 | 6.46 |
| 2010 | 149,515 | 45,359 | 32,218 | 4.92 |
| 2015 | 150,148 | 51,048 | 51,048 | 2.51 |
| 2020 | 149,873 | 57,753 | 57,753 | 1.22 |
| 2025 | 150,205 | 64,500 | 64,542 | .79 |
| 2030 | 151,750 | 45,323 | 68,234 | .46 |
| 2035 | 153,889 | 16,873 | 71,277 | .03 |
| 2040 | 156,015 | 997 | 71,440 | (²) |
| 2045 | 157,777 | 0 | 71,824 | 0 |
| 2050 | 159,545 | 0 | 73,034 | 0 |

¹ Alternative II-B assumptions; source of data for covered workers, OASI annuitants, 1982 trustees report. IRSA participation rate, 1984-93 assumed 20 percent of covered workers with 50 percent retiring by 1995; increase in IRSA coverage and decrease in OASI coverage computed by applying smoothed exponential decline rate/growth rate curve to population data with parameters as given in Helms proposal (universal IRSA coverage in 1934 with maximum coverage in 2004; no new OASI retirees after 2024).

² OASI cost is percent of taxable payroll (Alt. II-B) adjusted for computed decline rate on OASI benefit claims, 1994-2040.

Taxable payroll was not adjusted for economic growth and increase in real wages that would be expected from increased savings rate and capital formation as retirement income source shifts from transfer payment via OASI tax on payrolls to annuity withdrawals by individuals from IRSA accounts. By 1995 this impact on real GNP and real wages would be significant, further reducing the percentage of taxable payroll represented above as OASI cost.

SOLVING TODAY'S DEFICIT

My proposal also addresses the short-term financing crises facing the social security system. Undeniably, a short-term infusion of funds is needed to keep the system afloat, at least

until my long-range plan has a chance to take effect. The Commission estimates a deficit of from \$150 to \$200 billion between now and 1989. They propose to raise \$168 billion through a combination of tax increases and benefit cuts. Using the Commission's own numbers and assumptions, I have come up with a package of proposals and reforms that will yield \$167 billion in additional revenues between now and 1989. Quite frankly, my proposals should actually yield more than this because of the favorable effect on employment of my proposed tax cut. With lower taxes and greater savings, the economy will grow faster than the Commission assumes, thus boosting the tax base and lowering benefit outflows.

INCLUDE ALL FEDERAL WORKERS

The first thing I propose is to include all Federal workers under social security—not just new ones, as the Commission has proposed—but all of them, beginning with all Members of Congress and their staffs. The social security problem is a national problem, and all of us ought to participate in solving the crisis.

My proposal would not affect the civil service retirement system in any way. Federal employees could continue to participate in civil service retirement much the same way employees in the private sector participate in their employer-sponsored retirement plans.

COLA DELAY

Second, I propose to delay for 3 months—from July to October—the social security cost-of-living adjustment. I do not agree that there should be a 6-month delay, as was proposed by the Commission. That is an unfair burden on our senior citizens. A 3-month delay would be much fairer, and it would help a great deal to solve the short-term deficit.

PRORATION OF COLAS

Third, cost-of-living increases should be prorated to reflect the month of retirement. The present system is unfair to the senior citizen who retires in, say, January—because the person who retires the following December now receives the same cost-of-living adjustment as the senior citizen who retired early in the year.

ADMINISTRATIVE COSTS

Fourth, I propose that the expenses of administering the social security system be counted against general revenues rather than the social security accounts. Payroll tax revenues should only be used to pay benefits, and should not go to pay administrative expenses.

UNCASHED CHECKS

Fifth, I propose we adopt the Commission's recommendations regarding crediting the social security system for all uncashed social security checks. Until I began my detailed study of the social security system, I was not aware that millions of dollars in social security checks are never cashed each

year. I was astonished to learn that the money represented by these uncashed checks does not have to go back to the social security system—but instead may be used for other Government spending. My proposal would require that the money be credited to the social security system.

MILITARY BENEFITS

Sixth, I propose the social security fund also be credited for all military benefits the social security system pays out with no Government contribution.

REVENUE CALCULATIONS

The following table reflects the short-term revenue increase under my proposal:

Short-term revenue increase under Helms plan (1983-90)

| | <i>Billions</i> |
|--|-----------------|
| 1. Bring all Federal employees into the social security system..... | \$61.4 |
| 2. Delay payment of COLA from July to October..... | 35.0 |
| 3. Prorate COLA to reflect month of retirement..... | 40.0 |
| 4. Charge administrative costs to general fund..... | 18.0 |
| 5. Credit uncashed social security checks to social security system..... | .5 |
| 6. Credit social security system for military benefits paid without a government contribution..... | 17.5 |
| Total..... | 172.4 |

PAYROLL TAX CUT

The revenue figure shown here, \$172.4 billion, does not reflect the projected revenue loss as a result of repealing the 1985 payroll tax increase. Under present law, the combined employer-employee payroll tax rate, which is now 13.4 percent, is scheduled to increase to 14.3 percent by 1986 and 15.3 percent by 1990. The maximum payroll tax would become \$6,263.40 in 1986 and \$8,690.40 in 1990.

The Congressional Budget Office estimates the 1977 payroll tax increases cost 500,000 Americans their jobs. Higher payroll taxes would only exacerbate the unemployment crisis and contribute to further economic stagnation.

My proposed payroll tax cut is projected to reduce the social security system's revenue by only \$5.4 billion by 1990. With this projection, my package of short-term proposals would result in a net increase in social security revenues of \$167 billion, almost the same amount as the Commission proposes to bring in by raising taxes and cutting benefits.

I emphasize these projections are based on the same assumptions used by the Commission and their figures. Quite frankly, I believe my proposed tax cut will have a more favorable result than projected, and that between now and 1990 the social security system will be much better off under my short-term plan than under the Commission's proposals.

EQUITY REFORMS

Mr. President, along with proposals for solving the long-term and short-term funding problems facing the

social security system, my bill also contains proposals for reforming social security in certain areas. I include these reform proposals because of the pressing need for Congress to address issues relating to women, the disabled, nonresident aliens, and older Americans with productive abilities, who wish to continue working past age 65.

EQUITY FOR WOMEN

Mr. President, clearly our present social security system treats women unfairly. The problems have become more acute as more women have entered the workforce. When the social security system was created, only 20 percent of women were in the workforce. Today that figure is roughly 60 percent.

The National Commission on Social Security Reform addressed a number of issues relating to women. They made several proposals that have merit that I have included in my bill. These proposals are as follows:

First, present law permits the continuation of benefits for surviving spouses who remarry after age 60. This would be extended to disabled surviving spouses aged 50 to 59, disabled divorced surviving spouses aged 50 to 59, and divorced surviving spouses aged 60 or over.

Second, spouse benefits for divorced spouses would be payable at age 62 or over, subject to the requirement that the divorce has lasted for a significant period, if the former spouse is eligible for retirement benefits, whether or not they have been claimed, or if they have been suspended because of substantial employment.

Third, deferred surviving-spouse benefits would continue to be indexed as under present law, except that the indexing would be based on the increases in wages after the death of the worker instead of by the increases in the CPI, as under present law.

Fourth, the benefits rate for disabled widows and widowers aged 50 to 59 at disablement would be the same as that for nondisabled widower and widowers first claiming benefits at age 60—that is, 71½ percent of the primary insurance amount—instead of the lower rates under present law—gradually rising from 50 percent at age 50 to 71½ percent for disablement at age 60. Such change would not only be applicable to new cases, but would also be applicable to beneficiaries of this category who are on the rolls on the effective date of the provision.

Unfortunately, the Commission's proposals do not go far enough in insuring equal treatment for women. My bill contains additional protections.

Under present law, the method of calculating social security benefits creates a disincentive for a parent to remain at home with children. Such years are calculated as zero earning years in the determination of the person's social security benefits. Often a parent, usually the mother, needs to spend time at home during a child's

early years of development. The Government should not discourage mothers from spending time at home with their children during the children's formative years.

My bill would allow a person to exclude from the calculation of his or her social security benefits each year spent at home with their child as long as the child is younger than 6 years old. Up to 6 years could be excluded, and this exclusion could be taken in addition to every individual's already guaranteed 5 low year exemption. During the years excluded, the parent could earn up to one-half the average wage of all social security covered workers each year.

I also propose extending additional equity to divorced spouses. Both members of a household should be considered to have made equal contributions to their family and thus retain equal property rights for the income in their family structure. This is not the case under social security today. My legislation would correct this situation by crediting each divorced spouse half the earned family income during the marriage for the purpose of determining social security retirement and disability benefits.

EQUITY FOR DISABLED

Mr. President, another part of my bill addresses serious problems involving the arbitrary cutoff of benefits to disabled citizens. Often disability payments, which provide life-sustaining funds for so many individuals, are terminated by an overzealous Social Security Administration before the beneficiary is actually interviewed. Administrative law judges have reversed roughly 70 percent of disability cutoff cases reviewed. This indicates the seriousness of the problem.

I would be the first to acknowledge that there has been much abuse of social security disability. But the movement to correct this situation must have guidelines and it must be fair. Therefore, I propose that Congress insure due process to every individual receiving disability benefits before any benefits can be cut off. My bill provides this. Each disability beneficiary would be entitled to a hearing before an administrative law judge before benefits could be cut. The Social Security Administration could not bring a case before a judge for determination unless they could show a change of circumstances or conditions affecting the individual, fraud, or mistake in the initial determination of disability.

My bill would leave the disability trust account untouched. It will remain in good shape, capable of paying benefits well into the future, if the remaining social security accounts would stop borrowing from it.

LIMIT ALIEN RECEIPTS

Another reform I propose would limit payment of social security benefits to nonresident aliens. The social security system pays out \$80 million each month to individuals outside this

country. Most of the people, 67 percent to be exact, who receive such funds are aliens. Many of them entered the United States as resident aliens during the 1950's when the social security payment premiums and quarter requirements were low qualified for social security, and then returned to their respective countries to live off social security benefits. In many cases these benefits provide them with a higher standard of living than they could have in the United States. These individuals often go home and adopt children, parents and grandparents or marry a much younger person to increase their benefit entitlement and insure the continuation of the U.S. support to their survivors. The payments these aliens receive from the United States almost always exceed their original contributions to the system. Consider this—more than 50 percent of the benefits paid overseas are survivor benefits. In the United States, only 30 percent of the benefits are paid to survivors.

We cannot continue to increase taxes on the American people in order to send social security benefits overseas. My bill strengthens the existing social security provision requiring aliens who leave the United States for a period of 6 months to forfeit social security benefits. The legislation provides that aliens can draw benefits only to the extent they have paid into the system, irrespective of their employers' contribution, plus the Treasury bond rate of interest on that amount. Nonresident aliens who are drawing social security benefits beyond their contribution to the system must be cut off.

EQUITY FOR OLDER WORKERS

And finally, Mr. President, I propose a reform of utmost importance. I propose elimination of the earnings limit on retired persons.

A person's age does not necessarily determine his or her physical or mental condition. Our social security system often forces people into retirement at age 65 no matter what their abilities. A person who chooses to work past age 65 is penalized by loss of retirement benefits—retirement benefits they worked for all their lives. The loss amounts to 50 cents on the dollar, which creates a tremendous disincentive for people 65 and older to continue to work. It means an effective increase in the marginal tax rate for that worker of greater than 50 percent.

No one should be discouraged from continuing to fulfill their life through work. Therefore, I propose we remove this penalty by repealing the earning limit for social security recipients 65 and older. Older Americans ought to be able to work if they want to without financial penalty.

Mr. President, the retirement security of American workers is as important to the future of this country as any issue Congress will deal with this year. Sooner or later, a plan such as I

have proposed will have to be adopted. It may not happen this year, or even next. Eventually, the politicians will no longer be able to paper over the enormous deficit. As fewer and fewer workers support more and more retirees, Members of Congress will be unable to duck the long-term funding problems. All else having failed, they will be obliged to turn to common-sense.

I urge my colleagues to study my proposal closely, and to support it.

Mr. President, I yield the floor.

Mr. BAKER, Mr. President, I ask unanimous consent that there be an additional 5 minutes debate on the social security bill before the provisions of the unanimous-consent agreement to return to the jobs bill, under the same terms and conditions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, I thank the distinguished majority leader for his action. I want to respond briefly to the Senator from North Carolina and then take the amendment of the Senator from Connecticut.

I first want to say that we appreciated very much the Senator from North Carolina taking the time to come before the Finance Committee to testify.

Senator HELMS took the courageous position of offering his own comprehensive reform bill which aimed at reducing the tax burden and planning for private retirement.

As he pointed out in his statement on the floor, the Senator from Kansas thinks the bill which the Senate Finance Committee reported, is an improvement on the Commission's recommendations. There were incorporated in that bill about 11 of the provisions the Senator from North Carolina had in his comprehensive package. Senator HELMS addresses head-on the major retirement income policy questions which have been ignored for a long time. Obviously, he has used the current funding crisis as much more than an opportunity for patching up the financing problem. We hope we made some changes in the right direction in our committee to avoid that characterization. Certainly the distinguished Senator from North Carolina was willing to face the challenge to take a fresh approach to social security reform.

As I have indicated, a number of the Senator's provisions mirror suggestions made by the National Commission, with the addition of changes in the earnings test, and in the women's equity area. I believe, as the Senator indicated, that the committee bill goes part way in addressing some of the Senator's major concerns.

Again, I appreciate the Senator's input into the process.

Mr. HELMS. Mr. President, I thank the Senator for his comments. I want to reiterate what I said at the outset. I

have great admiration for his truly remarkable job in bringing forth the legislation before us. As he indicated, he very graciously welcomed me to appear before his committee. Eleven out of 20 of our proposals, I believe, are incorporated in this legislation.

I was telling a group earlier this afternoon, a group of North Carolinians, that I believe in incremental success; you go a step at a time, do the best you can. I believe the Senator from Kansas believes in the same philosophy. He certainly has demonstrated that in the way he has handled various pieces of legislation.

I will not ask for a vote on this amendment, but I did want to present it for the consideration of the Senate and for the people of this country for their future assessment. Maybe as we move down the road step by step we can bring about, in the end, a system that will be meaningful and certainly beneficial to the people.

I again thank the Senator for his comments.

Mr. DOLE. I thank the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The amendment of the Senator from New Jersey will be temporarily set aside and the Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

UP AMENDMENT NO. 81

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Dodd) proposes an unprinted amendment numbered 81.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

() Sections 201(e), 1817(d), and 1841(d) of the Social Security Act are repealed.

(X) The next to last sentence of section 201(c) of such Act is amended by striking out "Such report shall also include" and inserting in lieu thereof the following: "Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession, a statement of key economic and demographic assumptions underlying projected trust fund revenues and outlays, and shall also include".

() Section 1817(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certi-

fying that the techniques and methodologies used are generally accepted with the actuarial profession, and a statement of key economic and demographic assumptions underlying projected trust fund revenues and outlays."

() Section 1841(b) of such Act is amended by inserting before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession, and a statement of key economic and demographic assumptions underlying projected trust fund revenues and outlays."

Mr. DODD. Mr. President, very briefly, this amendment would codify an already existing practice by requiring the inclusion of an actuarial opinion in the OASDI and HI trustees' annual reports. This amendment would also require the inclusion in those reports of the economic and demographic assumptions underlying the conclusions in those reports.

The art of economic and actuarial forecasting is by no means perfect and I do not pretend that passage of this legislation would enable us to predict the future with any more certainty than we can now. However, by strengthening the process under which such forecasting and analysis is generated, we can create a sounder basis for future social security planning and administration.

For these reasons, I urge that this amendment be adopted.

The PRESIDING OFFICER. If the Senator from Connecticut will yield, time has expired.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may speak for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. In 1977, for example, Congress relied on economic and actuarial forecasts which led to conclusions on social security which were far more optimistic than the reality that followed. Back then, we were told that the 1977 social security amendments would leave the system sound well into the 21st century.

This amendment will not guarantee that that will not happen again. But it will write into law a step which is essential to minimizing the likelihood of such an occurrence.

Mr. BENTSEN. Mr. President, I will say that the distinguished Senator from Louisiana finds this amendment acceptable to him and, as ranking minority member on the floor, I believe it is a good amendment that we would be delighted to accept.

Mr. DODD. I thank the Senator.

Mr. DOLE. Mr. President, we have reviewed this amendment carefully and we have had an opportunity to discuss the amendment, with the Senator and his staff. We have made some slight modification which was satisfactory. We have no objection to the amendment in its present form.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 81) was agreed to.

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

The Senate continued with the consideration of H.R. 1900.

The **PRESIDING OFFICER**. The Senate will now resume consideration of H.R. 1900.

The pending question is the amendment of the Senator from New Jersey.

Mr. **DOLE**. Mr. President, I yield to the distinguished majority leader.

Mr. **BAKER**. Mr. President, may we have order in the Senate?

The **PRESIDING OFFICER**. The Senate will be in order.

The majority leader is recognized.

Mr. **BAKER**. Mr. President, if I may have the attention of Senators, we are back on the social security bill. It is

my hope that we can dispose of at least one more substantial amendment to that bill today.

I am advised by the manager of the bill, the chairman of the Finance Committee, that there may be one more rollcall vote today. I expect that the Senate will be on this measure for perhaps an hour, and longer, if possible.

Mr. President, it is my hope—and I hope that other Senators will cooperate in this—that we can finish this bill tomorrow, at least through third reading. That may be an ambitious undertaking, but I think it is important that we try to do that.

I also understand that, for a variety of reasons, it might be desirable to have the vote on final passage on Monday instead of Friday. If we get all these amendments out of the way tomorrow, at least the staff of the Finance Committee, majority and minority, can prepare for the conference; because then they will know the shape of the bill, they will know that no more amendments will be offered, and they can get most of the detail work out of the way.

I have not fixed in my mind a time to ask for final passage on Monday. I will be flexible on that point, because I know Senators will have travel arrangements to complete, to return to the city after the weekend.

Mr. President, I hope we can have a good, active day tomorrow, complete all the amendments, if possible; and if that is not possible, as many as possible. In any event, it is almost certain that we will have rollcall votes tomorrow on these amendments, and Senators should expect that there will be a number of rollcall votes tomorrow.

Once again, I express the hope that we can get to third reading and then have final passage of the social security bill on Monday.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. LONG. Mr. President, so far as the Senator from Louisiana is concerned, it is all right to complete our action and pass the bill tomorrow.

I must alert the distinguished majority leader—who has done a great job under adverse circumstances in moving the Senate along—to the fact that there is always a possibility that we could run into a snag. This might occur, for example, if we have a significant amendment and the sponsors lose by a single vote and they look at the absentees and see that if all the absentees had been present they would have won. The Senator can understand how men dedicated to what they are doing will not give up that easily. All they have to do is stall until Monday and do whatever they deem is necessary in order to prevail in the matter.

The distinguished majority leader has done a great job, and we want to continue to have the benefit of his ef-

forts to bring people together, and maybe we can pass the bill on Friday.

Mr. BAKER. I thank the Senator.

Mr. President, no one in this Chamber has a higher regard for the Senator from Louisiana than I do. I welcome his remarks, and I am grateful for them. I offer whatever services I am capable of and have remaining, to try to get this matter to third reading.

Of course, the Senator is correct. It may not be possible to get to third reading on Friday, and I recognize that. If we can get to third reading on this bill on Friday, and final passage on Monday, and get to conference, we will have only two things remaining before we go out. Those are the conference report on the jobs bill and the conference report on social security. We have all next week to do that.

What it really boils down to is that if we can get to the conference on Monday, we might be out of here on Wednesday, and that would be a result much to be wished for, in my judgment.

Mr. President, does the minority leader seek the floor?

Mr. BYRD. I seek to ask the Senator a question.

Mr. BAKER. I yield to the minority leader.

Mr. BYRD. Mr. President, there are some reports circulating that I want the rollcall vote on final passage put over until Monday. We had some discussion about it which possibly led to that conclusion.

My idea was that if we could finish the bill tomorrow and get it to third reading, there would be some absentees, undoubtedly, on both sides of the aisle, and all Senators should be put on notice as to when exactly the final vote will occur, so that they could plan to be here.

That was my only reason for suggesting that the final vote be on Monday. I am not wedded to that idea. If all Senators are ready to have the final vote tomorrow, if we reach the final vote in the normal course of things, it would be satisfactory to me to have the final vote tomorrow.

Mr. BAKER. Mr. President, it would suit me to have final passage tomorrow.

I suppose the best way to go, then, is just to play it by ear.

I withdraw any suggestion that we would wait until Monday to have final passage, and I suggest, instead, that we do the best we can tomorrow, Friday, that we get to final passage if we can, or that we get to third reading if we can, or get as far as we can.

Mr. LONG. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Let me first yield to the Senator from Louisiana and then I will yield to the Senator from Ohio.

Mr. LONG. Mr. President, the thought occurs to the Senator from Louisiana that we might be able to

achieve the majority leader's objective if between the majority leader and the minority leader and others here we can arrange some live pairs for some absent Senators. I personally am willing to pair with anyone who is absent, provided those on the other side of an issue are doing likewise.

It may be in order to get this job done that we could accommodate one another by pairing some of our absentees who incidentally have been coming to me and urging that we postpone the matter so they can be here.

Every Senator has a different schedule, and I have avoided trying to promise Senators that I was going to hold this matter up for them because when you try to accommodate one Senator who cannot be here Friday afternoon, the next Senator cannot be here Monday, and another Senator cannot be here Tuesday, and so it goes. So, I have not been promising anyone.

If it can be done, I would like to accommodate Senators who very much want to vote and who may be necessarily absent on that occasion.

Maybe the majority leader can help me work it out so I can try to find some pairs over here and give one myself, and maybe he could find someone on the other side to help pair.

Mr. BAKER. Mr. President, I also will give a pair, I say to my friend from Louisiana.

I think his suggestion is an excellent one. I shall work with him and the minority leader to see if that will expedite the passage of the measure.

Mr. President, I yield now to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, will the majority leader be good enough to clarify what was a little confusing to the Senator from Ohio? I understood the other day that he had indicated that if we were able to bring the social security matter and the jobs bill to a conclusion by the end of this week the majority leader would look very favorably upon sending all of us out to meet with our constituents and bringing us back only for the purpose of acting on the conference report when it was ready to be acted upon.

Mr. BAKER. I think we are saying about the same thing.

Mr. President, if we finish these bills, and I think we are going to, or I hope we are going to, the only thing remaining are the conference reports. It may be that Senators do not need to be here while those conference reports are in progress except the conferees. That is a matter we should examine when we get closer to the event.

I guess what I should say to the Senator is somewhat what I have already said to the minority leader and that is that other than the conference reports I have no other must legislation to deal with between now and the time we go out for the Easter recess.

Mr. METZENBAUM. I appreciate the comments of the majority leader.

Mr. PRESSLER. Mr. President, will be Senator yield?

Mr. MITCHELL. Mr. President, will the majority leader yield for a question?

Mr. BAKER. May I yield first to the Senator from South Dakota and then to the Senator from Maine.

Mr. PRESSLER. Mr. President, I suggest that we work late tonight and get final passage tomorrow and come back Wednesday or Thursday for 1 day and do the conference reports and then those of us who go home could stay at home until Wednesday and make just one trip back to the city.

Mr. BAKER. I thank the Senator. It is not a bad idea. I sort of like it. But I think it also points up one other fact and that was the observation made by the Senator from Louisiana, that everyone has his own schedule. I admire and respect that, and I assure the Senator from South Dakota that I will explore that possibility, trying to arrive at the most convenient arrangement for the Senate in that respect.

I must say it is sort of like my wife finding things on the church calendar. We have not earned this money yet. We have not passed this bill yet. We have to do that before we have the high-class problem of deciding how we arrange the business while we wait for the conference report.

I now yield to the Senator from Maine.

Mr. MITCHELL. Mr. President, recognizing the demands on everyone, everyone wishes to leave sometime late tomorrow. Could we not begin at 9 instead of 10? It seems to me if we start early we will finish early and accommodate Senators who have planes to catch.

Mr. DOLE. Mr. President will the majority leader yield?

Mr. BAKER. I yield.

Mr. DOLE. Mr. President, the reason is no one will show up at 9. We were here this morning at 9:30 and could not find anyone to do business with.

What we might do is lay down an amendment that we could take up. We could have something pending and have everyone on notice for a vote.

Mr. MITCHELL. If the Senate were to schedule a vote after 9 I guarantee there will be Senators here.

Mr. DOLE. I would be happy to start at 9. I think that is about the time I will get back from Savannah.

Mr. BAKER. I thank the Senator for his suggestion. Let me explore that as well if I may.

Mr. President, there is time for one more vote. I hope we can get on with it.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I suggest that we do not have that many amendments and there are a number of them that we hope we can accommodate Senators on. There is one long amendment offered by the distinguished

Senator from Louisiana that may be somewhat troublesome, and we have the Presiding Officer who has an amendment which we can agree upon.

I understand now that the Senator from Idaho has an amendment which we will have a rollcall vote on and hopefully dispose of it.

Is that correct?

Mr. SYMMS. Mr. President, the Senator is correct.

However, the amendment I shall propose, and I tell the chairman it is not on withholding on savings, so he can sigh relief there, is not the amendment that the distinguished chairman is speaking of. It is the amendment that affects the COLA stabilizer, and it is an amendment that I think does have considerable merit. I wish to offer that amendment at this time.

The PRESIDING OFFICER. The Chair must announce that an amendment of the Senator from New Jersey is pending.

Mr. DOLE. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

UP AMENDMENT NO. 82

(Purpose: To provide that the cost-of-living-adjustment stabilizer shall apply to adjustments made in 1983 and thereafter.)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes unprinted amendment numbered 82.

Mr. SYMMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, line 23, strike out "1988" and insert in lieu thereof "1983".

On page 94, line 19, strike out "1988" and insert in lieu thereof "1983".

Mr. SYMMS. Mr. President, the amendment I offer is to change the effective date of the so-called stabilizer from January 1, 1988 to January 1, 1983.

In the bill that is currently being considered by the Senate today, there is a provision which will automatically adjust the cost-of-living increases when the trust fund ratio falls below 20 percent, effective in 1983. This provision was also one of the recommendations made by the President's Commission on Social Security Reform.

Specifically, beginning in 1983, if the OASDI trust fund ratio—reserves as a percentage of outgo—as of the beginning of the year is less than 20 percent, the adjustment of OASDI benefits would be based on the lower of the increase in the CPI or average wages. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays,

catchup payments would be made during the following year, but only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32 percent. Catchup payments would supplement monthly benefits otherwise payable to make up for any COLA losses that result from basing the adjustment on wages rather than prices.

My amendment would not apply to the COLA for the supplemental security income (SSI) program because those senior citizens who are receiving SSI benefits are truly the senior citizens who are most in need. I believe that we should make every effort to protect those seniors who are at that income level. So, they would be held harmless.

There are several reasons why I believe we should adopt this amendment. First, and foremost, if the Commission thought that the COLA stabilizer was a good idea for 1988, why not implement the COLA stabilizer in 1983 and help bring the outflow and the income to the social security trust funds back in balance.

Second, and perhaps more importantly, I believe we should make every effort to insure the wage earners in our economy that the retirees will not receive a larger cost-of-living adjustment in their retirement benefits than the wage earners are getting in their paychecks, if the OASDI trust fund is insolvent.

Mr. President, keeping the COLA increase indexed to the CPI until 1988, in my opinion, strikes at the very issue of fairness. Flaws in the CPI create an issue of fairness when it comes to evaluating the automatic Federal COLA. Erosion in the value of entitlement benefits from inflation is rightly decried by our Government—even though the Government is the primary reason we have inflation. However, it is not fair to overcompensate recipients for inflation under the inflation protection rationale for which COLA's were designed.

Virtually all experts are in agreement that the CPI has not been an accurate gage of inflation in recent years. It has overstated increases in the cost of living for people who already own their homes, who act rationally to conserve energy when energy prices rise, and who pay attention to price swings in the supermarket in choosing what to buy week-to-week.

My amendment would simply bring the wage earners—those paying for social security retirement benefits at the current time—and the retiree—those receiving social security benefits—in line with one another as long as the OASDI trust fund is in imbalance.

Continuing to compensate recipients of Federal entitlements more generously for inflation than the average American is a striking inequity in the present indexing practices in the Federal Government. The full CPI entitle-

ment COLA is not only responsible for recent budget uncontrollability and destabilization of the OASDI trust fund.

More basically, it is unfair to the taxpayers, whose incomes are not fully insulated against increases in the CPI.

I might just mention at this point, Mr. President, that recently when I was visiting my home State of Idaho, I sat down and met with the manager of a small wholesale fuel jobbing company where they employ 80 people in the Boise Valley.

The employees of that company voted voluntarily to take a 10-percent cut in pay, from the president of the company, the general manager, on down to the cleanup crew in order to avoid having any layoffs at the firm.

I believe that to ask those people to continue to have to pay for COLA's based on the CPI instead of the wage index strikes at the question of equity. I think the Commission recognized that, the committee recognized that, and I praise the committee for recognizing it. But we should implement the provision now instead of 1988.

I think we will find that our constituents will support us if we do what is right for the American economy and what is right for the social security fund. I hope we will accept this amendment.

The investigation of why benefit growth has exceeded wage growth since 1977 has focused on poor productivity performance and the recession. Yet, there were 5 million more Americans employed at the end of 1982 than at the end of 1977, and productivity growth has been falling for more than a decade.

The most important reason for the current short-term solvency problem in social security is the different indexing practices followed by the Government and the private sector in the face of rapid inflation from 1978-81.

When automatic indexing was implemented for social security, the belief was that it would hold down benefit growth. Ad hoc benefit increases for social security from 1968 through 1972 were substantially greater than increases in the CPI. Unfortunately, when that legislation for a full automatic COLA passed in 1972, nobody was predicting double-digit increases in the CPI.

The primary reason the 1977 reform for social security failed under conditions of rapid inflation was because social security COLA's are fixed at the full increase in the CPI, whereas indexation of wages in the private sector is considerably less than 100 percent of the CPI. As represented by data on automatic COLA's in major collective bargaining agreements, the degree of private sector indexation varies over time between 50 percent and 70 percent of increases in the CPI. On average, automatic COLA's in the private sector recover 60 percent of increases in the CPI.

It is this difference in indexing, along with low productivity growth and recession, that explains the recent phenomenon of benefit growth outpacing wage growth noted by social security actuaries.

The full CPI COLA is also the primary reason why growth in other entitlement benefits created a situation of budget uncontrollability— from 1978 through 1982.

Compensating recipients of Federal entitlements more generously for inflation than the average American is a striking inequity in the present indexing practices of the Federal Government. The full CPI entitlement COLA is not only responsible for recent budget uncontrollability and destabilization of the OASDI trust fund. More basically, it is unfair to the taxpayers whose incomes are not fully insulated against increases in the CPI.

I want to make clear that the amendment I am now offering does not compensate the wage earners for the taxes they are paying and have paid for overcompensating the retirees in the last few years. My amendment simply guards against overcompensating the retirees in the future, beginning in 1983, should the OASDI trust fund balance not be at a sufficiently solvent level.

In other words, if it is sufficiently solvent it would not be triggered, but if it is not sufficiently solvent it would be triggered.

In addition, my amendment also has a provision to protect the retirees in the event that the trust fund reserves reach a 32-percent level, the retirees will get compensated for their previously reduced benefits as long as the trust fund reserves remain at 32 percent.

The general effect of my amendment will be to reduce the COLA's in the near term to about the increases that wage earners will be having their paychecks increased while the trust fund balance is building up. Then, over the longer term senior citizens will be getting the full COLA as long as the trust fund reserves are at 32 percent—even though I personally believe we should review this as a matter of equity in the future.

Now, many of you might think that this amendment is somehow unfair to the senior citizens—although I fail to see why. Nevertheless, I do want to address this popular misconception, which I believe is based on the common perception that the economic status of the elderly is based on conditions that prevailed in 1959, not those in 1982.

They do have time to organize into effective political blocks and to finance organizations which protect and enhance what has become their major source of retirement income—Federal transfer payments. One-third of the Federal budget is now devoted to benefit payments for the elderly.

In 1959, 35 percent of America's elderly were below the poverty thresh-

old. The image of elderly widows subsisting on canned dog food was a national disgrace. Amendments to the social security system which increased benefits across the board had been sporadic. No benefit increases were forthcoming in the first 10 years of the system. In 1950, benefits were increased 77 percent, but this barely compensated for CPI inflation between 1940 and 1950. Further benefit hikes of 12½, 13, and 7 percent INF 1952, 1954, and 1959, respectively did outpace inflation during the 1950's. Yet the incidence of poverty among the population aged 65 and over was still 13 percent greater than among the general population at the start of the 1960's, and the next general benefit increase was not enacted until 1965. Even that amendment did not match the rise in inflation during the intervening 6-year period.

During the next decade, the economic status of the elderly changed dramatically. In 1965, medicare was established, and between 1968 and 1974, five double-digit increases in social security benefits were legislated by Congress. These five benefit increases in total were 22 percent greater than inflation during that period. Along with the development of several in-kind benefits programs for the elderly legislated in the 1970's, automatic indexing to the CPI established annual benefit increases for OASDI payments starting in 1975. In the past 5 years, those COLA's have further increased social security benefits by almost 50 percent.

The trend of entitlement growth for the elderly and increases in payroll taxes to finance part of this benefit liberalization have led to a progressive redistribution of income from young to old on a per capita basis. One effect of this redistribution policy has been a reversal in the incidence of poverty between the young and old.

Clearly, there are a variety of forces at work in the changing incidence of poverty. The most dramatic change is not the reversal of incidence between generations, but the absolute decline in poverty among all age groups since 1959. Still, a growing lack of intergenerational equity in programs to relieve poverty appears to characterize the dynamics of current entitlement laws.

An element of fairness in a permanent program like social security should be some degree of equity in benefits across generations. Overtaxing the son to pay the father violates equity in the social compact between generations that is really at the heart and soul of social security.

It appears to me that it is foolish for Congress to allow a system to continue where the wage earner is not keeping up with the recipient of benefits because the formula is out of balance. That system allows for a division to grow among the generations in America. There is absolutely no reason for Congress to stand idly by and not do something about the fact that the

younger generation will start resenting the percentage of the payroll tax they must pay to support the older generation.

It is unfair to both generations and it is not good for the future of the country.

The tax rates and tax payments for social security have grown tremendously over the years. And, most of the tax increases have come from increasing the maximum amount of income taxed, not increasing the tax rate. On an after tax basis, the often-noted inequity between recent benefit growth and wage increases is even greater than before taxes.

It is clear that today's retiree can expect a much better deal from social security than a person 37 years old now paying for that person's benefits. Indeed, today's 65-year-old will be getting a 200 percent better deal than today's 37-year-old, and a 225 percent better deal than a 1982 college graduate just entering the work force.

My amendment makes a slight attempt in trying to adjust the inequities in the current system and I urge my colleagues to join me in the amendment.

I hope that the committee and the Members of the Senate will give this careful consideration before rejecting it out of hand. I think the chairman understands this as well as anybody in the U.S. Senate. The problem is that we have been on a track where if you chart the growth of the payments to the recipient we see that they have had increases of up to 227 percent in the last 10 years while the wage index has only gone up 121 percent and it has the entire system out of balance.

I might say again there would be no reduction in any benefits that anybody is now receiving, only a difference in the formula, if the total of the trust fund balance is below 20 percent.

I thank the chairman for his consideration.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I appreciate the discussion of the Senator from Idaho. I do not want to shut off debate, but the Senator from Kansas is going to have to leave here very quickly.

I would just say we had a similar amendment offered in the committee which was defeated by a vote of 5 to 11. I do not quarrel with anything the Senator from Idaho has said. However, by making the COLA stabilizer in the committee bill effective in 1984 rather than 1988, which was recommended by the National Commission, it might be viewed as a change that would violate the intent of the compromise.

Mr. SYMMS. Mr. President, may we have order so we may hear the chairman?

The PRESIDING OFFICER. The point is well taken. The Senate will be in order.

Mr. DOLE. The National Commission consensus package included a provision which is in the committee bill that would allow indexing by the lower of the increase in wages or prices if trust fund reserves fall below 20 percent. Catch-up payments would be provided when reserves rise above 32 percent. The provision is effective in 1988.

What the amendment of the distinguished Senator from Idaho would do would be to modify the effective date of the provision. In so doing, the amendment would alter an essential feature of the consensus package.

On that basis—it is not that the Senator from Kansas does not believe the amendment does not have merit—it would seem to me to be contrary to the provisions in the Commission report. For that reason, I would have to oppose the amendment.

Mr. GRASSLEY. Will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. GRASSLEY. Mr. President, I would only raise one point in support of the amendment. I am going to vote for it. I think what is good in 1988 ought to be even better now.

But will the Senator from Kansas admit that one of the really uncertain things about the package—and perhaps the only uncertain thing about the package—is whether or not we will get by the next 2 or 3 years?

Mr. DOLE. That is correct.

Mr. GRASSLEY. This seems to me as though it would add a little more soundness to the system. If we have a revitalization in the economy, as we hope we will, then there is no doubt about getting by the next 2 or 3 years. But there is still some doubt whether or not we will have the improvement in the economy that we all hope for. To the extent which there is that doubt, then the amendment by the Senator from Idaho will make more certain that social security will remain solvent over the next 2 or 3 years. If we can get by those years which are probably the most questionable, we can answer with certainty that solvency is no longer doubtful for the short term.

Mr. DOLE. Mr. President, let me say that we have, in addition to this proposal, the so-called stabilizer, we did adopt in the committee the amendment of the distinguished Senator from Louisiana, Senator LONG. That provision provides for a COLA "fail-safe" mechanism. In addition, we have the "normalization" amendment. Given each of these provisions, we believe—again, based on the advice of actuarial experts—that we are going to survive those years. As I understand it, it is going to be close, although some would say we are going to have a big surplus.

Mr. President, I would like to come to a vote on this.

Mr. SYMMS. Mr. President, if the chairman would yield, I would say one more thing. I thank the Senator from Iowa for bringing that point up. The effect of this amendment would be that we would probably be on the wage index immediately which is nothing more than you are asking of wage earners. I will bet the farm on the fact that if we would adopt an amendment like this we will restore the long-term capital markets in this country and help get people back to work in our respective States. It will not in any way affect those people on SSI benefits. They are held harmless in the amendment. So the neediest and the poorest of the senior citizen recipients are protected, as I and everyone in this Chamber think they should be.

What it would do is give the confidence to the country that the Congress really is doing the right thing. It will not take any present benefits away from any recipient. They would still get an increase, but it would not be quite as much of an increase as they would have otherwise received.

I do not want to have any Member misunderstand that. I think the amendment would reduce the pressure for another tax increase on the social security system and will reduce the necessity of continually increasing the payroll taxes at the present time. I think it is an amendment the Senate would do well to adopt and accept. If the conference somehow came back and said, "OK, we will go to 1986," that would be some help instead of 1988. I would urge the committee to take this amendment.

Mr. DOLE. Mr. President, let me say in conclusion that I think I started off in our Commission deliberations about where the Senator from Idaho is now. I argued for 1985 rather than 1988. But we could not reach any consensus. Finally, along with about 15 or 20 other items, we had to make a judgment; 1988 may not be early enough—for those of us who believe it should be earlier—but that is the earliest date we could have. I do not quarrel with anything the Senator said, but I would hope that the amendment would not be adopted.

Mr. SYMMS. Mr. President, I ask unanimous consent that the Senator from Oklahoma (Mr. NICKLES) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho (Mr. SYMMS). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMBERS), the Senator from Colorado (Mr. HART), and the Senator from South

Carolina (Mr. HOLLINGS), are necessarily absent.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 25, nays 72, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—25

| | | |
|-----------|-----------|---------|
| Andrews | Hatch | Nunn |
| Armstrong | Helms | Quayle |
| Boren | Humphrey | Rudman |
| Boschwitz | Jepsen | Simpson |
| Denton | Laxalt | Symms |
| East | Mattingly | Wallop |
| Garn | McClure | Wilson |
| Goldwater | Mitchell | |
| Grassley | Nickles | |

NAYS—72

| | | |
|-------------|------------|-----------|
| Abdnor | Ford | Moynihan |
| Baker | Glenn | Murkowski |
| Baucus | Gorton | Packwood |
| Bentsen | Hatfield | Pell |
| Biden | Hawkins | Percy |
| Bingaman | Hecht | Pressler |
| Bradley | Heflin | Proxmire |
| Burdick | Heinz | Pryor |
| Byrd | Huddleston | Randolph |
| Chafee | Inouye | Riegle |
| Chiles | Jackson | Roth |
| Cochran | Johnston | Sarbanes |
| Cohen | Kassebaum | Sasser |
| Cranston | Kasten | Specter |
| D'Amato | Kennedy | Stafford |
| Danforth | Lautenberg | Stennis |
| DeConcini | Leahy | Stevens |
| Dixon | Levin | Thurmond |
| Dodd | Long | Tower |
| Dole | Lugar | Trible |
| Domenici | Mathias | Tsongas |
| Durenberger | Matsunaga | Warner |
| Eagleton | Melcher | Weicker |
| Exon | Metzenbaum | Zorinsky |

NOT VOTING—3

| | | |
|---------|------|----------|
| Bumpers | Hart | Hollings |
|---------|------|----------|

So the Symms amendment (UP No. 82) was rejected.

Mr. BAKER addressed the Chair.

The **PRESIDING OFFICER**. The majority leader.

Mr. BAKER. Mr. President, as I indicated earlier, I hoped that we could get one more amendment out of the way, one rollcall vote. We have done that, and there will be no more rollcall votes today. The Senate will come in at 10 tomorrow. We anticipate early votes tomorrow. Senators should anticipate that by 10:30, perhaps, we will have an opportunity to vote on another amendment. I reiterate, I would like to see us get as far as we can tomorrow, perhaps even to third reading, maybe final passage but, anyway, to do the best we can.

Tomorrow will be an active day. There will be a number of votes, I predict, and I would urge Senators to be here and to participate, as I am sure they will.

Now, Mr. President, could I inquire of the distinguished manager of the bill if there is anything further that can be done this evening because, otherwise, I intend to make a provision for a brief period for the transaction of routine morning business and then we have a number of special orders that had been anticipated for this morning that I am going to provide time for now if there is no objection. Could I inquire of the manager if he is prepared to go off the bill?

Mr. HEINZ. If the leader will yield, I am advised that there are two amendments. I am further advised that they are not controversial and that no rollcall votes would be required on them.

Mr. BAKER. Very well. Does the manager want to go forward with them at this time?

Mr. HEINZ. Yes, Mr. President.

Mr. STENNIS. Mr. President, will the Senator yield? He used the term special orders. Does that mean special orders as a part of the bill?

Mr. BAKER. No, no, Mr. President. May I say that some Senators had requested time this morning to speak on an unrelated subject, and I had asked them to forebear until the end of the day to do that instead of the beginning.

Mr. STENNIS. I thank the Senator.

Mr. LONG. Will the Senator yield?

Mr. BAKER. Yes; I yield to the distinguished ranking minority member of the Finance Committee.

Mr. LONG. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my amendment No. 512: Messrs. DODD and FORD.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The question recurs on the Bradley amendment.

Mr. BAKER. Mr. President, is there another amendment that the Senator wishes to take up?

Mr. HEINZ. Mr. Leader, we have a Kassebaum amendment and a Nickles amendment.

Mr. BAKER. Both of which will be accepted, do I understand, or disposed of by voice vote?

Mr. HEINZ. Let me say to the majority leader that I know of at least one and possibly two amendments that we can take up now. I am certain we can take up and pass the Kassebaum amendment without a record vote. If, on the basis of further discussion, it appears we cannot take up the Nickles amendment and pass it without a recorded vote, I would not proceed to do so.

Mr. BAKER. Very well. But the Senator is prepared now to proceed to the Kassebaum amendment?

Mr. HEINZ. Yes, Mr. Leader.

Mr. BAKER. Mr. President, I ask unanimous consent that the Bradley amendment be laid aside temporarily and that the Senate proceed to the consideration of the Kassebaum amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

UP AMENDMENT NO. 83

Mrs. KASSEBAUM. I thank the Senator from Pennsylvania. Mr. President, I send to the desk my amendment to H.R. 1900 and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM), for herself and Mr. HATFIELD, pro-

poses an unprinted amendment numbered 83.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 96, line 18, delete "2009" and insert in lieu thereof "1995".

On page 96, line 22, delete "1/48" and insert in lieu thereof "5/72".

On page 96, line 24, delete "2008" and insert in lieu thereof "1994".

On page 97, delete lines 1 through 3 and insert the following:

(c)(1) Paragraph (2)(A) of section 202(w) of such ACT is amended by striking out "and prior to the month in which such individual attained age 72".

(c)(2) Paragraph (3) of section 202(w) is amended by striking out the material that follows the semicolon.

On page 97, line 4, delete "(2)" and insert in lieu thereof "(3)".

Mrs. KASSEBAUM. Mr. President, the amendment I am offering has been agreed to by the chairman of the Finance Committee, and I appreciate being able to bring it up at this time and getting it taken care of. It is designed to enhance the work incentives incorporated into S. 1 by coordinating an increase in the delayed retirement credit with the phaseout of the outside earnings limitation.

The chairman of the Finance Committee, the senior Senator from Kansas (Mr. DOLE), has been a strong advocate of addressing the outside earnings limitation issue, and I salute him for these efforts.

S. 1 would gradually increase the delayed retirement credit to 8 percent per year over the period between 1990 and 2010. My amendment would accelerate this increase so that the 8 percent annual credit would take effect in 1995, the year in which the limit on outside earnings would be totally lifted. In addition, this amendment would permit an individual to receive the delayed retirement credit for every month after age 65 in which receipt of benefits is deferred. At this time, the delayed retirement credit is not made available for benefits deferred after age 72. The Office of the Social Security Actuary has estimated that adoption of this amendment would result in negligible additional cost to the package.

Currently, a worker who does not receive social security benefits until after age 65 is eligible for a delayed retirement credit. The benefit amount is increased for each month after age 65 and prior to age 72 during which benefits are not received. This increase occurs at a rate of 3 percent each year. Although current law rewards delayed retirement, the 3-percent credit is inadequate from an actuarial standpoint. The actuarially fair level is 8 percent, which would be attained by the year 2010 under the measure reported by the Finance Committee.

The current Social Security Act also provides for a \$1 reduction in benefits for each \$2 earned over certain exempt amounts by beneficiaries under the age 70. This year, the annual exempt amount of earned income is \$6,600 for individuals age 65 and older. The outside earnings limitation, which has long been criticized as a disincentive for longer work lives, would be phased out between 1990 and 1994 under S. 1. For individuals age 65 and older, the exempt amount would be increased by \$3,000 per year beginning in 1990. In 1995, the earnings limitation would be completely eliminated.

The purpose of my amendment is to have these two reforms work in tandem. Consider the situation of an individual reaching age 65 in 1995. He or she will have the option of beginning to receive full social security benefits regardless of the amount of earned income expected in that year. By delaying receipt of benefits for 1 year, the potential recipient would be eligible for a delayed retirement credit of 4½ percent. Under my amendment, the choice would be between immediate receipt of benefits or delayed retirement with an 8 percent credit.

In my view, the prospect of receiving the actuarially fair 8 percent credit offers a much more compelling case for delaying receipt of benefits. This is particularly true when the benefit taxation features of S. 1 are taken into consideration. The decision to delay retirement would be a form of savings for the older worker, with the 8 percent credit representing interest on the deferred social security income. In many cases, while earning interest on their deferred social security check, they will be able at the same time to defer receipt of their taxable social security income until they are fully retired and in a lower tax bracket.

Provision of my amendment which remove the upper age limit on provision of the delayed retirement credit simply allow the repeal of the outside earnings limit and the increased delayed retirement credit to continue working together for all age groups. Although relative few individuals would probably defer receipt of benefits after age 70 or 72, those who do consider such an option should be able to take advantage of the same incentives provided to others who continue work after age 65.

The features of S. 1 described above, coupled with provisions of the bill which gradually increase the normal retirement age beginning at the turn of the century, demonstrate considerable congressional support for extending work lives. I commend Senator DOLE and other members of the Senate Finance Committee for their initiative in this area, which I feel is an extremely positive emphasis. Older workers do make significant contributions to our society. As life expectancies increase and the number of younger workers decline, we will be placing

increasing reliance on the skills and experience of our older population. In addition to the sense of well-being which accompanies continued productivity on the part of older workers, prolonged work lives also boost the economy as a whole through the availability of additional tax revenues.

Obviously, it is difficult to pinpoint the total effect of these incentives on work behavior. However, a study conducted by the Urban Institute in 1978, entitled "The Aging of America: A Portrait of the Elderly in 1990," suggests that the results will be positive. This study assumed several changes in the social security benefit structure, including an increase from 3 to 5 percent in the delayed retirement credit and a liberalization of the outside earning limit. The study concluded that costs and tax rates of the social security program would be lower than would otherwise be the case. Moreover, projected income levels of the elderly would increase by 12 to 38 percent due to increased work effort. The report notes:

The major conclusion of this study is that it may be possible to reduce the tax burden on the working population and increase the income going to the elderly, through changes in the retirement incentive structure to delay retirement.

Believing that we should actively encourage individuals to work longer, I am attempting today to bring better coordination to the efforts already underway in this area. This amendment is supported by the American Association of Retired Persons—a group long committed to eliminating work disincentives to older persons—and I urge its adoption by the Senate.

I thank the Senator from Pennsylvania for yielding to me.

Mr. HEINZ. Mr. President, I have examined the Kassebaum amendment, and I compliment the Senator from Kansas on offering it. It is indeed an improvement on what is in the Senate bill. It will accelerate the delayed retirement credit by a considerable amount.

It is also my understanding, after checking with the actuaries, that it is revenue neutral. Anything we can do to give people a worthwhile incentive to continue their active working career is an incentive.

On this side, we are happy to accept the amendment. Perhaps the minority manager would concur in so doing. I know of no objection to this amendment.

Mr. MOYNIHAN. Mr. President, I wish to reinforce the statements of the Senator from Pennsylvania.

This is an improvement to the proposal. It is attractive, and it approaches that happy condition called pareto optimality, where everyone gains and no one loses. Only the Senator from Kansas can think of things like that. It continues to amaze and delight us and adds to the proceedings in this body.

Mrs. KASSEBAUM. I say to the Senator from New York that I appreciate his very kind remarks. I had a lot of help in thinking of this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LONG. Mr. President, the amendment is acceptable to this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 83) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DENTON). The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that the Bradley amendment be temporarily laid aside.

Mr. HEINZ. For what purpose shall it be temporarily laid aside?

Mr. SYMMS. For the purpose of laying down an amendment that we can work on in the morning.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

UP AMENDMENT NO. 84

(Subsequently numbered amendment No. 525.)

(Purpose: To provide that no social security cost-of-living adjustments be made in 1983 and 1984)

Mr. SYMMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 84.

AMENDMENT NO. 502

At the appropriate place in the bill, insert the following new section:

1-YEAR FREEZE ON COST-OF-LIVING ADJUSTMENTS

SEC. . Section 215(1) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Notwithstanding any other provision of this subsection, no increase shall be made under paragraph (2) in any benefit amount, primary insurance amount, or amount of monthly benefits based on any primary insurance amount for any cost-of-living computation quarter occurring during calendar year 1983.

"(B) For purposes of determining the extent to which the Consumer Price-Index for the base quarter occurring in 1984 exceeds such index for the most recent prior cost-of-living computation quarter, the base

quarter occurring in 1983 shall be treated as the most recent prior cost-of-living computation quarter."

Mr. SYMMS. Madam President, the amendment I propose tonight and will discuss tomorrow for those Senators who are in their office would move the COLA for the next social security COLA for 1 year, a 1-year COLA freeze, to put the social security recipients on the same basis that we are putting retired military, veterans, and civil service pensioners, and I think it is only fair and equitable. So it would change the COLA 1 year. Instead of December 1983 it would be moved over to the same time commensurate with what is proposed by the administration with respect to those other people.

Mr. BAKER. Madam President, I understand that this is the amendment that we will take up tomorrow and that Members do not wish to debate it further tonight.

I gather from the acknowledgement of the manager and the distinguished minority manager that that is the case.

Mr. HEINZ. Madam President, if the majority leader will yield, that is correct.

Mr. BAKER. I thank the Senator.

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

The **PRESIDING OFFICER.** The Senate will resume consideration of the pending business, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the social security trust funds, to reform the

medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, as I understand it, the distinguished Senator from Idaho is prepared to offer an amendment. I am pleased to yield the floor for that purpose.

Mr. SYMMS. I thank the distinguished chairman of the Finance Committee.

AMENDMENT NO. 525

(Purpose: To provide that no social security cost-of-living adjustments be made in 1983 and 1984)

Mr. SYMMS. Mr. President, a parliamentary inquiry. I believe the amendment is pending; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SYMMS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. No; they have not.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I bring up this amendment that is pending at the desk which would in effect freeze the social security COLA that is scheduled in the bill for the upcoming year. It would not tamper with the COLA's for those people who are in the neediest of positions—the SSI beneficiaries. The neediest in our society would be held harmless by this amendment.

I am not going to belabor the point this morning, Mr. President, because yesterday during the discussion of my amendment to move the effective date of COLA stabilizer I spoke at great length on the issue of the cost-of-living adjustment.

Nevertheless, I want to make a few points about this amendment. I think that the principal underlying reason for Members to support this amendment is one of fairness and equity.

One of the great founders of this country, Thomas Jefferson, spent his political career making sure that everyone understood that when we did pass laws that we tried to treat everybody in our society fairly and equitably.

Like Thomas Jefferson, I believe our primary responsibility is to insure that whatever legislation we pass is fair. If we are going to request one group of individuals to take a larger reduction or have to wait longer to receive a cost-of-living increase in their salaries or retirement income, then we should ask everyone to do so.

As I mentioned, in the fiscal year 1984 budget the President has requested that the COLA increases for civilian and military wages and retirement benefits be frozen this year. Last year the civilian and military workers and

retirees received a lower cost-of-living adjustment than those receiving social security benefits. And the year before that we told the civil service and military retirees that they had to wait 6 more months for their COLA adjustments. Now we are in the process of requesting that everyone else except social security recipients take a 1-year delay in the COLA adjustment.

Mr. President, this is simply unfair. This amendment would simply make an attempt to equalize the reductions in the increases—it is not going to reduce anybody's check, it is just going to change when the increases come—and we have asked of these good people to take what other people in our society are taking. Besides making this legislation more equitable, the amendment would help stabilize the OASDI trust fund.

I have found that Americans are willing to make sacrifices if they know that everyone else is making the same sacrifice. We cannot continue this process of favoring senior citizens receiving social security benefits over and above every other group that is either getting a Government paycheck or some kind of a Government pension check.

I urge my colleagues to support the amendment. It is an amendment which strikes right at the issue of equity.

I would like to share with my colleagues a comment that was made to me by the distinguished Senator from Wyoming, Senator SIMPSON, chairman of the Veterans Affairs Committee. He told me last year that every veterans group, including the Disabled American Veterans, said they were willing to take reductions in the future COLA increases if it was fair and equitable across the board, and applied to everyone.

The Commission, the Congress, and the administration have decided to ask for those reductions. We have not given the same increases to civil service retirees or to military retirees that we have given to the social security retirees.

This amendment would save the OASDI trust fund about \$50 billion to \$60 billion. I think if all Senators would vote for this amendment, then they could support the Armstrong amendment which will be offered later. Then we might actually have a social security package that we could pass without massively increasing the payroll taxes that will be required of us if we take this package as recommended by the Commission.

I yield back to the chairman of the committee. I am prepared to go for the yeas and nays.

Mr. DOLE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes.

Mr. DOLE. Mr. President, I will take just a minute. Mr. President, I do not quarrel with the intent or purpose of the amendment. Again, we have crafted this compromise which may not be

perfect, and obviously is not perfect, but I believe this amendment would go beyond the bounds of the agreement. Therefore, I hope the amendment will not be accepted.

There is no doubt about it that the Senator from Idaho has adopted a very constructive approach and it would have the result he has indicated. But as I look at it in the totality of everything we have considered in the Commission and the committee, it is not an amendment that I could support.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the present legislation, the bill before us, is not difficult to assemble in all its parts. The distinguished chairman has said that it is the weakness of the individual parts that comprises the strength of the whole. I feel strongly that this amendment, while perfectly well-intentioned and certainly moderate in many regards, goes beyond our ability to faithfully represent the consensus that this proposal embodies. Therefore, I would urge my fellow Senators not to accept it. That is said without rancor or any sense that this is beyond the bounds of reason. It is not. But I still would not accept the amendment.

Mr. SYMMS. I thank the distinguished Senators from Kansas and New York for their comments. I am sorry they are not able to support the amendment.

I would like to say one other thing and then we can go to the vote.

The Senator from New York alluded to the fact that it is a well-intended amendment, a moderate amendment in its approach if one examines the substance of the amendment. However, due to the strength of the support for the Commission's proposal, there is opposition to the amendment.

I would make one last appeal to my colleagues.

I know that some of the members on the Commission feel bound to stay with what the Commission has proposed. Being a politician, I understand that and appreciate it. I certainly respect the Senator from New York and the Senator from Kansas for their position. But I would just say that we are trying very hard, whether we be Republicans or Democrats, to see this economy of ours start making a comeback. One of the reasons that we have had such a difficult time in having an economic recovery that will be sustained and lasting are the high interest rates. If any Senators have been noticing, the short-term rates have been creeping up slightly and long-term capital is almost nonexistent.

If the Congress, in its wisdom, could make a decision to adjust the rate of increases of the benefit programs across the board in the Federal Government, actually pass it and put it into law, I think we would find a response with respect to the long-term

interest rates that would serve all of our constituencies very well. Capitalism cannot survive without long-term capital markets. Long-term capital markets are not going to be revitalized until the Congress controls our public pension programs. Long-term capital rates are necessary so that the young married couples can afford to buy homes, and so that the industrial companies can expand plants and equipment and modernize. A robust recovery will not occur until long-term capital markets are restored and capital is available to borrow over the long term and at a reasonable rate of interest.

This amendment and the amendments I offered yesterday will, in the long run, be beneficial to all Americans including the senior citizen community. Economic revival will make life easier for all Americans, for all families, and for all the people who are receiving social security benefits, who also have children and grandchildren.

We all have a vested interest in trying to see this thing put together the best way possible. This Senator reduced the goals he had in his amendment by 1 year, hoping that more Senators would recognize the moderation that is in this amendment and recognize that by this amendment being added to this bill, we will send a signal to the investors and borrowers in this country to start doing business over the long-term. If we can get long term capital markets restored, we will see a revitalization of the steel industry, the automobile industry, the homebuilding industry, and many other industries, which I think is what we want to have happen in this country.

I urge my colleagues to support this amendment. Even if we have to give up part of it in the conference it will be a step in the right direction, no matter how small.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Indiana (Mr. QUAYLE) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent due to an illness in the family.

Mr. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. PRESSLER). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 13, nays 80, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—13

| | | |
|-----------|-----------|---------|
| Armstrong | Helms | Nickles |
| Baker | Humphrey | Symms |
| East | Laxalt | Wallop |
| Goldwater | Mattingly | |
| Hatch | McClure | |

NAYS—80

| | | |
|-------------|------------|----------|
| Abdnor | Glenn | Nunn |
| Andrews | Gorton | Packwood |
| Baucus | Grassley | Pell |
| Bentsen | Hatfield | Percy |
| Bingaman | Hawkins | Pressler |
| Boren | Hecht | Proxmire |
| Boschwitz | Heflin | Pryor |
| Bradley | Heinz | Randolph |
| Burdick | Huddleston | Riegle |
| Byrd | Inouye | Roth |
| Chafee | Jackson | Rudman |
| Chiles | Jepsen | Sarbanes |
| Cochran | Johnston | Sasser |
| Cohen | Kassebaum | Simpson |
| D'Amato | Kasten | Specter |
| Danforth | Kennedy | Stafford |
| DeConcini | Lautenberg | Stennis |
| Denton | Leahy | Stevens |
| Dixon | Levin | Thurmond |
| Dodd | Long | Tower |
| Dole | Lugar | Trible |
| Domenici | Matsunaga | Tsongas |
| Durenberger | Melcher | Warner |
| Eagleton | Metzenbaum | Weicker |
| Exon | Mitchell | Wilson |
| Ford | Moynihan | Zorinsky |
| Garn | Murkowski | |

NOT VOTING—7

| | | |
|----------|----------|--------|
| Biden | Hart | Quayle |
| Bumpers | Hollings | |
| Cranston | Mathias | |

So Mr. SYMMS' amendment (UP No. 525) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the Bradley amendment to set aside in order that I may call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 85

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Washington (Mr. Gorton), for himself and Mr. Jackson, Mr. Symms, Mr. McClure, Mr. Baucus, Mr. Melcher, Mr. Stevens and Mr. Murkowski, proposes an unprinted amendment numbered 85.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

Sec. Professors of Clinical Medicine—Section 3121 (s) (relating to concurrent employment by two or more employers) is amended to read as follows:

(s) Concurrent Employment by Two or More Employers

(1) IN GENERAL.—For purposes of sections 3102, 3111, and 3121(a)(1), if two or more related corporations concurrently employ the

same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

(2) UNIVERSITIES AND EXEMPT ORGANIZATIONS.—For purposes of this subsection,

(A) the following entities shall be deemed to be related corporations:

(i) a state university which employs health care professionals as faculty members at a medical school which is the officially designated medical school for more than one state.

(ii) a faculty practice plan qualified as an exempt organization under section 501(c)(3) which employs faculty members of such medical school; and

(B) remuneration which

(i) is disbursed by such faculty practice plan to an individual employee by both such entities and

(ii) when added to remuneration actually disbursed (prior to the application of this paragraph) by such university, exceeds this contribution and benefit base (as determined under section 230 of the Social Security Act).

shall be deemed to have been actually disbursed by such university as a common paymaster and not to have been actually disbursed by such faculty practice plan.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GORTON. Mr. President, this amendment is necessary to avoid having the regionalized medical school for the States of Washington, Alaska, Idaho, and Montana pay approximately \$500,000 annually in unreimbursable FICA taxes. The reason for this amendment stems from the unavailability of the so-called common paymaster doctrine to the unique circumstances at the regionalized school—the University of Washington School of Medicine. Professors of clinical medicine receive two paychecks—one from the university, and one from the medical school practice plan—a 501(c)(3) organization. Both organizations would have to pay FICA taxes under the provisions of S. 1. Because this school uniquely functions as the State medical school for four States, with diverse Federal research funding and appropriations from four separate States, the doctrine of related corporations using a common paymaster is not available to avoid the double taxation of the unreimbursable employer FICA contribution.

In addition, Mr. President, a similar situation exists at the University of Colorado to that which affects us, and this would also care for concerns of the Senators from Colorado.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. GORTON. I yield.

Mr. SYMMS. I thank the distinguished Senator from Washington for offering this amendment.

Mr. President, I support the amendment being offered by my colleague from the State of Washington.

The States of Alaska, Idaho, Montana, and Washington have organized the first and only regional medical school in the country. This regional medical school uniquely functions as a State medical school for four States, with diverse Federal research funding and appropriations from the four participating States.

The technical amendment being offered by Senator GORTON is necessary in order to avoid having that regionalized medical school pay approximately one-half million dollars more in unreimbursable FICA taxes.

The reason this amendment is necessary is because the doctrine or related corporations using a common paymaster is not available to them because the professors of clinical medicine receive two paychecks—one from the university and one from the medical school practice plan—a tax-exempt (501(c)(3)) organization. Since tax-exempt organizations are going to have to participate in the social security program, both the university and the medical school practice plan would have to pay FICA taxes as if they were two separate employers.

I urge my colleagues to approve this amendment.

Mr. JACKSON. Mr. President, I want to associate myself with the remarks of my colleague from Washington. This is a double taxation matter, and it certainly should be corrected. I strongly support the amendment.

Mr. DOLE. Mr. President, the Senator from Kansas has looked at the amendment, and it also has been analyzed by the distinguished Senator from Louisiana (Mr. Long). We are prepared to accept the amendment, and I think I can speak for both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 85) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent the amendment of the distinguished Senator from New Jersey (Mr. BRADLEY) be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 86

(Purpose: To provide that hospitals located in an SMSA in 1979 must be classified as urban under the prospective reimbursement system)

Mr. CHAFEE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 86.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 301 add the following:

"(g) In determining whether a hospital is in an urban or rural area for purposes of section 1886(d) of the Social Security Act, the Secretary shall classify any hospital, located in New England as being located in an urban area if such hospital was classified as being located in an urban area under the Standard Metropolitan Statistical Area system of classification in effect in 1979."

Mr. CHAFEE. Mr. President, the amendment I am offering today is a very simple one which would resolve a problem that has existed for the past few years with the classification of the Newport Hospital in Rhode Island and other New England hospitals.

The Health Care Financing Administration recently reclassified the Newport Hospital as rural. This same situation occurred in 1979 and after months of discussion between the hospital, myself, Senator PELL and the Administrator of HCFA, the problem was resolved, we thought permanently, when HCFA conceded and classified the hospital as urban as it had been previously. HCFA published language to this effect in the June 18, 1980, Federal Register. Early this year HCFA again attempted to reclassify the Newport Hospital as rural, after discussing the problem with HCFA I was assured that for the remainder of this fiscal year Newport Hospital will be classified as urban.

In order to insure that this issue will not be raised again and to clarify the unique situation of the Newport Hospital, which now has been acknowledged twice by HCFA, I am proposing that for the purposes of prospective reimbursement, this particular hospital be treated as though in an urban area.

It is my understanding that there is no objection to this amendment on the staff level and that the Senator from Kansas would be willing to accept it as part of the bill. I sincerely hope he will do so.

Mr. President, I ask unanimous consent that the name of my colleague from Rhode Island, Senator PELL, be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, today, I join with Senator CHAFEE in introducing this amendment which clarifies the Health Care Financing Administration's urban/rural classification scheme as it applies to Rhode Island and Newport Hospital.

In my view, the designation of Newport Hospital as a rural hospital was a mistake considering the geographical reality of Rhode Island where New-

port is, in fact, a metropolitan center. I was happy to have played a part in reversing this repeated error. I think, however, it is time we make certain that the error is not repeated again.

Newport Hospital's costs are at least comparable to those of other Rhode Island hospitals—all of which are classified as urban. I believe that a rural classification is an injustice which unfairly and incorrectly penalizes Newport Hospital and its patients. I join with Senator CHAFEE in urging the Senate to accept our amendment.

Mr. DOLE. Mr. President, the distinguished Senator from Rhode Island, Mr. CHAFEE, has brought to my attention a problem faced by a hospital located in his State, a problem I believe may also be faced by other hospitals located in the Northeast.

The problem that has arisen, is one where a hospital has been designated as being located in an urban area then told it was in a rural area—and then back again to urban. Because of the design of our new medicare reimbursement system, which establishes separate rates for urban and rural hospitals, these hospitals may be put at an unfair disadvantage. I believe the amendment offered by Senator CHAFEE offers a reasonable solution to this problem, and I urge its adoption.

Mr. LONG. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 86) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, it was my intention at this time that I was going to offer an amendment which would establish a social security option account.

While the bill we are considering today does provide a long-term solution to the solvency problems confronting the social security system, the proposal I was planning to offer, would have provided a more secure and flexible retirement program for many working Americans, while at the same time provide tax relief, stimulate individual savings, promote capital formation and strengthen the long-term future of the social security system.

I wish to outline this briefly and have my remarks in the RECORD. The chairman of the Finance Committee has agreed to accept a study on the question so this might be considered by the Congress at a later date.

Under the social security option account, individuals paying social security taxes could choose an alternative means of providing for their retirement. They would continue to pay social security taxes but would forfeit future social security benefits in return for a current income tax deduction.

The concept would work as follows:

First, individuals who pay social security taxes could establish a special retirement account and then deduct annual contributions from their taxable income. The account would be similar to the current IRA's and Keogh's.

Second, tax deductions would be limited to 20 percent of the amount of income subject to social security taxes. Thus, the maximum individual deduction would be about \$7,000-plus today.

Third, in return, individuals with SSOA's would forfeit one-half percent of their social security retirement benefits for each \$1,000 contributed to the account. For a person who contributed the maximum amount to an SSOA in any year, the maximum annual rate of forfeiture would be 3½ percent plus. At this forfeiture rate, an SSOA would become attractive to working Americans in a broad range of age and income categories.

Fourth, upon retirement, individuals with SSOA's could receive benefits from their accounts, along with reduced social security benefits; if an individual had invested enough in an SSOA, he or she would forfeit all social security benefits.

Private industry analysis of this proposal shows that by the year 2005, the SSOA could reduce social security outflows by \$10 billion to \$25 billion annually in 1981 dollars, providing needed relief prior to the time when the system will face its most severe financial crisis.

In addition to relieving financial pressure on social security, the SSOA would stimulate long-term capital formation to finance economic growth. Again, private industry analysis indicates that within 10 years, the SSOA program would generate a capital pool of \$40 billion to \$100 billion, in 1981 dollars. A significant percentage would be new capital, rather than dollars shifted from one form of savings to another. The SSOA would create a new long-term capital source that would be stabilizing in today's economy.

When the SSOA was compared with other savings incentives including the expansion of current IRA's, both concepts would stimulate savings and capital formation but the SSOA has the added advantage of benefiting the social security system. After retirement, each dollar lost to the Treasury through SSOA tax deductions would be more than offset by a \$2.50 savings in social security benefit payments. Over the long term, establishment of SSOA's would produce substantially

greater public benefits than the simple expansion of IRA's or Keogh's.

The SSOA has other advantages as well. Retirement income would be determined by a prearranged personal savings plan, not political decisions as is the case with the social security system. The contributor would influence the investment decisions. SSOA's thus offer a degree of personal control, predictability, and individual responsibility not possible with social security.

In addition, SSOA's would fill in some the present gaps in our Nation's retirement policy. Presently few tax incentives exist for individuals to generate funds for their own retirement. Many employers provide pensions for their workers, but not all workers receive pensions and changes in employment often curtail benefits. KEOGH plans are available only to the self-employed individuals. IRA's have fairly low caps on contributions.

The SSOA's would represent an important change in direction for Federal programs. It would veer away from ever-increasing Government entitlements, with their uncontrollable demands on the Federal budget. It would help restore the long-term solvency of the social security system and return to its original purpose of providing retirement floor. Individuals will gain more responsibility for their own retirement planning. Moreover, SSOA's would link tax relief to spending reductions and further solidify this direct relationship as a cornerstone for future fiscal policy.

The SSOA plan is not the total answer to the problems confronting the social security system and the economy, but it makes a major contribution toward a secure retirement for all Americans.

For the most part, Americans have treated the problem of security in retirement as a distinct issue from the overall health of the Nation's economy. Policymakers have addressed the crises presented by the long-term well-being of the social security program, the gaps in the Nation's retirement programs, the excessive tax burden, and the lack of adequate capital investment as separate matters. But, as the National Commission on Social Security has recently determined, our Nation's retirement programs will be healthy only if the American economy as a whole is healthy. And, I would venture to say that the capability of this economy to recover lies in our ability to solve the unfunded liability problems facing our public pension systems. Too often, for example, past attempts to solve problems facing the social security system have adversely affected private retirement planning or economic productivity. Therefore, the challenge is find solutions that achieve diverse public goals.

The foremost goal of the Nation's retirement policy should be to provide an economic climate in which all Americans can plan for income secu-

rity in their postemployment years. Yet within this broad goal, the specific features of individual choice, long-range planning, flexibility, and innovation should be encouraged. Opportunities should be provided in both public and private programs to encourage the widest range of choice and greatest amount of security. Finally, as Sanford Ross recently pointed out, the entire system of retirement plans—social security, private pensions, and individual savings—must be rationalized so they work together.

Social security is an essential foundation for the Nation's retirement system. Long-term planning for the social security system must address the long-range funding problems and the actuarial deficit that presently afflict the system. A second goal should be to prevent any increase in the social security tax burden, which, for more than half of all American families, now exceeds their income taxes. Third, efforts should be made to mitigate the effect of present demographic trends on the fiscal integrity of the trust fund, perhaps by encouraging people to rely less on the system in meeting their retirement needs. Fourth, Government actions should reinforce people's confidence that the social security system is strong and will provide a minimal floor of benefits for their retirement. At the same time, however, the public should understand that social security is not a comprehensive retirement program and that it must be supplemented by individual retirement planning and saving.

Most importantly, security in retirement requires policies that retard inflation, stimulate productivity, create jobs, and foster growth. Because a significant portion of the Nation's GNP is dedicated to retirement programs, these resources should be used, where possible, to stimulate rather than retard economic productivity. Private retirement programs are, and should be, a major source of savings and capital formation. Moreover, because high taxes retard economic growth and thus indirectly burden retirement programs, tax relief is an essential element of comprehensive Federal retirement policy. Furthermore, to the extent possible, retirement policy should contribute to full employment, high wages, and new jobs, because these factors will widen the economic base upon which retirement programs must rest.

The social security option account contributes to these public policy goals. It allows individuals who pay social security taxes to choose an alternative means of providing for their retirement. They may establish a fund to pay their future retirement benefits by deducting from their Federal income tax their annual contributions to this fund. Deductions would be limited to 20 percent of their social security wages—that is, the amount of income subject to social security taxes.

In return, individuals who establish SSOA's forfeit a portion of their social security retirement benefits. They continue to pay social security taxes, but, in effect, trade future social security benefits for a present income tax deduction. The amount deducted must be paid into an SSOA, a tax-free, privately administered account similar to an individual retirement account or Keogh plan, from which an individual may draw funds when he or she retires. Thus, an SSOA does not diminish revenues from flowing into the social security old-age and survivors trust fund, but enables people to rely on private pension sources instead of social security payments in their retirement. By reducing future outlays from the trust fund, it strengthens the social security system. By linking public and private roles in retirement planning, it creates an opportunity for individual retirement planning based on specific contributions that is available to the vast majority of working men and women, encouraging them to save and channeling their savings into investment into the Nation's economic base.

The problems facing our Nation's retirement system are closely interconnected. Low productivity, inflation, and high taxes make it difficult for individuals to save for retirement and diminish the value of their savings. Because social security benefits levels have risen substantially and are indexed to the Consumer Price Index many people have little incentive to save for their retirement. A lack of savings, in turn, increases their reliance on social security. To meet increasing expectations from social security, benefits and taxes are raised further—as is being done in the legislation before us today—thereby discouraging savings, deterring capital formation, and dampening productivity. Thus, each problem aggravates the others.

We must take these interrelated concerns into account when choosing solutions to the problems facing the Nation's retirement system. Proposals to change the social security system, retirement programs, or the tax structure should address the broader goals of creating a productive and predictable economic climate in which individuals have the flexibility to plan their retirement efficiently, the incentive to save for their future, and the opportunity to invest in the Nation's future. Dealing with broader goals will lead to integrated solutions that address the myriad problems confronting Americans in retirement. The legislation before us does not take an integrated and comprehensive approach toward solving the solvency problems of the social security system and that is exactly why I believe my amendment will greatly enhance the package we are considering.

The SSOA plan will stimulate the development of a large pool of new capital. Retirement funds have been

an increasingly important source of investment income. The assets of private pensions, for example, have grown from \$52 billion in 1960 to over \$330 billion in 1979. The social security program, in contrast, builds no capital stock because of its pay-as-you-go approach. The SSOA would provide an important vehicle to reverse that trend.

This new capital would be available for creating new jobs, improving labor productivity, and increasing wages, which, in turn, would produce additional social security revenues. In addition, reducing the demand for trust fund expenditures and expanding social security revenues also will reduce the pressure to increase social security taxes, which may diminish savings and capital formation.

I urge all of my colleagues to support this measure. It is a proposal which will not only help the social security trust fund, but future retirees and the Nation's economy.

FORFEITURE RATE

In order to determine the actuarial effects of the SSOA plan, it is necessary to evaluate how the rate of forfeiture of social security benefits would affect the decision to establish SSOA's.

The calculation of a forfeiture rate requires determining initially the factors that influence an individual's decision to select an SSOA as an alternative to social security. Among these factors are a worker's age, tax bracket, anticipated growth in wage levels, interest rates, et cetera. Once these factors are established, it is possible to show how a given rate of forfeiture will affect the retirement planning decisions of individuals of different ages, income levels, and investment philosophies. It is also possible to estimate the number of people to whom an SSOA would appeal and the resulting effect on general revenues, savings, and capital formation.

Based on this analysis, the study considered the effects of varying forfeiture rates, assuming that wage levels and interest rates grow at approximately the same rate. A rate of forfeiture of 0.5 percent per \$1,000 was selected because it makes an SSOA attractive to the largest number of people at varied income and age levels without an unreasonable loss to the Treasury in general revenues.

At the 0.5 percent rate, workers aged 30 in the 30-percent marginal tax bracket would earn a better "return" on an SSOA than from social security benefits. Older workers would require higher incomes to have the incentive to select an SSOA. Workers aged 40 in the 40-percent marginal bracket or aged 50 in the 50-percent bracket would earn a better return on an SSOA than from social security benefits.

In reality, each individual's retirement planning would involve varying assumptions about wage growth and interest rates. Different assumptions

would substantially alter these conclusions. Thus, while workers age 40 in the 50-percent tax bracket would find SSOA's attractive, they would not do well if the prevailing interest rate fell below 7 percent, or the wage growth rate increased beyond 10 percent.

Higher interest rates would mean greater accumulated earnings in the SSOA account and thus higher SSOA benefit levels. Higher wages, however, would mean that the individual would qualify for relatively higher social security benefits which are indexed to increases in wage levels. If the workers marginal tax rate after retirement remained at 50 percent, they would also find SSOA's less attractive. The effect of these variables upon individuals would depend on their particular situations.

Moreover, the individuals assumptions about the economy would also affect this determination. Concern about a poor or risky investment climate could lead to little or no investment in SSOA's. On the other hand, if people believed that the social security program would not pay adequate future benefits, the SSOA would be attractive regardless of tax bracket or wage level.

Studies have indicated that a 0.5-percent forfeiture rate would serve the public goals of encouraging savings and stabilizing the social security system as well as the private objectives of income security in retirement and flexibility in retirement planning. It would appeal primarily to young and middle-aged workers in middle to high tax brackets.

I yield to the distinguished chairman.

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished Senator from Idaho, and I think he has an excellent idea, but it is a matter that we have not been able to focus on because of the work of the National Social Security Commission and working on the bill itself in the Finance Committee.

I have suggested to the Senator from Idaho that if he would be willing to replace or substitute for that amendment an amendment that would direct the study by the appropriate agency, that would be very helpful. I am not certain whether he has had an opportunity to do that.

UP AMENDMENT NO. 87

(Purpose: To direct the Secretary of the Treasury, or his delegate, to conduct a study on the feasibility of implementing social security option accounts)

Mr. SYMMS. Mr. President, I send to the desk an amendment for a study by the appropriate agency and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 87.

Mr. SYMMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I, insert the following new section:

(a) The Secretary of the Treasury, or his delegate, should conduct a study of the feasibility of implementing "Social Security Option Accounts." Such accounts would have the following characteristics:

1. Individuals who pay social security taxes could establish a special retirement account and then deduct annual contributions from their taxable income. The account would be similar to the current IRA's and KEOGH's.

2. Tax deductions would be limited to 20 percent of the amount of income subject to social security taxes. Thus, the maximum individual deduction would be about \$7,000 plus today.

3. In return, individuals with SSOA's would forfeit one-half percent of their social security retirement benefits for each \$1,000 contributed to the account. For a person who contributed the maximum amount to an SSOA in any year, the maximum annual rate of forfeiture would be 3½ percent plus. At this forfeiture rate, an SSOA become attractive to working Americans in a broad range of age and income categories.

4. Upon retirement, individuals with SSOA's could receive benefits from their accounts, along with reduced social security benefits; if an individual had invested enough in an SSOA, he or she would forfeit all social security benefits.

(b) The Secretary of the Treasury should submit to the Congress a report on the results of the study conducted under section (a) by June 30, 1984.

Mr. SYMMS. Mr. President, the amendment simply states that Treasury do a study on the concept of the amendment that I originally intended to offer and report back to the Finance Committee by June 30, 1985. It would be 18 months.

I yield back my time.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Idaho.

The proposal to allow employees to establish a special retirement account similar to an IRA (with tax deductible contributions) in place of a portion of their social security benefits is an interesting concept and is worth study.

It would undoubtedly have the potential for increasing the private pool of capital and encourage individuals to take more responsibility for their own retirement.

Such a program could take some pressure off the social security system by encouraging those who can to save for retirement rather than relying primarily on social security.

However, this is a major change in the role of social security and tax incentives to encourage retirement savings. It is appropriate to require a thorough study of the proposal before Congress is asked to enact it into law.

For instance, we need more information on whether these accounts will be attractive enough to gain wide acceptance as a partial substitute for social security benefits, and we need to analyze the impact on general services.

As Senator SYMMS outlined, his original proposal would allow employees to establish a special retirement account similar to an IRA.

I think this has a lot of potential and a lot of merit, and I do believe that this approach now taken will give us an opportunity to take a look at it because it is a major change in the role of social security and tax incentive to encourage retirement savings. It is appropriate to require a thorough study of the proposal before Congress is asked to enact it into law.

I can assure the Senator from Idaho that we will do what we can to make certain that it is a study in the real sense of the word and it can come back to us within a year.

Mr. SYMMS. Within a year, a year and a few months.

Mr. DOLE. So we might then have full hearings and take another look at it.

Mr. SYMMS. I thank the distinguished chairman and I thank the distinguished Senator for his indulgence of the amendments that this Senator has offered.

I note that although they have not passed, I still think there is a great deal of merit for study, and I think that we will be back revisiting social security within the next 2 or 3 years and so most likely we will have the opportunity to offer a broader choice for the American people and do some things that would encourage more savings to help revitalize our needed capital market, and this would be one way to do it.

It would not affect everyone, I must admit, but it would be an option that some people might take and they would still be paying the social security taxes but they would have the opportunity as I perceive that they would help keep the contract or would not hurt the system as far as the fiduciary ability of the social security to pay its way out of the contract that it has with the American people but it would give those people who were able to do so an opportunity to have their own retirement in exchange for social security benefits.

I call for a vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Idaho.

(Putting the question.)

The amendment (UP No. 87) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may present an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 88

(Purpose: Relating to interest on State loans.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 88.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, lines 12 through 14, strike out "Interest shall accrue on such deferred interest in the same manner as under paragraph (3)(C)," and insert "No interest shall accrue on such deferred interest."

On page 236, line 7, strike out "30" and insert "25".

On page 236, line 9, strike out "40" and insert "35".

On page 237, line 9, strike out "30 percent, 40 percent, 50 percent," and insert "25 percent, 35 percent, 50 percent".

On page 237, line 12, strike out the quotation marks and the second period.

On page 237, between lines 12 and 13, insert the following:

"(9) Any interest otherwise due from a State during a calendar year after 1982 may be deferred (and no interest shall accrue on such deferred interest) for a grace period of not to exceed 9 months if, for such calendar year in which the interest was due, the State had an average unemployment rate of 13.5 percent or greater."

On page 237, between lines 14 and 15, insert the following:

(c) Section 1202(b)(3)(C)(1) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting "No interest shall accrue on such deferred interest."

Mr. METZENBAUM. Mr. President, this amendment has to do with the solvency of the unemployment funds in the States and the obligations of the States to the Federal Government.

It is my understanding that the distinguished senior Senator from Illinois has an interest in a part of this amendment having to do with that which might be called interest on interest and by reason of that fact if the manager of the bill feels it appropriate that we lay this aside temporarily without losing its position on the calendar, I would have no objection to doing so, provided that we can get some understanding as to when the Senator from Illinois would be joining us.

Mr. DOLE. Mr. President, if the Senator will yield, I think in addition to the two Senators from Illinois, we have the distinguished senior Senator, Senator PERCY, and Senator DIXON—

Mr. METZENBAUM. That is correct.

Mr. DOLE (continuing). As well as the two Senators from Michigan, and the two Senators from the State of Pennsylvania.

Mr. METZENBAUM. I stand corrected.

Mr. DOLE. The Senators from Kentucky, Senator FORD and Senator HUDDLESTON have amendments, so I think it might be well if we notify them that the amendment is pending and give them an opportunity to come to the Chamber. We can take it up whenever they can be here. Senator KENNEDY has a couple of amendments as has Senator NICKLES. By that time perhaps they can be here.

Mr. METZENBAUM. Does the Senator from Kansas expect to go right through the noon hour?

Mr. DOLE. Yes.

I would not expect a rollcall vote on this amendment.

Mr. METZENBAUM. No. But I wonder if I might suggest to those who have an interest in it that they could be in the Chamber at 12:30. Does that sound all right?

Mr. DOLE. Yes.

Mr. METZENBAUM. Under those circumstances, Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside, that it retain its place on the calendar, with the understanding that on or about 12:30 p.m., depending on what is pending at that time, that we return to further consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 89

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment number 89.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"By January 1, 1985, the Secretary of Health and Human Services shall report to the Congress concerning the feasibility and desirability of applying a prospective payment methodology to payment by all payers for inpatient hospital service. Such report shall specifically include consideration of the extent of cost-shifting to non-federal payers, and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from New Jersey? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today marks an historic occasion in the evolution of medicare. After 28 years, we are finally going to move away from

the wasteful, inefficient method of paying for health care—cost based, retrospective payment.

For over a decade, I have urged the Congress to adopt prospective payment as the only way to control health care costs. In the early 1970's, we began by assisting the development of HMO's. HMO's are the model of prospective payment—and they have more than proven the value of this approach to controlling health care costs. In recent years, we have begun to recognize the important contribution made by State-based prospective payment systems.

Now at last, we are prepared to put medicare on a prospective basis. I applaud the committee for an important step in the right direction. But at the same time, I must raise certain important reservations. I believe that we should immediately adopt an "all payers" approach to prospective payment. If prospective payment is limited to medicare, much of the benefit will be lost. The reason is simple. If all programs are subject to prospective limits, hospitals must either reduce their costs or suffer the consequences. But if medicare alone is subject to these limits, the hospitals are free to make up the difference from other payers.

This cost shifting goes on under medicare today. Some have estimated that as much as \$6 billion in costs were shifted to employees and employers in 1982—and that number might reach \$12 billion by 1985. Whatever the magnitude—cost shifting undercuts the benefits of prospective payments, adds billions to employers' costs and billions more to worker health insurance premiums.

I have introduced legislation (S. 814) that provides for an all-payer approach to prospective payment. It would put an immediate halt to runaway health costs, for all Americans—not simply for the Federal Government. It relies primarily on the States to devise programs suited to their own needs. It would protect the elderly from rising out-of-pocket costs.

It is not my intention to offer this bill as a substitute for the provisions in the bill before us. I believe that my proposal is a more effective way to deal with health costs, and hope that my colleagues will take the time to study it—so that we can discuss these issues in the months to come. But I do believe that we must address the problem of cost shifting that will arise under the medicare only proposal.

As the chairman knows, this bill contains a provision requiring the Secretary of Health and Human Services to study the feasibility and desirability of applying the prospective payment methodology to all payers of inpatient hospital services. My amendment is similar to this provision, except that it would require that this report be made to Congress by January 1, 1985, and would specifically require the Secretary to determine the extent of cost

shifting, and its impact on private hospital insurance premiums as they are paid by employers and workers. In this way, we will be prepared with the information needed to make a responsible and speedy decision on expanding the scope of the prospective methodology to private as well as public payers.

Mr. President, I have long been a believer in prospective budgeting. The provisions in this legislation concerning medicare, are helpful in trying to address the very difficult challenge we are going to continue to face in the future—the increase in costs of health care.

My concern is that as we put prospective budgeting with regard to medicare into the law, we are going to see an increase in costs outside of the medicare system.

All I want to do in this particular amendment is to have a review of the effect of the prospective budgeting and a report concerning the nature and extent of cost-shifting and have a report come back to Congress by early 1985 when we will have a new administration and we will be dealing with the problems of health care costs. It will make available to the Finance Committee information that will permit us to address this concern.

It will provide important additional information to the Senate and to Congress in order to try to deal with the problems of increased health care costs, and it will address what I believe is going to be a cost-shifting effect of prospective budgeting, if we just limit it to the medicare proposal.

I hope the committee will accept the amendment.

Mr. HATCH. Mr. President, I am pleased to support this proposal to reform the way medicare reimburses hospitals. While I do not ordinarily like to see increased Government regulation of any kind, this prospective payment proposal for medicare is an appropriate, though not flawless, mechanism to address the double digit inflation currently experienced in the health care industry.

I applaud the administration for the swiftness with which it responded to the Congress in drafting this legislation. I applaud the chairman of the Senate Finance Committee, Mr. DOLE and his committee staff for their efforts in rapidly addressing this important issue. I also applaud the hospitals in this country for not opposing our efforts to bring some control to the escalation of health care costs and the concurrent dramatic yearly increases in the Federal Government's medicare budget.

As a result of prospective payment being applied to medicare, I am confident mechanisms within the marketplace of a competitive nature will develop which will help to limit the rise in overall health care costs. These mechanisms will occur with only a minimal amount of Government regu-

lation and interference in the private health care industry. Therefore I am hopeful that in our consideration of this issue today that we do not apply it to all payors.

In reviewing the legislation, there are several issues of special interest to me and my constituents in Utah. I would like to briefly address them. One subject is capital costs. For the present time, both the Senate and the House bills provide that capital costs for hospitals are not subject to this new prospective payment system. The Senate specifically excludes reimbursement for capital costs under this program until after October 1, 1986. The House bill, on the other hand, asks that the administration study the issue and submit recommendations to Congress by December 31, 1983. The House bill goes on to state that it will be the intent of Congress to make a distinction between capital costs incurred before and after March 1, 1983, and to indicate that projects "initiated" before that date will somehow be treated differently in the future.

While I strongly prefer the Senate version, it is worth emphasizing that at a minimum hospitals should not be penalized for obligations legally incurred prior to enactment of this law.

An example in my own State should suffice to show the problem. The largest hospital in the State of Utah is in the midst of a much-needed major project. The State-granted certificate of need approval to this hospital for its major remodeling and construction project in November of 1980. While the construction and remodeling have proceeded at pace, the project will not be completed until sometime after the first quarter of 1985. The hospital incurred these substantial financial commitments with the expectation that capital costs would be paid on a reasonable cost basis.

There are several items in the Senate bill that I support and hope that they are retained in the final measure adopted by the Senate and the House.

First, I strongly support the Senate version on regionalization of DRG rates. I believe it is important to have a national rural/urban split in order to take into account the varying needs of hospitals serving different populations. However, too great a division regionally would only serve to reinforce the inefficiencies of some larger urban centers and at the same time not provide enough support to rural areas.

I also support the option for States to have their own program of prospective payment. I do not believe that the Congress should mandate a program of prospective payment for all-payers, which is really just the formerly considered and defeated Carter cost containment proposal. However, if a State has a good cost control program in place, then we should not place this Federal program on top of it. Of course, as made clear in the Senate bill, such State programs should not

be more costly to the Federal Government.

Finally, I strongly support two other provisions of the Senate's version: The development of a independent commission to insure the mechanisms of this proposal; and a study to insure the various components of reliability of this prospective payment program.

I urge my colleagues to expeditiously support this legislation which reflects the Federal Government's desire to become a prudent purchaser of health care.

I would like to conclude by asking my distinguished colleague, Mr. DOLE to respond to one concern I have about the viability of one set of DRG's. the basis of DRG's is a system know as the MEDPAR files.

These files provide the Federal Government with historical medicare charge data. And is the basis for determining the number of cases in the relative cost weighting of diagnosed related groups: 356 of the 467 DRG's had a good sampling of charges from which to calculate a relative index. But according to information provided me by the administration, there is limited data on 111 of the 467 DRG's. I believe this situation needs to be corrected in order to insure the statistical viability of the DRG's used. As I understand, for various reasons, these 111 will be little used by medicare but might be used by other payors. Since these 111 weightings are not statistically sound, these classifications should only be made available to other payers with the specific addendum that they are not statistically valid and that further research should be made prior to their use. Senate DOLE would you agree with me that these problems should be duly noted when these DRG's are published in the Federal Register and that it is consistent with the legislation that this should be done?

Mr. DOLE. I thank my distinguished colleague, Mr. HATCH, for his comments. With regard to your question: I agree that these problems should be duly noted in the Federal Register and that to do so is consistent with this legislation and appropriate.

Mr. HATCH. I thank the Senator.

Now I also understand there may be proposed an amendment to require use of the prospective payment plan as an all-payers proposal. This must be vigorously opposed. The required use by all payers of the Federal diagnosis-related groups classification, weighing system and the specific payment rates set by HHS is nothing less than a design to discard the free-enterprise system in favor of a program of national controls which would turn health care in the United States into a Federal public utility. The health-care field is too diverse to impose these rigid controls across the board. And let me restate that if these controls are imposed, we, as a Nation, may not experience the quality of health care that we are currently provided.

It is one thing for the U.S. Government to act as a prudent purchaser of health care in a competitive marketplace with other purchasers of care. It is quite another thing for health care providers to be required to accept as payment in full from all private citizens and third-party payers rates dictated by a Federal Government agency. This has the effect of replacing the marketplace.

If this were not repugnant enough, I understand this amendment I am opposing might preclude judicial review of the Government's discretionary authority to establish the DRG system and payment methodology. Thus, it would vest in the Government the right to act arbitrarily and capriciously without accountability. Rather than functioning as the head of a Federal administrative agency, the Secretary of Health and Human Services would be transformed into a Federal czar of national health with unbridled authority. Such a possibility threatens the health care available to the American people and thwarts efforts to make the health-care marketplace more price competitive.

In addition, there is quite limited practical experience with the DRG-based payment system. Although a DRG-based experiment has been conducted in the State of New Jersey for a few years, the results of this undertaking are not final or conclusive. In recommending a DRG-based system for prospective medicare payments, the Secretary of HHS refers to, what she characterizes as preliminary reports that the system worked in New Jersey.

Even if a preliminary indication in New Jersey is accurate, transposing the DRG system from New Jersey to a national level will necessitate numerous adjustments and changes. The administration of a program has to be more fully developed; the propriety of the proposed methodology for establishing the DRG payment on a national level for medicare patients still needs to be analyzed; the adequacy of the payment rates are in question, especially the 111 DRG's that the Federal Government does not have adequate, random sampling and now must find alternative sources for charge information.

In summary, the impact of the medicare DRG system on hospitals nationwide is uncertain. Imposing a DRG payment limit for all payers of health care would compound these adjustments and risks permanently crippling our Nation's hospitals. For this reason, I support the proposal from the Senate Finance Committee requiring the Secretary to report to Congress on the appropriateness of the DRG system. At this time I would like to read Blue Cross-Blue Shield's letter in opposition to any all-payer proposal. They state:

BLUE CROSS ASSOCIATION,
BLUE SHIELD ASSOCIATION,
Chicago, Ill., March 16, 1983.

Hon. ORRIN G. HATCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR HATCH: I understand that amendments or substitutions to the Medicare prospective payment provisions of the Social Security legislation (H.R. 1900) may be offered in the next few days in the name of further controlling health care costs. Apparently these proposed changes would either impose a Federal cost control system on all hospital revenues or would mandate state systems regulating all payors. On behalf of the nation's Blue Cross and Blue Shield Plans, I would underscore the seriousness of the continuing escalation of health care costs, but would urge you to oppose any such amendments.

We have closely followed the development of the Medicare prospective payment proposals in both the House and Senate, and have largely supported them. We particularly support the notion of increasing the cost containing incentives that are needed in most hospital environments. Our primary concern over the proposals has been with the speed and scope of change which flow from Medicare's national use of a relatively new and untested reimbursement model. To mandate either the extension of this model beyond the Medicare program or an even more massive change in all health care financing would be exceedingly unwise.

Our opposition to the amendments or substitutions mentioned above stems primarily from our experience with a wide variety of reimbursement systems, over many years. This experience has led us to several conclusions:

To be effective, any cost containment program must include a variety of incentives for providers, consumers, and third party payors to contain costs.

There is no single best way to do that; the breadth and diversity of circumstances around the country requires reimbursement models responsive to local circumstances.

In most areas, effective negotiation between the purchaser and provider of care has the greatest potential for developing cost constraints sensitive to local needs.

Government mandates, where there is no local acceptance of or capacity to implement the mandated programs, are simply not effective.

Regulatory approaches have been tried in several states with only limited success; these mandatory systems often perpetuate institutions which no longer have community support; and such systems tend to block the development of more price-competitive alternatives to the status quo.

Not only does the Medicare reform bill, as reported out by the Finance Committee, contain truly far-reaching changes, but all across the country, there are private market reimbursement changes under way which are all stimulated by the critical need to contain costs. We would be pleased to work with the Congress to continue encouraging these new directions and to evaluate their short- and long-term impact on the cost and quality of health care.

Sincerely,

BERNARD R. TRESNOWSKI.

In conclusion, I support Medicare prospective pay but oppose any proposal to impose this untested system on all payors. All States, including Utah, should be allowed to experiment with several options including competitive solutions to health-care costs. What may work as an experiment in New Jersey should not be imposed on every payer.

PROSPECTIVE PAYMENT

Mr. DURENBERGER. Mr. President, for the last 2 years, Congress has struggled to develop an equitable solution to social security. But that compromise has not been achieved at a low cost. The discussion and debate has occurred in a highly politicized environment. Too often the fears of the most vulnerable in our society have been played upon in an effort to gain the upper hand politically.

All of us have experienced the pain and anguish of seniors convinced that their primary, and in many cases their only, means of support would be eliminated or drastically cut back. Many workers have lost confidence in the system entirely.

Nonetheless, we appear to have found a solution to the social security problem, but our unwillingness to act early and the successful efforts by some to politicize the problem have exacted a huge price.

Another social security problem—Medicare—looms just beyond the horizon. Actuaries in the administration and at the Congressional Budget Office predict that Medicare will be insolvent in 3 to 4 years. We have the time to fix Medicare; the question is, do we have the willingness? Can Congress avoid politicizing the Medicare issue?

Already, some are playing off the fears of Medicare beneficiaries. This is a cruel trick to play on beneficiaries. In correcting Medicare, Congress will not abandon the beneficiaries. But an equitable solution cannot be achieved if everyone is running scared.

Today, as part of the social security compromise, we have included a major piece of Medicare reform, a reform that will improve efficiency and allow us to get the most out of our Medicare dollars.

As chairman of the Senate Finance Committee's Health Subcommittee, I have been holding hearings since last summer on the issue of prospective payment for hospitals. We have heard from States that have their own prospective payment systems; we have heard from insurance companies engaged in prospective payment; we have heard from physicians and hospitals; and we have heard from consumers, beneficiaries, and experts in the administration.

The prospective payment provisions crafted by the Finance Committee and included in this bill are exactly what the Medicare program now needs. We have learned enough from our experience with cost-based reimbursement to know that it does not work. It wastes money, penalizes the efficient hospital, and encourages dangerous over-treatment.

We have taken the administration's proposal—which is basically a very good one—and made some changes; changes which I feel improve the proposal and ease the burden on hospitals as we move from the old system to a prospective payment system.

Prospective payment is not the final solution to Medicare reform. Other changes will be necessary. We must also look at including physicians, skilled nursing facilities, home health agencies, and other providers in a prospective payment system. And we must move ahead in our efforts to expand private sector vouchers for the Medicare population.

Under this proposal, beneficiaries will not pay any additional dollars out-of-pocket. But they will reap additional benefits. Efficient hospitals will be able to give beneficiaries more for the money, and that is good for both patients and taxpayers. Change is never easy. The change from a cost-based retrospective system to a prospective system will force hospitals and physicians to change behavior. But it is a change for the good, and it is a change that is desperately needed. I hope my colleagues will join me in supporting this important reform.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DOLE. I certainly agree with the distinguished Senator from Massachusetts. I am perfectly willing to accept the amendment. I have just asked the distinguished Senator from Louisiana and he has no objection.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 89) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 90

Mr. KENNEDY. Mr. President, I have another amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 90.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"The Secretary shall provide that the amount which is allowable, with respect to costs of inpatient hospital services for which payment may be made under this title, for a return on equity capital for subsection (d) hospitals (as defined in subsection (d)(1)(C)) shall, for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1986, be equal to the target percentage (as defined in subsection (d)(1)(B)) of the amounts otherwise allow-

able under regulations in effect on March 1, 1983. For cost reporting periods beginning on or after October 1, 1986, the Secretary shall not provide for any such return on equity capital for such hospitals."

Mr. KENNEDY. Mr. President, the bill before us today marks a major change in the way the Government pays for health care. As my colleagues know, since Medicare was enacted, it paid for health care like the Defense Department paid for weapons—on a cost-plus basis. And the results were pretty much the same. Costs kept going up and up—but no matter how much the costs went up—there was always the plus—the profit.

With this bill, we are finally turning away from this wasteful way of paying for health care. I regret that this step is limited to Medicare, since I believe that we can only control costs with an all-payers approach to prospective payment. Nonetheless, it is a step in the right direction.

Unfortunately, on our way to eliminating cost-plus in Medicare, we have forgotten to eliminate the plus. Although we provide for a fixed payment per case, the bill still requires the Government to throw in a sweetener for a small number of hospitals—the profit.

I simply cannot understand the reason for keeping in the profit—known in the jargon as "return on equity." The whole point of prospective payment is to pay a fixed price. If hospitals are efficient, they get to keep the difference between the costs and the fixed payment. Is not that profit? Under this bill, we are going to pay a profit on top of the profit. And the second profit does not even have to be earned. It gets paid whether the hospital is efficient or not, whether it delivers good care or not. It just gets paid.

My amendment would address that issue. As prospective payment is phased, a first by 25 percent, then 50 percent, and then 75 percent, this amendment would phase out that additional profit item, the return on equity, over a 3-year period.

It is effectively the same concept that has been accepted by the House of Representatives. I do think it is a valuable and worthwhile saving. The estimate would be that there would be a \$300 million per year saving when this is completely implemented.

Even under the current system, return on equity has produced unjust results—rewarding the well off, and pushing up Medicare costs. Return on equity costs Medicare about \$300 million per year—not for expanded benefits for the elderly, or lower copayments, or lower deductibles. No—in fact the administration wants to increase costs for the elderly. No—this \$300 million is for profit.

According to CBO figures, for-profit hospitals account for only 9 percent of Medicare costs. Excluding return on equity, they account for 11 percent of Medicare capital payments—higher

than their overall share. When you add in return on equity—the real story is told. For-profit hospitals account for 20 percent of Medicare's capital payments, more than twice their share of overall Medicare payments. Medicare capital payments to for-profit hospitals are \$7,170 per bed annually compared with \$3,360 per bed for nonprofits.

Now, what effect do these payments have on Medicare and on the health care system generally? Well, they certainly do not go to help pay for care for the poor and the uninsured—like the 16 million Americans who have lost health insurance since the Reagan recession began. Their own spokesman has admitted that private hospitals skim well-to-do patients and leave the public hospitals to care for the poor and the lower middle class. But it does lead to a lot of unoccupied beds through acquisition and construction. For-profit hospitals have a 65-percent occupancy rate compared with the American Hospital Association average of 76 percent. And each unoccupied bed costs \$112,000—a large share borne by Medicare.

And for-profit hospitals are more expensive for Medicare—primarily because of return on equity. According to a recent study, for-profit hospitals cost Medicare about 13 percent more than comparable not-for-profit hospitals.

The result has been that return on equity has served to increase both capital and operating costs for Medicare. It does no good to adopt a prospective payment system if we exclude from it the most unjustified inflationary component in the Medicare system—return on equity.

Now, I know what the opponents of this amendment will say. They will say: "Return on equity is a difficult issue. We need to study it before we act. We do not know what the effect will be." Well, prospective payment by diagnosis-related group is a difficult issue. We do not know what the effect will be on public hospitals. But does the committee ask us to study first and then act. No. We are to act first, ask questions later.

We do not know what the effect will be on urban hospitals. Or rural hospitals. Or, most important, quality and adequacy of care for the elderly, the poor, and the sick. Does the committee ask us to study first and act later on behalf of the elderly and the sick. No. But when it comes to hospital profits, suddenly we are cautious. Suddenly we are unwilling to take the plunge. I say that is wrong. I say it speaks of administration policies that are too willing to sacrifice the neediest to save the greediest. And I say we stop now.

I ask unanimous consent to have printed in the RECORD several tables and articles.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

TABLE 1.—DISTRIBUTION OF ESTIMATED MEDICARE PAYMENTS FOR CAPITAL COSTS, BY HOSPITAL OWNERSHIP

| | Percent of hospitals | Percent of Medicare costs | Percent of Medicare capital payments | | Estimated '83 annual year 1984 Medicare capital payments ² |
|-------------|----------------------|---------------------------|---|----------------------------|---|
| | | | Excluding return-on-equity ¹ | Including return-on-equity | |
| Nonprofit | 57 | 74 | 74 | 67 | \$2,110 |
| Proprietary | 12 | 9 | 11 | 20 | 630 |
| Government | 31 | 17 | 15 | 13 | 470 |

¹ Includes depreciation, rent and interest expenses.

² In millions of dollars. Includes return on equity.

Source: Preliminary CBO estimates based on Medicare cost reports for 1980.

[From the Wall Street Journal, Mar. 11, 1983]

BIG HOSPITAL CHAINS CONTINUE HEALTHY SHOWING EVEN AS LIMIT ON MEDICARE COSTS APPEARS CERTAIN

(By Gary Putka)

Congressional efforts to curb Medicare costs might be considered ill tidings for the stocks of the nation's big hospital chains, which derive 40% to 45% of their revenues from the federal program.

Instead, a couple of the stocks have been moving briskly upward recently. And yesterday, the hospital-management companies held their own in a downward market, even though it was investors' first chance to react to Wednesday night's passage in the House of Representatives of a Social Security measure containing Medicare curbs.

The reason for the stocks' surprising strength appears to be that the bill didn't come out quite as badly for hospitals as some had feared. In fact, for hospitals that are run for profit, some analysts see distinct advantages in the way that the House would change Medicare payments.

The Senate Finance Committee began work on its version of the Social Security measure late yesterday. And while there are no assurances that the final version of any bill would be exactly as the House passed it, there's widespread feeling in Washington that a similar measure will be enacted into law.

Late yesterday, the Senate Finance Committee voted to include the Medicare provision in its version of the Social Security bill.

On Wall Street, some of the biggest hospital chains are already well on their way to recovery from fears late last year that the measure would be a bitter pill. Hospital Corp. of America, the largest hospital operator, has risen about 12% in the past two weeks. Humana is up about 10% over the same span. Others, which haven't outperformed the market in recent weeks, reacted well yesterday to the news from Washington. They included American Medical International, which gained 1/2 to 3/4%; Lifemark, up 1 to 3/4%; and Universal Health Services, up 1/2 to 2/3%. National Medical Enterprises, another major player, ebbed 1/4 to 3/8%.

The bill passed by the House would set fixed Medicare payments to hospitals for 467 categories of treatment. Under the current system, hospitals receive reimbursement for costs, plus a regulated return on equity, currently about 7% to 8% on an after-tax basis.

Before all aspects of the House's proposed legislation were clear, some had feared that the new "prospective payments" plan would mean that hospitals operated for profit wouldn't make any profit when dispensing services under Medicare, an aid program for the elderly. What seems to have dawned on investors lately is that the payments system will enable hospitals to pocket the differ-

ence if they can provide services at less than the fixed payments.

The payment schedules are expected to be guided by the average costs for providing services of all hospitals within nine geographical regions established by the bill. John Hindelong, health-care analyst and director of research A.G. Becker, believes that for-profit hospitals are so much more efficient in providing services than nonprofit hospitals, that they will be able to improve their profit margins in Medicare as a result of the new system.

Mr. Hindelong hasn't changed his earnings forecasts for the companies, however, because "I've been expecting this legislation for awhile." He believes Hospital Corp. will earn \$2.80 a share this year, up from \$2.25 in 1982; Humana, \$2 a share in the year ending Aug. 31, up from \$1.60; American Medical, also on an August fiscal year, \$2 up from \$1.60; and National Medical, \$1.85 in its year ending May 31, up from \$1.47 it earned from operations last year.

But there isn't any consensus about the effects of the proposed payments schedule. Bill Hayes, who manages the \$50 million Fidelity Select Health Care mutual fund, said he believes that the hospital chains won't do any better under the new system. Nonetheless, he says he bought some of the issues yesterday, although he wouldn't say which.

"At least it isn't a major negative," he said. "And the situation is still one of demographics. We have more older people who will need more health care in the future." Mr. Hayes said he expects the major hospital chains' profits will grow at least 20% a year in the next three years. Some of this growth, he reasons, will come from acquisitions, as it becomes increasingly difficult for nonprofit hospitals to make it. "The Little Sisters of the Poor . . . are going by the boards," he said.

From an investor's point of view, the stocks are already assuming big growth rates. Their price-earnings ratios, although not as high as some high-technology medical companies, range between 17 and 20, much higher than the market as a whole.

Perry Wyson, a Ft. Lauderdale, Fla., investment adviser, tracks hospital-management companies two ways. Mr. Wyson's medical-stock newsletter has done analyses that show the industry is "grow, grow, grow," he said. But his "Consensus of Insiders" report, which tracks corporate officers' stock sales and purchases in their own companies, shows heavy insider selling of Hospital Corp. of America and Humana in the past six months, enough to keep him from recommending the two issues.

Return on common equity
(12 mo. ending Dec. 31, 1982)

| | Percent Return |
|---|----------------|
| Proprietary hospital companies: | |
| Charter medical..... | 24.4 |
| Hospital Corp. of America | 15.8 |
| Humana | 25.0 |
| Utilities: | |
| American Telephone & Telegraph .. | 12.0 |
| Consolidated Edison Co. of New York | 13.6 |
| Central & South West..... | 14.1 |
| Niagara Mohawk Power Corp | 13.9 |
| Rochester Telephone | 14.0 |
| Washington Gas Light..... | 9.1 |
| Industry composite | 12.7 |
| Hotels: | |
| Hilton Hotels..... | 14.9 |
| Holiday Inns..... | 10.4 |
| Marriott | 19.2 |
| Ramada Inns..... | -13.4 |

Return on common equity—Continued

| | |
|---|------|
| (Food and lodging) industry composite | 15.5 |
| All industry composite..... | 11.0 |

Source: "Business Week," March 14, 1983.

[From the Cincinnati Post, Feb. 18, 1983]
FIRMS FIND HOSPITALS ARE HEALTHY BUSINESS

(By Don Kirkman)

WASHINGTON.—The hospital that will open its doors in Crawfordsville, Ind., in 1985 won't be run by the customary group of physicians, or church or local government.

It will be owned and operated by a profit-making corporation, American Medical International of Beverly Hills, Calif.

Crawfordsville's new hospital is part of a trend in the United States and overseas.

Encouraged by multibillion-dollar federal health programs, private business corporations are building, buying, leasing or managing under contract thousands of health facilities that once were operated by municipalities, churches, physicians and small businessmen.

It's true of hospitals, nursing homes, diagnostic laboratories, artificial kidney treatment centers and doctor groups that offer prepaid medical plans.

While some people worry that the health corporations are driving up costs, defenders say corporations are the way of the future.

"The health field is a heck of a growth opportunity for private corporations," said Michael Bromberg, executive director of the Federation of American Hospitals.

"Doctor-owned hospitals are selling out or going broke. Catholic and municipal hospitals are turning over their hospitals to private corporations, and the large chains are moving in."

There are now more than 1000 privately owned hospitals in the United States (of 7,000 overall), and another 500 are leased or operated by corporations. Each year, the number is increasing.

The reason for the rapid growth of corporate-operated hospitals is Medicare, Bromberg said. With the government now guaranteeing payment for tens of millions of elderly patients, a hospital can make money if it's properly run.

Five large hospital corporations "are going wild," Bromberg said, continually opening facilities in the Sun Belt states and affluent suburbs throughout the country.

Most of the private facilities aren't large—usually 100 to 300 beds—and their staffs are smaller than those of municipal and sectarian hospitals of comparable size.

What they offer, however, is a great deal more personal attention per patient from physicians, nurses and staff, Bromberg said. "On a day-by-day basis, our private hospitals are a bit more expensive than public hospitals, but our patients remain in the hospital a day less than the public's, so their total bills are lower."

Bromberg acknowledges that the private hospitals "skim" well-to-do patients from public hospitals. He says simply that the main role of the public hospital is to care for the poor and lower middle class.

Bromberg said the biggest of the private corporations is Hospital Corp. of America based in Nashville, Tenn. American Medical International is No. 2. HCA owns or operates 381 hospitals and AMI 115. Three other firms own between 50 and 100.

Paul Ginsberg, an economist for the Congressional Budget Office, says he's worried about the expansion of corporate-owned hospitals because their basic motive is to make money.

"I think they're a two-edged sword," Ginsberg said. "They're providing services for

communities that need them, but they're also driving up health care costs. There's no incentive in those hospitals to reduce costs."

But Cameron Thompson, a spokesman for the FAH, says the private hospitals "have the capital to build modern facilities or improve existing facilities; have fine personnel and management expertise; and can recruit physicians for communities that are having a hard time attracting doctors."

"We think the systemization provided by corporations is the way of the future," Thompson said. "It's a good thing for Americans and provides better health care for them. But it costs a lot of money."

Mr. KENNEDY. I hope to have the attention of the chairman of the Finance Committee and also the chairman of the subcommittee of the Finance Committee, both of whom have been extremely innovative in moving us toward real and effective cost controls, to hear out their views on this particular issue.

Mr. DOLE. Mr. President, let me suggest that I understand the point raised by the distinguished Senator from Massachusetts.

As he indicated, there is a cost saving of about \$300 million, when totally implemented.

Mr. KENNEDY. That is correct.

Mr. DOLE. There is a provision, of course, in the House bill, a 3-year provision, and I would guess we would have some flexibility in conference.

Certainly the Senator from Kansas is aware of the problem. In fact, the bill currently contains a provision that directs the Secretary to report back to the Congress within 18 months after the date of the enactment on the method by which all capital-related costs, such as return on net equity, can be included within the prospective payment system.

So I do not believe I have any basic disagreement with what the Senator from Massachusetts wants to accomplish. But I hope he might give us the opportunity to work this out in conference. The bill now provides the basis to fully address the problem.

I might also indicate I think the distinguished majority leader wanted to say a word on this, and maybe I could yield to the Senator from Minnesota while we are waiting for the majority leader.

Mr. DURENBERGER. I thank the chairman.

Mr. President, let me just add another dimension in the discussion of the issue, and compliment the Senator from Massachusetts for raising it.

First, perhaps by way of clarification of the issue, it is not necessarily a sweetener or a profit that is being added by this bill. It is a sweetener of sorts that has been present in the system since 1965.

As the Senator from Massachusetts indicates, this is probably an appropriate time as long as we are addressing capital from the standpoint of the way we reimburse, a very appropriate time to address the return on equity issue, and I agree with him on that.

We have a strong concern, and we have had a strong concern, about the whole issue of how and what role we play in financing the access of for-profit, not-for-profit, and Government hospitals to capital in this country. We have come a long way from the old Hill-Burton days, the tax-exempt days, to some relatively unpredictable future, and it is a time in which compensations and sweeteners and things such as that ought to get out of the picture.

I think in this medicare reform we are taking the first step in the direction of some discipline on the whole decisionmaking process because, in effect, we are addressing the hospital income area, and rather than saying to the hospitals, "Whatever you want to charge for a day in the hospital or for a particular procedure that is conducted in the hospital we are going to reimburse you for those costs," we are saying, "we are only going to reimburse so much money for each of 467 various types of diagnosis."

So right off the bat, the hospital corporations or the government units that operates these hospitals knows they can only make so much money on the front end for treating patients in the hospital. That is the first essential discipline in this process.

The second is to go back behind that and to look at the various ways, other ways, that capital needs are met. Funds can be raised through bank loans, stock sales, bond issuances, the sale of assets, acceptances of gifts, Government aid such as the Hill-Burton guarantees, tax-exempt bonds, and the return on equity, a whole variety of ways, and that is why—and I know the Senator from Massachusetts supports this—we made the decision that in 3 years we are going to blend capital costs into the prospective payment system.

That is why we want return on equity and all the other capital issues examined over the next 18 months with a report back to us by the first of the year in 1985 about what we ought to do about all of these issues as we prepare for that fourth year in this system in which we are no longer going to have these distinctions in the capital area.

So I say to the Senator from Massachusetts that I expect that I and many of us on the Finance Committee may ultimately end up supporting a phase-out of return on equity and other methods by which the Government finances capital costs associated with health care.

I would indicate, as the chairman has indicated, that we have been given the flexibility in conference to come to the ends that I think all of us would agree we need to come to.

Mr. BAKER. Mr. President, I thank the distinguished floor manager, the Senator from Kansas (Mr. DOLE) for yielding. I find myself in the not uncommon position of supporting the chairman of the Finance Committee in

his opposition to the amendment offered by the Senator from Massachusetts (Mr. KENNEDY).

This amendment, Mr. President, is similar to the language added by the House Ways and Means Committee. Quite simply, it would phase out compensation, under medicare, for return on equity to proprietary hospitals. The amendment does not, however, address any of the other costs of capital, such as interest on debt. Thus, passage of this amendment would greatly distort the means of capital formation toward incurring debt. I do not believe that it is good public policy, Mr. President, to effectively eliminate equity as a source of capital for hospital construction and modernization.

Furthermore, both the House-passed and Senate-reported bills contain a requirement for the Department of Health and Human Services to conduct a study on the role of compensation for all capital costs. I think that it is only proper that any changes in the present computations wait until that study is completed. At that time, we will be better able to evaluate the appropriate compensation for all types of debt through the medicare system.

Given these considerations, I would urge the Senator from Massachusetts to consider withdrawing his amendment, which I understand he is inclined to do. I would also urge the chairman of the Finance Committee to hold the Senate position in conference. I believe that it is premature to address the issue in this legislation.

Again, I thank the Senator from Kansas (Mr. DOLE) for yielding.

Mr. KENNEDY. Mr. President, as I had other discussions both with the chairman of the Finance Committee and the chairman of the subcommittee, I know they are aware of this issue.

This is an appropriate time to address it. The fact remains, as we have effectively phased out the whole planning process, we see an increasing number of proprietary hospitals with increasing capital expenditures. Once that capital investment is actually made, it remains then for the succeeding generations to end up paying for it. So this is an important time to act. I do think it is an important matter in terms of long-term savings. I welcome both the interest and the attention that the Senator from Minnesota and the chairman of the committee have given to it.

I hope that they would give additional attention in the conference with the House of Representatives on this issue. I am quite willing to see that matter considered in the conference. We will have an opportunity to review it down the line, in any event. But I certainly welcome the attitude and the disposition of the chairman of the committee and the chairman of the subcommittee.

With those assurances, Mr. President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

UP AMENDMENT NO. 91

Mr. KENNEDY. Mr. President, I have another amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Bradley amendment will continue to be set aside.

The clerk will report the amendment offered by the Senator from Massachusetts.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 91.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 215, after line 16 insert the following new subsection:

"(k) Section 1903(s)(3) of such Act is amended by—

(1) striking out "on July 1, 1981, and" in subparagraph (A),

(2) inserting "(i)" after "the Secretary" in subparagraph (D), and

(3) after "year" in subparagraph (D), striking the period and adding the following new clause:

"or (ii) in the case of programs established after January 1, 1983, is satisfied, based on assurances made by the State, that the annual rate of increase in aggregate hospital inpatient costs per capita or per admission (as defined by the Secretary) in the State during any subsequent calendar year will be at least two percentage points less than the annual rate of increase during that calendar year in such costs per capita or per admission for hospitals located in the States (excluding from such computation any State which has in effect a qualified hospital cost review program during that entire calendar year)."

Mr. KENNEDY. Mr. President, as my colleagues know, the Reconciliation Act reduced medicaid payments States are entitled to by 3 percent in fiscal year 1982, 4 percent in fiscal 1983, and 4.5 percent in fiscal year 1984.

States which had comprehensive hospital cost containment programs in place, July 1, 1981, were entitled to a 1-percent reduction in the reduction rate if they could demonstrate their rates of increase in hospital costs were 2 percent below the national average increase.

Only seven States—Connecticut, Massachusetts, Maryland, New Jersey, New York, Rhode Island and Washington—met the deadline—had programs in place on July 1, 1981.

These seven States will get a 3½ percent reduction in their medicaid payment next year. Every other State in

the country will have its payment reduced by 4½ percent—even if it has adopted a cost-containment program.

And the West Virginia Legislature last week adopted a cost-containment program. West Virginia, however, because it did not have a program in place in the summer of 1981 will not qualify for the bonus point.

My amendment would correct this inequity by removing the requirement that the State program be established by July 1, 1981. Under my amendment, any State that enacts a qualified hospital cost review program and can satisfy the Secretary that its program will reduce the rate of increase in hospital costs at least 2 percent below the national average would receive the 1 percent reduction.

Mr. President, runaway health costs are bankrupting our business and industry, disrupting Federal, State, and local budgets, and imperiling the security of our senior citizens. No American is immune from the ravages of health inflation, but its impact is harshest on the most vulnerable in our society—the young and the old, the sick and the poor, and the struggling family trying to make ends meet.

For too long the Congress and the executive branch have failed to show the leadership necessary to tackle this critical question. We have slashed away at the rate of increase in Medicare and Medicaid—not by making fundamental changes in the health care system—but by shifting those costs—dollar for dollar—to the elderly, the sick, and the working American. Rampant inflation in health care costs continues unabated.

While we have failed to face head on the need to control health care expenditures, a number of States have taken the initiative and developed all payor prospective payment systems. They recognized that only by including all payors, could they finally protect their citizens against uncontrolled health inflation.

If we cannot bring ourselves to put the reins of spiralling health care costs, we must do all we can to encourage States to develop effective all payor cost-containment systems.

The legislation before us today would permit States to run their own Medicare programs if they adopt all payor hospital cost control systems that will not result in greater Medicare expenditures.

Those seven States that beat the statutory deadline will have an unfair break—they can opt out of the Federal Medicare program, run their own all payor program and get a break on their Medicaid payment. My amendment would give every State an incentive to move to establishing their own systems by giving them a slightly smaller reduction in their Medicaid payment. It would recognize the move West Virginia has made in adopting an all payor cost-containment system. The incentive is admittedly modest—CBO estimates that it would return to

the State less than 15 percent of the savings that accrue to the Federal Government from the State program. The benefits to our national health care system are potentially enormous.

Mr. President, this amendment is really quite simple. What we are trying to do is encourage States to take action in the area of cost containment. We have seen a number of States that have effective cost containment programs, including my own State of Massachusetts, and also maintain a program that assures quality health care.

The increases, for example, in hospital costs in the States that have had effective cost containment have been significantly below those that have not had cost containment. In the current legislation, we have provided a financial incentive to the States that have taken that action by providing an additional point of matching payment under the Medicaid program. This has served as a financial inducement for those States which have an effective cost containment program.

This amendment would offer that same opportunity to other States that, in their own wisdom, make the decision to move toward cost containment. It is an encouragement to those States to move in that direction.

I think if it was totally implemented, if all the States had a cost containment program, it would cost \$150 million, but the savings would be in the billions of dollars.

So what we are trying to do with this particular proposal is apply that encouragement to the States in the future that adopt cost containment programs as we have for the States that have already enacted it.

It seems to me, Mr. President, it is only fair. It does again, address the issue of trying to limit the very substantial escalation of health care costs, which now are three times the rate of inflation.

I am mindful, Mr. President, that, for example, West Virginia last week adopted a cost containment program. West Virginia, however, because it did not have a program in place in the summer of 1981, would not qualify for the bonus point. This amendment would basically correct this inequity by removing the requirement that the State program be established by July of 1981.

Clearly, any State that implements an effective cost containment program is going to be saving the Treasury tens of millions, probably hundreds of millions of dollars. Over the period of years, this amount would come up into the billions.

So I hope, Mr. President, that we would try to encourage the States. This is a very modest program, but it does seem to provide some carrot to the States if they will move toward an effective cost containment program. It seems to me those States ought to be treated equally with those States that have already adopted the program.

Mr. DURENBERGER. Mr. President, there is on its face, I imagine, a certain logic to the Senator's amendment. As he pointed out, in the agreement that was reached during consideration of the 1981 Reconciliation Act, there was a provision for certain States to offset their Medicaid reductions and that applied to States that already had waivers from the program. So I suppose you could see some logic in saying that anybody else who gets a waiver in the future ought to qualify.

However, we have considered this at some length. Unfortunately, for the case of the Senator from Massachusetts, we have come to several different conclusions from those that he has come to.

First, it is our feeling that this whole discussion belongs much more appropriately in the consideration of the Medicaid budget process, which we will have before us in the coming months, rather than in the context of Medicare reimbursement.

Second—and this was discussed at some length during the course of our 1981 discussion and it is something that we are trying to provide more of, so to speak—the State here have a lot of incentives to establish rate-setting systems if they desire to do so. It really is a question of, do you need to give them more incentives or not? The fact of the matter is there are plenty of incentives out there right now.

So the position here is, very simply, why should we reduce Federal savings from this program in order to encourage the States to do something that already makes good sense in and of itself?

The bill that we are discussing, and which it is the intention of the Senator from Massachusetts to amend, goes another step further in the area of flexibility, because it provides opportunities for States which had desired to establish rate-setting systems to do so and it sets out some ground rules for doing it. But, in effect, it is an encouragement to States, such as the State the Senator represents and others, to go ahead with their rate-setting systems or to establish new rate-setting systems.

I suppose the bottom line on it, Mr. President, also, is the fact that accepting this amendment would result in a cost to the Federal Government of at least \$57 million in fiscal year 1984 and a cost of as much as \$160 million in the future.

It is our judgment that the States are going to do these things without the \$57 million or the \$160 million, so why should we forego that kind of saving?

I would say to the Senator from Massachusetts that the whole issue of Medicaid and the Federal role in that process is one that this Senator at least is deeply concerned about. We plan to schedule a series of hearings this summer on that subject.

We acknowledge the fact that at the State, local, and community levels the savings as well as the quality can be best preserved. We do not know how to do that end of it all that well, but we need to find for us the national commitment to the needy in this country in the health care system. It is through that hearing process that we intend to start in late spring and early summer that we hope to find the most appropriate answer where you can get the quality, you can get the accessibility, and you can also get the savings at the State and local levels while we provide that necessary financial commitment to every person in this country so that they do not have to vote with their feet in order to find health care in America.

I can certainly make that commitment to the Senator from Massachusetts, that the issue that he is trying to resolve here hopefully we can resolve with the help of the States through this process of defining our role versus the States' role in providing health care to the needy.

I would encourage the Senator to consider those arguments and, if he can find it within his heart to do so, to withdraw the amendment.

Mr. KENNEDY. Mr. President, I gather from the response of the Senator from Minnesota he is not prepared to indicate support for the concept even when we consider the Medicaid later this year. If he would accept it at that particular time, I would be willing to see us delay. I do think this is an appropriate vehicle because this legislation has very significant provisions in it to encourage States to move toward cost containment.

The judgment of the Congress in 1981 was that if States have a cost containment program, it will yield savings not only to Medicaid but to Medicare and all hospital payers. They do not get this real incentive unless they hold the rate of growth below the national average. So they repay many times over in terms of savings to the Federal Government. It does seem to me that if it made sense in 1981 in terms of equity it would make sense now.

If it is a question about the vehicle, I am glad to wait until we consider it later on. If it is a question of the concept, I am prepared to move now.

Mr. DURENBERGER. Let me say in response to that, that from a personal standpoint it may be a combination. I suspect if we discuss our differences in concept on the right vehicle, this Senator might be more susceptible to the arguments being made by the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I do think that the reason for this proposal is really quite compelling.

I am grateful for the openness of the Senator from Minnesota, but I would just as soon let the Senate have an opportunity to speak on this issue. I am prepared to move to a vote.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Indiana (Mr. QUAYLE) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent due to an illness in the family.

Mr. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. HATFIELD). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 28, nays 64, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—28

| | | |
|----------|------------|----------|
| Bentsen | Huddleston | Mitchell |
| Bingaman | Inouye | Moynihan |
| Bradley | Jackson | Nunn |
| Burdick | Kennedy | Pell |
| Byrd | Lautenberg | Randolph |
| Chiles | Leahy | Riegle |
| Dodd | Levin | Sarbanes |
| Eagleton | Matsunaga | Tsongas |
| Ford | Melcher | |
| Glenn | Metzenbaum | |

NAYS—64

| | | |
|-------------|------------|----------|
| Abdnor | Grassley | Pressler |
| Andrews | Hatch | Proxmire |
| Armstrong | Hatfield | Pryor |
| Baker | Hawkins | Roth |
| Baucus | Hecht | Rudman |
| Boren | Heflin | Sasser |
| Boschwitz | Heinz | Simpson |
| Chafee | Helms | Specter |
| Cochran | Humphrey | Stafford |
| Cohen | Jepson | Stennis |
| D'Amato | Johnston | Stevens |
| Danforth | Kassebaum | Symms |
| DeConcini | Kasten | Thurmond |
| Denton | Laxalt | Tower |
| Dixon | Long | Trible |
| Dole | Lugar | Wallop |
| Domenici | Mattlingly | Warner |
| Durenberger | McClure | Welcker |
| East | Murkowski | Wilson |
| Exon | Nickles | Zorinsky |
| Garn | Packwood | |
| Gorton | Percy | |

NOT VOTING—8

| | | |
|----------|-----------|---------|
| Biden | Goldwater | Mathias |
| Bumpers | Hart | Quayle |
| Cranston | Hollings | |

So Mr. KENNEDY's amendment (UP No. 91) was rejected.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New Jersey.

Mr. DOLE. Mr. President, I ask unanimous consent that it be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 92

(Purpose: To provide that benefits no longer be paid to aliens not authorized by law to live and work in the United States)

Mr. NICKLES. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself, Mr. MELCHER, Mr. BOREN, Mr. EAST, Mrs. HAWKINS, Mr. BOSCHWITZ, Mr. ABDNOR, Mr. ARMSTRONG, Mr. GOLDWATER, Mr. BURDICK, Mr. WARNER, Mr. PRESSLER, Mr. MATTINGLY, Mr. GRASSLEY, and Mr. HUMPHREY, proposes an unprinted amendment numbered 92.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

DISALLOWANCE OF BENEFITS NOT AUTHORIZED TO WORK IN THE UNITED STATES

SEC. . Title II of the Social Security Act is amended by adding at the end thereof the following section:

"§ 234. Prohibition of benefits to illegal aliens

"Notwithstanding any other provisions of this title—

"(a) An individual can only receive benefits if, at the time such individual files his or her claim for benefits, such individual can show that he or she—

"(1) is a U.S. citizen, or
 "(2) was once a U.S. citizen but had voluntarily relinquished such status, or
 "(3) is an alien who been legally admitted to work, or

"(4) was once an alien who was legally admitted to work but had voluntarily relinquished such status.

"(b) Subsection (a) applies only with respect to individuals who first become eligible for benefits after December, 1983."

SUSPENSION OF BENEFITS TO ILLEGAL ALIENS

SEC. . (a) Section 202(n) of the Social Security Act is amended by adding at the end thereof:

"(3) Notwithstanding any other provisions of this title, no monthly benefit under this section or section 223 of such Act shall be paid:

"(A) to an individual for any months for which the Attorney General notifies the Secretary that such individual is subject to—

"(i) a final order of exclusion entered under 8 USC 1226, or

"(ii) a final order of departure entered under 8 USC 1252, or

"(iii) a voluntary departure in lieu of deportation under 8 USC 1254(e); and

"(B) on the basis of wages or self-employment income which were earned by an individual during any period for which the Attorney General furnishes information suffi-

cient for the Secretary to determine that such individual is not legally permitted to work in the United States."

(b) The amendment made by this section shall be effective with respect to monthly benefits payable for months after December 1984. Nothing in this section shall prohibit current enforcement measures.

Mr. NICKLES. Mr. President, the amendment that I have sent to the desk would stop social security benefits from going to aliens who have worked illegally in this country. Joining me as cosponsors are: Senators MELCHER, BOREN, EAST, HAWKINS, BOSCHWITZ, ABDNOR, ARMSTRONG, GOLDWATER, BURDICK, WARNER, PRESSLER, MATTINGLY, GRASSLEY, HUMPHREY, RANDOLPH, HEFLIN, THURMOND, and JEPSEN.

Mr. President, the amendment I offer today is simple. First, it would allow the Social Security Administration to not pay benefits to any alien who the Immigration and Naturalization Service says is living or working in the United States illegally.

The second provision would work in a prospective manner. It would provide that those persons who are applying for social security benefits can only receive benefits if they are either a United States citizen or an alien who is living in this country legally.

As my colleagues know, it is currently unlawful for aliens to enter or work in the United States without the express permission of the United States Government. Unfortunately, present law with regard to social security do not reinforce this prohibition against illegal aliens working in this country.

Under current social security eligibility criteria, an alien who is living or working in this country illegally can earn and receive social security benefits.

I hope my colleagues will review the GAO report which is to be published soon with estimates on the number of aliens who are receiving social security benefits illegally.

In this report the GAO calculates that between 200,000 and 500,000 aliens may be receiving benefits up to as much as \$2.4 billion per year illegally. Obviously, these figures are, at best, a rough estimate since there is really no exact way of knowing how many aliens are living in this country and working in this country illegally.

I think that the main point is that our laws are not currently working together. We prohibit aliens from entering our country unless they have the Government's permission, but then we turn around and support those aliens that break immigration laws with social security benefits.

The amendment that I and 18 of my colleagues offer today would correct that inconsistency in the following manner.

First, those persons who are applying for social security benefits would have to fall into one of the following categories:

First, a U.S. citizen.

Second, a former U.S. citizen who voluntarily gave up their citizenship and left the country.

Third, an alien who has been legally admitted to work in this country, either initially or through amnesty.

Fourth, an alien who was formerly living and working in this country legally but has since left the country.

In addition, the amendment would allow SSA and INS to share information on those aliens who are found by INS to have been living or working here illegally. This insures that these illegal aliens do not receive social security benefits once they have been deported or have voluntarily left the country. The effective date on this second provision is January 1985, although current enforcement measures that INS and SSA are involved in are to continue. The reason for the effective date being 2 years away is that this is when SSA and INS will have the computer capabilities to cross check cases in a more complete manner than is currently being done.

I urge my colleagues to support this measure. Perhaps no other change that we have contemplated for social security has the unanimous support which this one does. Although it is a small measure, I believe that this is an important one for restoring confidence in Congress ability and willingness to make commonsense changes in the laws which govern Americans.

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I yield.

Mr. BRADLEY. Did the Senator vote for the immigration bill that was reported by the Senate last year?

Mr. NICKLES. The Senator is correct.

Mr. BRADLEY. In that bill was a provision that forgave those people who were in the United States illegally until the time that bill was passed. Can the Senator tell me what would be the effect on these people if the legislation was again passed and adopted? They are presently illegal immigrants in the country. In some cases, most probably they are getting social security benefits or building up credits. What will happen to them under the provisions of the Senator's amendment?

Mr. NICKLES. To respond the Senator's question, under our amendment, an individual can only receive benefits if at the time the individual files for his claim, such individual can show he is either a citizen or in this country legally. If Congress passes legislation providing amnesty, then they would be entitled to receive benefits.

Mr. BRADLEY. When they file for the benefits—meaning when they reach age 65 or when they are disabled or reach 62? Is that the intention?

Mr. NICKLES. The Senator is correct.

Mr. BRADLEY. When the Senator says "filed for those benefits," does that mean receive those benefits, or does that mean when they have stated

that they were eligible to receive social security benefits, even though at that time they were illegal immigrants?

Mr. NICKLES. If at the time they filed, they were either American citizens or in this country legally, they would receive those benefits.

Mr. BRADLEY. What does the word "filed" mean?

Mr. NICKLES. When they make application to receive social security.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. NICKLES. I yield.

Mr. MOYNIHAN. Will the Senator clarify his view? The Simpson-Mazzoli legislation, which we adopted last year, granted amnesty to a large body of persons—we do not know precisely how many, but we have reasonable estimates—who would be allowed to remain in the United States. I do not recall that they were granted citizenship.

Mr. NICKLES. The second part of my amendment would cover the question of the Senator from New York. When it states:

*** or is an alien who has been legally admitted to work, or was once an alien who was legally admitted to work but had voluntarily relinquished such status.

If they were legal at the time of application, then they would be entitled to receive social security. If they were classified as illegal, they would not receive benefits.

Mr. MOYNIHAN. Is it the Senator's intention that a person who was covered by the amnesty provisions of the legislation adopted last year would thereupon become a legal alien, legally admitted?

Mr. NICKLES. If that is what Congress should pass in the immigration bill, then those aliens would be legally entitled to receive the benefits under this amendment.

Mr. MOYNIHAN. They cannot have been legally admitted. Has the Senator's proposal provided for these persons? The purpose of the Senate was to allow the people to remain in the United States and to continue working and legalize their status. But it cannot legalize their entry. They entered at a past time.

Mr. NICKLES. If they are living in the United States legally, then they can receive benefits.

Mr. MOYNIHAN. I see.

Mr. NICKLES. I appreciate the Senator's questions.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. NICKLES. I yield.

Mr. METZENBAUM. Let us assume the case of an alien who came here 30 years ago and has been working ever since and has been a good citizen in the community but never became a citizen, never really gained any legal status. Now it comes time for that individual to apply for social security benefits. Under the Senator's amendment, would that individual, who had

been paying his taxes for 30 years, be deprived of social security benefits?

Mr. NICKLES. Let me make sure I understand. Did the Senator say that the person was working illegally in the country for 30 years?

Mr. METZENBAUM. No; it would not be illegal. The person had been working in the country for 30 years. I do not think that during that period he would have been violating any laws for having worked, and he had been under social security rules. Nobody had raised any question with him. He was just one of those persons who had not seen fit to take out citizenship papers. Maybe he even served in the war. What happens? He is now 65 years of age. Do we say to him, "You can't have your benefits because one afternoon, on the floor of the U.S. Senate, the Senate adopted an amendment, and you had no knowledge of it and most other people did"? Suddenly, he or she is without social security benefits.

Mr. NICKLES. I think the question can be answered.

The Immigration and Nationality Act provides that if a person is not a U.S. citizen, then in order for an alien to work in the United States they actually have to receive from the Department of Labor, a green card. If an alien has this card or other documents stating his or her legal status in this country, then they would receive the benefits.

However, if they were working in the United States, under the example of the Senator from Ohio, for 30 years, with a suspect or a false social security card and under false circumstances, they would not receive benefits.

Mr. METZENBAUM. If they had not received that green card, even if their entry had been illegal, but it would not be possible under some circumstances to get a green card making it possible for them to work.

Mr. NICKLES. If they received the green card, that is the Department of Labor saying it is legal for them to work, then they would be qualified to receive benefits. Even if they had not worked legally but worked illegally for 30 years and the amnesty provisions were passed, they would receive benefits.

Mr. BRADLEY. Mr. President, let me try to be specific with the general question I asked earlier.

Let us assume someone has been in the United States working illegally, as an illegal immigrant, for 3 years. The Simpson-Mazzoli bill is passed and provides amnesty for that category of worker.

Under the Senator's amendment, would that worker be eligible for social security benefits that were accrued during those 3 years that he or she was an illegal immigrant?

Mr. NICKLES. The Senator is correct. They would receive those benefits.

Mr. BRADLEY. The Senator alluded to a GAO study. Could the Senator

tell me when that GAO study was published?

Mr. NICKLES. I mention in my statement that that report is in the process of being published. It is expected to be released at the end of March.

Mr. BRADLEY. And the Senator has obtained the information from the GAO as to what is in the study prior to its release?

Mr. NICKLES. That is correct. There is a draft report that has been circulated which I would be happy to give to the Senator.

As a matter of fact, I ask unanimous consent to have printed in the RECORD the report with my comments.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. BRADLEY. How many illegal immigrants did the GAO study state were now receiving social security benefits?

Mr. NICKLES. The report provides only rough estimates, based on a number of studies which have been done. Estimates range from 1 million to 12 million, the most accepted range being 3.5 to 6 million.

Mr. BRADLEY. The Senator used some number \$2.4 billion. What is that related to?

Mr. NICKLES. That was a figure which GAO arrived at by calculating the annual cost to the trust fund if 25 percent of the illegal aliens working in this country were to receive social security.

Mr. BRADLEY. So, according to this GAO report, which will be published and preliminary information the Senator has, if there are anywhere from 1 million to 12 million illegal immigrants in the country and anywhere between 25 percent of 3 million to 5 million of those illegal immigrants are now receiving social security benefits, to the level of \$2.4 billion, is that what the Senator is asserting?

Mr. NICKLES. Yes, Senator. GAO came up with estimates and said that if 10 percent become vested which is probably a minimal number, about \$900 million in benefits would be going out annually, and if 25 percent were becoming vested, it could be as much as \$2.4 billion.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. MOYNIHAN. Let me put two questions if I may.

First, we have not seen this GAO report which evidently says they cannot prove what they do not know, but they can maybe. But is the Senator aware that the Inspector General of Social Security recently ran a random sample of 80,000 social security checks and found 2 to be irregular? Out of 80,000, 2, which really would be a remarkable performance for any large system. And I do not know but just from what we know from the Inspector General that does not seem to jibe with what we hear

that we are going to hear from the GAO. I just make that point. I do not want to go beyond that.

But the distinguished author of the immigration legislation that we adopted last year is in the Chamber, and the Senator from Wyoming might wish to comment.

Do I understand that if the legislation granting amnesty were not to pass, then we would be denying social security to a large number of persons who have worked and earned it? We have proposed amnesty, but if it somehow just did not happen, as it did not happen last time, would they be denied that?

Mr. NICKLES. If a person applies for social security, then they would have to say, "Yes, I am a U.S. citizen," or "I worked legally in the United States," one or the other.

Second, we would allow Immigration to contact the Social Security Administration when they find someone who is working illegally in the country so that they could stop payments to them. Present law does this, when illegal aliens are deported.

When Immigration notifies Social Security and says "We are deporting an individual, he has been working in the United States illegally," then social security stops his benefits. That is present law. However present law also provides that if Immigration contacts Social Security and says, "We found this alien working illegally," and that alien leaves the country voluntarily, then that illegal alien can continue to receive benefits even though he worked in the United States illegally.

It is a large loophole through which a large percentage of illegal aliens can receive or continue to receive benefits. I might add, according to this GAO study, the volume of benefits received versus the dollars contributed by aliens is enormous, basically because an individual contributes for a relatively short period of time.

Mr. MOYNIHAN. That is because of automatic raises in the system.

Mr. NICKLES. No; that is because the alien works only half as long as an American beneficiary and then returns to his home country, where additional dependents are added who collect benefits for a long period of time. The ratio is about \$23 received in benefits for every dollar contributed into the system. It is quite a drain on the social security system.

Mr. MOYNIHAN. I wish to see the GAO report.

May I say to my friend from Oklahoma that the distinguished Senator from Wyoming is in the Chamber. I hope he can speak to this matter before our debate concludes.

Mr. GORTON. Mr. President, will the Senator yield?

Mr. CHAFEE. Mr. president, will the Senator yield?

Mr. NICKLES. I am happy to yield to the Senator from Washington.

Mr. GORTON. Mr. President, I have a question which is in the same general area as the question of the Senator from New York. I did wish to inquire about the relationship between the Senator's amendment and the bill sponsored by the distinguished Senator from Wyoming which, of course, would grant legal status, eventually citizenship, to a large number of people who are now illegal aliens.

Do I correctly understand this amendment, to the extent that any such person is granted permanent resident status in the United States and/or becomes a citizen, that person would be entitled to the entire social security benefits which all of his or her employment has earned even though some of that employment took place during a time in which the immigrant was illegal? That is to say, is it true that this amendment speaks only to one's status at the time when one applies for benefits? If you are legal when you apply for benefits, you get everything that you have contributed?

Mr. NICKLES. The Senator is correct.

As I mentioned earlier to a similar question, the amendment says that an individual can only receive benefits if at the time the individual files for benefits, he or she is either a U.S. citizen or is legally living in the United States.

Mr. GORTON. But once they have made that showing, their benefits are based on their entire work experience, even that during the time in which they were illegal?

Mr. NICKLES. The Senator is correct.

Mr. GORTON. I thank the Senator.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, in responding to the distinguished Senator from Washington, the Senator from Oklahoma said that the status will be determined at the time they apply and show their citizenship. I have a problem because I do not know whether we can devise any acceptable procedures to carry this amendment out.

Those applying for benefits would be required to show proof of citizenship or legal alien status, which was the question that the Senator from Washington just addressed.

Unfortunately, Senator, there is no system for doing that. Existing immigration documents are not adequate. Immigration kits now exist, which consist of forged documents. Social security personnel are going to pass judgment on who is and who is not a legal alien. Frankly, coming from a State which has a very large percentage of Hispanics and which is on the border, I am very disturbed about how we are going to devise a system that does not have Hispanics who apply, run

through some special kind of check to see if they are citizens or not.

Mr. NICKLES. It is really not as complicated as it may appear. Applicants will either show that they are American citizens or that they are legally in this country. That would take care of your concerns, would it not?

Mr. DOMENICI. No, it would not. What do you make beneficiaries do now if they are applying? What do you make them do to show proof if they are entitled now? They do not have to produce an American citizenship document; they have an earnings record and a social security card.

Mr. NICKLES. That is part of the problem. There is no control. Criteria for receiving social security benefits do not include legal status in this country. The social security system we have was designed to benefit American workers primarily or persons working legally in the United States. Many beneficiaries do not fall into either one of these categories and they are receiving a sum of dollars draining the system.

A person coming into the United States has to receive from the Department of Labor a permit to work in this country, showing they are working legally in the United States. This can be shown as viable proof of legal status for benefits. I am not saying that what we have is perfect. But, what we can do is eliminate a lot of the benefits that are going to individuals who are leaving the country after having been found to be illegally in the country. Now, when Immigration finds them, they leave, but under law continue to receive benefits.

Mr. DOMENICI. Then you are saying that basically you do not know precisely what procedures are going to be used, and you do not have one presently on the books. Who is going to devise it?

Mr. NICKLES. We have talked to and worked with the Legal Counsel of INS. We have worked with the Social Security Administration, both of which are supportive of our efforts.

Our original legislation has been refined so that it can be done administratively by the appropriate Departments. We have coordinated with both INS and with SSA to come up with something that would give the needed flexibility.

I might add that the second part of our amendment only assures that SSA has the proper authority and mandate to stop benefits which might go to aliens who have been found to be living and/or working in the country illegally.

The effective date on this provision is after December 1984 because Immigration has requested adequate time to get their computer system ready for this kind of cross-check.

We also put in a provision which says, "Nothing in this section shall prohibit current enforcement measures," because we did not want to stop SSA of INS in their current activities

to stop benefits when an alien is deported.

Mr. DOMENICI. But that only addresses the issue of Immigration sending evidence to Social Security. My question has to do with proof of citizenship up front. Are you changing that from current law? You just described how you might get stricken from the rolls if INS advises that they have somebody on the rolls who is illegal. My question has to do with qualifying from the beginning, not how you get taken off. Are you changing the requirements up front? For example, somebody is going in now and applying: Are you changing the law as to what they must use as proof that they are entitled to social security?

Mr. NICKLES. That is the first section of our amendment, Senator.

Mr. DOMENICI. You are changing the law.

Mr. NICKLES. Yes. We are saying that a person cannot receive benefits unless he is an American citizen or is living in the United States, legally. This is the prospective portion.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. MELCHER. As one of the co-sponsors of this amendment, let me say that the intent is not to create a barrier that might be envisioned by some of the questions asked by individual Senators, but to create the mechanism of showing that those who are not citizens have either derived their jobs by way of the blue card or the green card, that is the green card from Immigration that it is OK to try to stay and receive a job or the blue card from the Department of Labor authorizing them to be able to work in a certain position.

It is an attempt, the amendment simply attempts, to close the drain off of social security for those who have not complied. It does not, I do not believe, attempt in any way to or create a restriction for somebody who was not a citizen but who legally worked in the country, had a job and diligently performed that work for years. There is nothing to prevent that individual from receiving benefits.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I would be happy to yield for a question.

Mr. CHAFEE. I appreciate the sentiment in which this amendment has been offered by the Senator from Oklahoma, who has been concerned and has given a lot of attention to these matters, and justifiably so.

Let me just say about the amendment that this is the type of amendment that if squared away completely, if we had hearings on it, if we completely understood it and the concerns that have been voiced here on the floor were taken care of, this is the type of amendment that would pass. In other words, I do not think it is nec-

essary to have this amendment attached to the social security bill in order to have it passed. It could be deferred, and we would have a chance to review it and have hearings on it in the Finance Committee, and then come up, after careful consideration, and take care of the problems that were voiced on the floor.

But let me just say to the Senator from Oklahoma this whole area is fraught with difficulties.

I am amazed that the Commissioner wrote the Senator this letter on March 18, because the Commissioner appeared before our committee on a simpler matter; namely, the payment of benefits to legal aliens. In this legislation that is before us on the floor, it provides that legal aliens who return overseas, in other words do not remain residents in the United States, can only collect for benefits what they have put into the fund plus interest. In other words, they cannot even collect the employer's contribution.

Mr. Svahn was present when we were considering this and certainly did not take a position in favor of it. He voiced some concerns about the administrative problems. But the administrative problems that are involved in the Senator's amendment are far more difficult.

It seems to me, if we should adopt the Senator's amendment on the floor today, which I hope we will not and I hope the Senator will not press it, we are going to cause, I think, considerable hardship and unfairness to a host of people who are unable to prove certain facts going into the distant past.

It is a fact there has never been a hearing in the Finance Committee or, I believe, in the House Ways and Means Committee—and I cannot testify to that—on this matter. As a matter of fact, when this came up before the Ways and Means Committee, it was deferred on the insistence or the urging of Mr. PICKLE because there had not been hearings on this matter. So it is not in the House bill.

In the Senate bill it was brought up and many of us felt—we are dealing solely with legal aliens and the payment to them overseas—and many of us felt that it was improper to proceed without more consideration with the difficulties involved.

Now the Senator is coming forward on the floor of the Senate with this amendment which, as has been pointed out with various arguments—and I am anxious to hear what the Senator from Wyoming, who has worked long hours on this in connection with his immigration measure, has to say. Here out of the blue comes this measure. I think we are going to do great hardship to a host of potential beneficiaries.

Let me also say this: Never before, as I understand it, in the social security system, have we provided that those who pay in do not get their benefits. But that may be right. Perhaps it is correct. Perhaps in this group of il-

legal aliens, I cannot see that you make any provisions for those who come in illegally who subsequently become legal. But set that aside, maybe we want to take that step. But I think it is a step we ought to only take after careful consideration and hearings on it.

It may well come out the way the Senator wants or a slight variation, but this is the type of amendment that can be considered separate from this bill and will certainly have a good deal of attention and I believe support normally from this body.

So I hope the Senator will not press his amendment.

(Mr. DURENBERGER assumed the chair.)

Mr. MITCHELL. Will the Senator yield for a comment on the point just made?

Mr. NICKLES. I will be happy to yield the floor unless the Senator has a question to me.

Mr. MITCHELL. I will put it in the form of a question.

As the Senator from Rhode Island indicated, the committee dealt with the problem of noncitizens who are not residents receiving social security benefits. In this legislation now pending before the Senate is a provision that limits the benefits paid to aliens who are not residents of the United States to the amount that they paid into the system plus interest. It is, I believe, applicable to aliens who were in this country legally or illegally. There is no distinction between them. Therefore, that provision already in the legislation appears to take care of the principal concern expressed by the Senator from Oklahoma of an illegal alien who is discovered by the Immigration Service and is ordered to leave the country and subsequently leaves—and the Senator has expressed a legitimate concern—and then, going back to the country of origin, receives benefits the same as other social security beneficiaries which generally results in a return far greater than the amount of taxes paid.

I ask the Senator: Since that concern is already addressed in the legislation, is there any other reason to pursue this particular amendment? As I understood it, that was the Senator's principal concern in response to the questions raised here today.

Mr. NICKLES. I appreciate the Senator's question. The Lugar amendment, which passed and which I co-sponsored, did curb the amount of benefits. There has been a growth of benefits in some cases for those who were living abroad and receiving social security. I supported provisions to curb that growth. However, those were persons who were legally working in the United States.

Our amendment addresses those who are working illegally in the United States and who Immigration has deported.

What we are trying to do is say that if Immigration finds a person working

illegally, then they would lose their benefits.

The other aspect of our bill, the prospective part, I think is much greater and more important. It insures that this abuse does not happen in the future. In other words, if a alien is working illegally in the United States, they probably would not even apply for social security because they would say, "Wait a minute, I am going to have to show I was legally working in the United States."

Mr. MITCHELL. I would say it is my understanding—and I think it ought to be checked—that the provisions in the bill now do not distinguish between aliens who work legally and those who work illegally in this country, but rather the only distinguishing factor is whether or not the beneficiary is an alien and no longer resides in this country; that is, the distinction that the Senator has suggested between the provisions in the bill and his amendment do not, according to my understanding, in fact, exist in the bill. I think that ought to be checked. Obviously, if I am incorrect I will stand corrected.

But I was involved in the committee discussions, as was the Senator from Iowa, who was present at the time, and I do not recall any mention being made of limiting the provision now in the bill only to those aliens who had been legally in the country. Rather, the only distinguishing factors are whether or not they are aliens and whether or not they are no longer residents of this country.

If that is so, then it seems to me that the principal reason for the amendment of the Senator from Oklahoma no longer exists if this other provision remains in the bill.

Mr. NICKLES. Let me explain a little bit further. There is a reason for this legislation to exist. Again, I compliment the work that the Finance Committee has done in adopting the Lugar amendment—the existing language that is in the bill that is before us.

However, we would go a step further. Our amendment would say right now that when Immigration finds a person who is working illegally, they will notify the Social Security Administration and say, "This person is working illegally and should not be entitled to receive benefits." We make that prospective. It gives them plenty of time to coordinate their computers. The amendment tells Immigration to work with Social Security. And, by January 1, 1985, the two agencies would be able to coordinate their efforts on this matter.

Let me go into this a little further. Currently, an alien can receive a social security card. They receive it for purposes that they type on the card, not for work purposes, but they can use it for credit cards, et cetera. However, Social Security has found that people use this social security card, even

though they are not entitled to work legally in the United States, to earn and receive social security benefits. Now Social Security will be able to coordinate better with Immigration and say, "We have a person working illegally in the United States," and they can contact SSA.

Mr. MITCHELL. I understand what the Senator is saying, that he wishes to extend the limitation on benefits to aliens who remain in this country based upon what their alien status is, whether they are legal or illegal. All I am saying is that the argument that the Senator has been using this afternoon in response to questions—that is, that we have to close this loophole that exists because when illegal aliens are discovered they then leave and go back to their countries and continue to receive benefits—is not a valid argument because that loophole is already closed in the provisions in the bill.

You have other reasons, and I understand that. The Senator wants to go beyond the bill.

All I am saying is that it does not seem to be a valid excuse as an argument for your amendment to choose a loophole that is already closed in the bill.

Mr. NICKLES. If I can go further, Immigration can find someone working illegally, and can contact Social Security. Presently, however, Social Security would keep sending out checks if the individuals did not leave the country. Those checks would still be received.

Mr. LEVIN. Would the Senator yield for a question?

Mr. NICKLES. I am glad to yield.

Mr. LEVIN. If at the time a person applies for benefits they are here legally, and at the time they worked they were not here legally, would they receive benefits?

Mr. NICKLES. The answer to your question, Senator, is yes.

Mr. LEVIN. The amendment says the individual can receive benefits if at the time they can show that they are an alien who has been legally admitted to work. Under my hypothesis, the person had never been legally admitted to work but had always been illegal during that work time, now they are a legal resident though not a citizen.

Mr. NICKLES. The answer to your question is if they were not working and are not currently legally in the country, then, no, they would not.

Mr. LEVIN. The Senator is saying that he would deny benefits to persons who are legal residents of the United States who contributed to the social security fund, perhaps for 30 years, because they were not legal when they contributed even though they are legal when they apply?

Mr. NICKLES. We mention one of two things: If they are U.S. citizens or if they worked legally. I see where the Senator is trying to crowd somebody in between those two things, but I do not see it as a likelihood.

Mr. LEVIN. I think it is very likely to work for 30 years and build up an account with the social security system. They then may very well want to become legal residents of this country so they could receive benefits to which they thought they were entitled.

For legislative history, however, this amendment would not permit benefits to persons who were legal at the time they apply if they were not legal at the time they worked?

Mr. NICKLES. Again, I think the Senator is not interpreting my amendment correctly. If they were U.S. citizens or if they have legally been admitted to work, then they would receive benefits. The Senator is saying that they were not legal when they worked, that they worked 30 years illegally and 2 days later they applied for social security after they had become legal. If legal means they have American citizenship or have been granted amnesty or something other than American citizenship, then I intend that they would be able to apply for and receive benefits.

Mr. LEVIN. But that could be 5 or 10 years after their work life has been completed. They are now here legally but for the 20 or 30 years that they worked they were here illegally.

Under this amendment, somebody who is legally a resident of the United States could be prohibited and would be prohibited from receiving benefits if at the time they worked in the United States they were here illegally.

Mr. NICKLES. No, I do not think that is the case. Maybe this will help clarify the record, however.

Mr. LEVIN. One other question: I understand the Social Security Administration will accept money from people who are here illegally.

Mr. NICKLES. The Social Security Administration right now has no criteria for citizenship, legal or illegal.

Mr. LEVIN. So they do accept money from people who are here illegally.

Mr. NICKLES. The Senator is correct.

Mr. LEVIN. Under this amendment, even though they accept money from folks who are here illegally they will not pay out any money unless they became citizens or became legal before they retire.

Mr. NICKLES. The Senator is correct.

Let me refer again to the GAO study. GAO talks about the benefits paid out in relation to contributions paid, a ratio of about 23 to 1. In other words, 23 times the benefits received for every \$1 contributed. That compares to a U.S. citizen of about \$5 received for every \$1 contributed. So we are still talking about a massive drain on the social security trust fund.

Mr. LEVIN. On that point if the Senator will yield for a further question. Does the Senator provide that they would return to these folks the

money contributed to the system if they do not get the benefit?

Mr. NICKLES. No. If an individual is working illegally, under present law they do not get their money returned and neither would they in this legislation.

Mr. LEVIN. If the Senator will yield for one other point, the legislation says that a person who is otherwise entitled to benefits will not receive them unless they meet this test. My question is, if you are going to take away a benefit to which a person is otherwise entitled, which they earned, do you not at least want to return to that person the amount of money he contributed to the system? Is that not minimal fairness, if you take away benefits a person would otherwise be entitled to?

Mr. NICKLES. I will answer the question in the negative. How can a person earn a benefit if he worked illegally? It is against the law for the person to work in the United States. They are breaking the law.

Mr. LEVIN. Is it against the law to take his money into social security?

Mr. NICKLES. The person should not have the job and should not be contributing to the system in the first place.

Mr. LEVIN. But is social security breaking the law by taking his money.

Mr. NICKLES. There is a thought.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. NICKLES. I would be happy to, but I would like to present some concluding remarks.

Mr. MELCHER. Would the Senator yield for a further question?

Mr. NICKLES. I yield to the Senator.

Mr. MELCHER. I think it is clear that Social Security takes the money, the contribution of both the employee and the employer, on the presumption that they are working legally. If we want to stipulate the social security should examine all of the employees and the employers to make sure they are legal, we can do so. But that proposition has not been presented. Social security simply takes a contribution from the employee and the employer on the presumption that they are here legally.

Mr. MOYNIHAN. Mr. President, could I speak briefly? The Senator from Wyoming wants to speak also.

If I may say, it comes with little grace and ill-behoves the Social Security Administration to suddenly endorse this proposal with respect to illegal aliens, unknown quantity, unknown numbers, unknown locations, when this very Administrator defeated by his own testimony in the House-Senate conference the actions of this Senate declaring that the Social Security Administration should produce a tamper-proof social security card, a card which would not be purchasable on any street corner in El Paso, Texas,

as it were. "No," said he, "we will not have anything to do with that."

He prevailed upon the House conferees to turn down the position of the Senate in this regard. He could not care less about counterfeit cards.

Now they come along with this matter which I have to say, in my view, represents a violation of the 14th amendment's rights, even of illegal aliens; it is confiscating property. I know the Senate Finance Committee, as the distinguished Senator from Rhode Island said, would be happy to have hearings on this. We would be happy to have the GAO come forward and tell us what they know, have people comment on it, listen, think about the constitutional issues, think about the whole range of effects which we do not now understand.

I now would like to cease in order to hear the Senator from Wyoming, who, I hope, will speak.

Mr. SIMPSON. Mr. President, I was just thinking how opportune it might be to offer an unprinted amendment consisting of the Immigration Reform and Control Act of 1983. This might be a dandy time to do that. But I shall not do that.

I am fascinated to hear this very serious debate, and it should be. I have heard phrases like "fraught with difficulty," "What are we really doing," and "What will be the impact." The good Senator from Michigan outlined some serious questions. The Senator from New York makes a fascinating statement on the social security system. There is much truth in there; much truth in what the Senator from Rhode Island says as well as the Senator from Montana, and particularly the Senator from Oklahoma.

Mr. President, I remain absolutely intrigued and fascinated by the debate, because it is with a strange sense of irony that I recall last year's debate when we had the Supreme Court decision on who should bear the cost of training the children of illegal aliens in the United States. The supervisors of Los Angeles County came to the subcommittee to share with us that two-thirds of the children born in their largest hospital are born to illegal alien mothers; and the Los Angeles County supervisors are asking, who will bear that cost?

And now, today, we are justifiably concerned about the burden on our social security system created by benefit payments to undocumented workers. There is so much stuff in this one that I just say, welcome to the fray.

We already have laws that say if you are deported, there will be no benefits; but there is no way for the INS, with its present personnel, to handle deportation proceedings for the illegal aliens they apprehend. They do not have the personnel to deal with the numbers. The Chula Vista sector last week had 5,000 apprehensions in a single day—along 60-mile segment of our Mexican border. That is double any kind of activity like that ever

under the history of that sector. That is the situation in the United States right now.

All of these concerns so ably addressed by so many various persons and philosophies just scratch the surface of the problem created in this country by a singular national failure. The first duty of a sovereign nation is to control its borders, and we do not.

The other irony is the only other nation on the Earth that does not control its borders is the United States of Mexico. The problem on their southern border matches ours.

If we had had the courage to address the problem of immigration reform in Congress during the last 10 years, to follow the only possible solution, which is employer sanctions against those who knowingly hire illegal, undocumented workers, and to provide some form of employment verification which is not carried on the person but only available at the time of new hire—the only real issue is not how much do they leave on the table, how much do they take off, do they do work that American workers will not do—we would not have to address these issues today. The issue is this: When you have a fake green card and with that fake green card you receive a valid social security card, a valid AFL-CIO card, a valid food stamp card, a valid medicare card, a valid driver's license and valid unemployment insurance coverage, you have gimmicked the systems of the United States and the systems were not built for that kind of gimmickry. They are not actuarially able to handle that kind of gimmickry.

The Social Security Administration testified one time that they are not really concerned about how many fake cards are out, because at the time someone sought benefits, they would have to show up as a live human being in front of a live interviewer. I said, "Well, that is one way to run a railroad. It is not exactly the way I would do it."

But we have developed some interesting things. These things and this matter we grapple with here are the wholly unpleasant situations that result from illegal immigration. They would not be facing us today, nor would we have the national disgrace of a furtive, fearful, exploited, illegal subsociety of human beings numbering millions extant in these United States right now if we faced up to the root cause of the problem—loss of control of our borders.

Mr. President, we must adopt measures which are not nativist nor mean nor racist but we must reform what are absolutely absurd, cumbersome and unworkable immigration laws.

I thought I would get up and make that little plug for the Immigration Reform and Control Act of 1983 because we are going to see that legislation soon. Markup is coming at the end of this month. I call upon my colleagues to carefully examine the bill,

which would solve this situation before us today.

There is never a good time for immigration reform. That I can assure my colleagues. But the discussion and debate on amendments such as this show the strains on our society, the totally inappropriate results that will take place if we continue apathetically to do absolutely nothing and pretend uncontrolled illegal immigration is going to disappear. I trust congressional maturity might lead us toward some solution, because the matter will be before us and will be pressed upon us again and again and it will never go away.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, Members of the body, I think the appeal by the Senator from Wyoming to look at the bigger picture is well in order. On the other hand, I am supporting this amendment, and have in fact cosponsored the Senator from Oklahoma's amendment.

I do not know what the Senator from Kansas will do when he wants to dispose of the debate on this amendment and the bill. I shall leave that to him. But I think the effort by the Senator from Wyoming to look at the bigger picture needs to be applied specifically to this amendment as well. The amendment is not offered solely in the vein that we want to save money from the social security funds, that we want to make it more sound, even though it will have that impact, according to the GAO report.

The broader picture is this: There are many law-abiding citizens of America, people who spend their whole lives abiding by the laws in this country, and they also have the oddity that they expect other people to abide by the law in this country. They see efforts of people who are not law-abiding citizens to dip into the till and to threaten the financial soundness of a system that they pay into, and they do not like it.

I think their concern goes even beyond that and points to something that ought to concern us. That is the necessity of reestablishing credibility in the social security system. People who are working today, paying into the system, paying high taxes—every one of them would ask us who are out at the grassroots, is there going to be any money there for them to draw from?

It is the same way with those citizens who are retired today, drawing out of the system. They, too, wonder about the soundness of the system. It is not as credible a system with them as it was one, two, or three decades ago.

Having people who are illegally in the country who have, legally or illegally, been paying into the system is not the point. The issue is that some are illegally in this country drawing

out of that system, affecting the soundness of it, bringing about a lack of respect for the system, and that is something we must deal with. That is a broader picture we have to deal with. This amendment by the Senator from Oklahoma just deals with a very small portion of our effort to reestablish credibility in the system.

As you think about the people you meet on the streets of the little towns and rural areas of your State, stop to think how many times you have been asked about people who are illegally in the country drawing out of the system and if there has not been a plea for a stop to be put to practice. This amendment does not deal with the situation totally, but it deals with it to some degree. If we would respond affirmatively to this problem, as we have tried to do with other provisions in the bill now before the Senate, then we would help reestablish that credibility. That is the greater concern that we all ought to have. The immigration problem, reestablishing control over our borders, is a major concern that we also must have. These issues have a great deal to do with the credibility of our political system and our boundaries and with our institutions in responding to those concerns. It is pretty much the same way with the social security system.

This system was established 40, 50 years ago, and it is a very integral part of the social fabric of America. We want to maintain it as such. A necessary part of that is to help everybody have more confidence in it. So it is in that vein that I am supporting this amendment, not because it deals in any way with the financial soundness of the social security system.

A broader, more encompassing provision is included in the social security package reported out of the Senate Committee on Finance which limits social security benefits to aliens. Its importance lies not so much with its revenue impact, but on the signals it sends to the American public that Congress is indeed trying to clean up the administration of this program. I am extremely gratified that with the great efforts of the chairman, Mr. MYERS, and the committee staff, we were able to fashion a provision to deal with the previous problem in social security payments to aliens. Special notice must also be given to Senator LUGAR and his outstanding leadership in this area.

Finally, I would like to thank Senator PRESSLER for bringing to light some of the very real problems which exist under current law. We have had several discussions on the importance of this measure, and his support has been greatly appreciated. Senator PRESSLER's early recognition of the inconsistencies in the present treatment of nonresident aliens is to be commended, and I know he joins me in expressing tremendous satisfaction with the remedial language contained in S. 1.

The specific recommendation adopted by the committee and included in S. 1 would significantly tighten eligibility requirements for alien workers living abroad. The bill denies benefits to alien dependents of alien workers who were added while outside the United States. This specific provision gets at the very heart of the problem where alien beneficiaries acquire a tremendous number of dependents after they have left this country. The bill also reconciles several sensitive and complex policy issues by paying benefits to workers who are citizens of a country with which the United States has a reciprocal social security coverage arrangement.

For those aliens who continue to qualify for social security benefits, the individual would receive benefits until such time as he had received an amount equal to what he paid into social security plus interest.

The need for such legislation has become increasingly evident over the past few years. And has been amplified by the previously mentioned GAO study outlining the phenomenal magnitude of the problem. Let me briefly summarize some of the startling findings of that report, 34 percent of all dependents abroad were added to the social security rolls after the wage earner became entitled to benefits. And approximately 84 percent of such dependents were aliens.

GAO also discovered alien retirees have worked less time in covered employment and have paid less social security taxes than the average American worker. Of the 313,000 social security beneficiaries living abroad in 1981, GAO estimated 194,000 were aliens. Perhaps the most startling finding was that where U.S. retirees receive about \$5 for each dollar paid into the system, the average alien receives \$23 in benefits for each tax dollar paid into social security. It is a disgrace when the laws of this Nation allow us to treat aliens better than we treat our own citizens. Congress has this opportunity to tighten up one area of glaring mismanagement in the current system. It is only appropriate that during the consideration of such a monumental reform package as S. 1, we include this measure which does not affect a single U.S. citizen. I hope my colleagues in the House will also see fit to embrace this long overdue change.

Mr. NICKLES. Mr. President, I ask unanimous consent to have printed in the Record a letter from the Commissioner of Social Security.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE COMMISSIONER
OF SOCIAL SECURITY,

Baltimore, Md., March 18, 1983.

HON. DONALD L. NICKLES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NICKLES: As we have discussed, I agree with your amendment to deny Social Security benefits to illegal

aliens. We will work closely with the Immigration and Naturalization Service to identify new Social Security applicants who are illegal aliens as well as those who leave the country under threat of deportation.

The kind of amendment you are proposing represents an important first step in the process of dealing with this serious and growing problem.

We look forward to working with the Congress after the pending legislation is enacted to finding ways of dealing with the broader issues involving payment of Social Security benefits to noncitizens and nonresidents.

Sincerely,

JOHN A. SVAHN,
Commissioner.

EXHIBIT 1

DRAFT OF A PROPOSED REPORT—SHOULD SOCIAL SECURITY BENEFITS BE PAID TO ALIENS ABROAD AND ALIENS WHO WORKED ILLEGALLY WHILE IN THE UNITED STATES?

(This document is a draft of a proposed report of the General Accounting Office. It was prepared by GAO's staff as a basis for obtaining advance review and comment by those having responsibilities concerning the subjects discussed in the draft. It has not been fully reviewed within GAO and is, therefore, subject to revision.)

(Recipients of this draft must not show or release its contents for purposes other than official review and comment under any circumstances. At all times it must be safeguarded to prevent publication or other improper disclosure of the information contained therein. This draft and all copies thereof remain the property of, and must be returned on demand to, the General Accounting Office.)

DIGEST

In this report GAO examines the circumstances under which social security benefits are paid to alien retirees and dependents living abroad. GAO also questions the propriety of continuing to allow aliens, who work in violation of the Immigration and Nationality Act, to earn social security credits.

The first issue centers on a set of Congressional concerns that have been voiced from time to time since the early days of the program, and which were expressed by Representative G. William Whitehurst in a 1981 request for a GAO study. The concerns deal with whether it is fair and affordable for the American social security taxpayer to have aliens work in the U.S. for a relatively short period and then retire to their native lands and receive benefits for themselves and their dependents for long periods of time.

The Social Security Act does not restrict benefits to aliens or to only people living in the U.S. However, when social security benefits began in 1940, there were only 100 beneficiaries abroad who received \$12,000. In 1981 these numbers had grown to 313,000 beneficiaries abroad who received nearly \$1 billion. Of the 313,000 beneficiaries, 194,000 (62 percent) were aliens and most of these were alien dependents.

GAO found that 34 percent of all dependents abroad were added to the social security rolls after the wage earner became entitled to benefits. About 84 percent of such dependents were aliens. (See p. 13.) Moreover, GAO found that alien retirees abroad have, generally, worked less time in covered employment and paid less social security taxes than the average worker.

In 1956 the Congress enacted legislation designed to curtail benefits to aliens abroad, but because of the many exemptions included in the legislation, it has had little effect.

The concerns which prompted the legislation are still valid today—aliens can work in the United States for a relatively short time and then return to their native country and retire and receive benefits for themselves and their dependents.

The payment of social security benefits to aliens not only represents a valid policy question for the Congress, but also presents a number of difficult and complex issues. Some of these issues involve (1) the equity of treating aliens differently than Americans, (2) the international reaction by countries whose citizens will be adversely affected and the potential retaliatory action of curtailing benefits to Americans under their systems, and (3) the administrative question of requiring alien workers to pay full FICA taxes although they might receive benefits for retirement or disability in a curtailed or capped amount.

GAO also identified an inconsistency between the Social Security Act and the Immigration and Nationality Act—aliens are allowed to earn entitlement to social security benefits while violating the Immigration and Nationality Act. Although there are not complete and accurate data on the impact that this situation is having on social security, GAO estimates that perhaps a billion dollars a year could flow from the trust funds to pay aliens on the basis of their illegal employment.

CHAPTER 3: ALIENS CAN EARN ENTITLEMENT TO SOCIAL SECURITY BENEFITS WHILE VIOLATING THE IMMIGRATION AND NATIONALITY ACT

The Immigration and Nationality Act provides for regulating admission of aliens to the U.S. The Act requires that before aliens are permitted to enter the U.S. for permanent employment, the Secretary of Labor must certify to the Attorney General that there are insufficient U.S. workers willing, able, and qualified to perform the work at the time and location it is to be performed and that such employment of aliens will not adversely affect wages and working conditions of U.S. workers similarly employed.

The Social Security Act allows aliens to earn social security insurance credits regardless of their employment or resident status in the U.S. Section 210(a) of the Social Security Act defines employment for the purpose of social security credits as any service performed in the U.S. by an employee for an employer irrespective of the citizenship of either. Consequently, aliens who are admitted to the U.S. to attend school, visit, or for other purposes, but not for permanent employment, can earn social security credits by illegally working at a job covered by Social Security. Similarly, aliens who enter the U.S. illegally can earn social security credits as a result of employment during the time of their illegal stay. The accumulation of social security credits by legal and illegal aliens can lead to insured status and entitle them to social security benefits earned through unlawful employment.

This chapter discusses both legal and illegal aliens who might have earned social security credits while violating the Immigration and Nationality Act, and the potential cost of paying benefits to such aliens.

Aliens have illegally worked and earned social security coverage

The number of aliens who have illegally engaged in employment and earned social security credits can not be precisely determined. Under the Social Security Act a wage earner's citizenship does not affect his eligibility to earn social security credits and, for that reason, SSA has not maintained data on the citizenship of all workers who pay social security taxes. SSA has some information on legal aliens who have violated their immigration status by engaging in em-

ployment, but it does not have such data on aliens who have entered the U.S. illegally and engaged in social security-covered employment during their illegal stay.

Legal Aliens Working Illegally in the United States

According to SSA's statistics, about 289,000 legal aliens have engaged in employment covered by Social Security since 1974.

Until 1974, SSA made no distinction based on citizenship when issuing a social security card. Beginning in 1974, as was required by the Social Security Amendments of 1972, SSA began issuing social security cards to legal aliens who requested them for "non-work purposes." These purposes included opening bank accounts, registering for school, and obtaining a driver's permit. When SSA issued social security cards for such non-work purposes, it coded its enumeration records to indicate that these SSN's were for non-work purposes.

In 1975, SSA discovered that social security-covered earnings were being reported under many of the SSN's that were issued for non-work purposes. This was not a violation of the Social Security Act, but SSA did gather statistical data on these incidents and shared the information with the Immigration and Naturalization Service (INS), since these alien wage earners were apparently violating their immigrant status. This information flow was discontinued after the enactment of the Tax Reform Act of 1976 because of questions regarding interagency transmittal of taxpayer information. These questions were resolved in 1982, and SSA plans to transmit the information on aliens who worked illegally since 1976 to INS and will resume transmitting information to INS on aliens who are illegally working in the U.S.

Also, SSA has begun noting "for non-work purposes" on the face of new social security cards issued to legal aliens if they are not permitted to work in the U.S.

Illegal Aliens Working Illegally in the United States

The exact number of illegal aliens who have entered and worked in the U.S. and earned social security credits cannot be determined. This occurs, in part, because illegal aliens conceal their illegal immigrant status when they apply for social security cards. When they are successful in obtaining social security cards, those cards and numbers cannot be distinguished from legitimate ones. Therefore, little is known as to the number of illegal aliens who have earned social security credits under fraudulently obtained social security cards, or those who have worked and paid taxes under someone else's SSN.

Various studies, including one by GAO,¹ have developed estimates of the number of illegal aliens in the U.S. The estimates range from 1 to 12 million, but the most widely accepted range is from 3.5 to 6 million. One study showed that between 65 and 88 percent of a group of illegal aliens who were interviewed had been employed while residing in the U.S. and had paid social security taxes on their earnings.²

Potential cost to social security due to aliens engaging unlawfully in covered employment

Despite the statistical limitations of the various illegal alien studies, one can develop a rough estimate of the impact on the social

security trust funds of payments to illegal aliens. To illustrate such potential impact, we used the lower range of the most widely quoted illegal alien population estimate (3.5 million) and the lower estimate of those illegal aliens who had been employed while in the U.S. and paid social security taxes (65 percent). We chose the lower range of the estimates because of uncertainties as to the statistical reliability of these estimates. Using these data, we estimated that from 2.2 million³ aliens had worked in social security covered employment and had received some social security credits.

It is unknown how many of these wage earners have earned sufficient quarters of credits to be eligible for disability or retirement benefits. There are no reliable data on social security payments made to aliens as a result of their unlawful employment. Nonetheless, we developed three estimates to show the potential annual costs to the trust funds if 10, 15, and 25 percent of the illegal alien workers had qualified for and were receiving benefits in 1981. We used the average alien family benefit rate (\$4,160) for aliens abroad in 1981 to complete the estimates. Our estimates show the following cost ranges:

\$.9 billion (if 10 percent of the illegal aliens had qualified for social security),

\$ 1.4 billion (if 15 percent of the illegal aliens had qualified for social security), and

\$ 2.3 billion (if 25 percent of the illegal aliens had qualified for social security).

Applying these same assumptions and the 10-percent estimate to the legal aliens who have unlawfully worked in the U.S., adds another \$.1 billion cost to the trust funds.⁴ Therefore, legal and illegal aliens combined could cost SSA about \$1 billion per year as a result of unlawful employment if only 10 percent of the aliens working illegally eventually receive benefits.

Should social security benefits accrue from unlawful employment?

In 1954, a bill was introduced in the Congress (HR 9366) which said, in part, that earnings derived from covered employment by individuals during periods when they were unlawfully residing in the U.S. would not be used in establishing eligibility for, or the amount of, social security benefits. Furthermore, the bill said these earnings would be deleted from such individuals' earnings record upon the Secretary's receipt of notification from the Attorney General of an alien's periods of unlawful residence in the U.S.

These provisions were deleted from the bill, however, by the Senate Finance Committee after it received the Secretary's comments on the feasibility of its implementation. The Secretary endorsed the objective of these provisions, but he opposed enactment on the basis of the disproportionate administrative burden it would impose on the Department and SSA, compared to the benefits that might be realized. He noted, for example, that he would have received 900,000 notifications of unlawful employment would have had to be deleted from the aliens' Social Security earnings records—a task he thought too administratively burdensome to accomplish.

The subject of aliens who might earn entitlement to social security benefits while either unlawfully residing or unlawfully

¹ Problems and Options in Estimating the Size of the Illegal Alien Population: September 24, 1982 (IPE-82-9), p. ii, 10-11.

² David North and Marion Houston (31), "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study," March 1976, p. 139.

³ 3,500,000 × .65.

⁴ This is the product of 289,000 (legal alien workers) × \$4,160 × .10.

⁵ "the Secretary" refers to the Secretary of the Department of Health, Education, and Welfare; currently the Secretary of the Department of Health and Human Services.

working in the U.S. was discussed during hearings before the House Subcommittee on Government Operations in November 1973. A Member of this Committee stated, in part, that it seemed almost incongruous that aliens could participate in illegal activity—working in violation of the Immigration and Nationality Act—and earn social security benefits. If their status had been known, they would not have been permitted employment, instead they might have been deported. If aliens are formally deported for illegal work in the U.S., they do not receive benefits. The member of Congress asserted that these wages/earnings were, in effect, illegally obtained with regard to the Immigration and Nationality Act. He further stated that if the employment upon which the entitlement is based was illegal, the law should require that the benefits be disallowed.

If legal resident and employment status were required in order to earn social security credits, we believe SSA could enforce it by implementing a two-phase process. In the first phase, SSA could delete any earnings and credits derived from such earnings when it discovers that an alien has reported earnings while violating the Immigration and Nationality Act.

The second phase of the enforcement process could be applied when aliens or their surviving dependents file application for benefits. At that time, SSA could require that sufficient evidence be provided by the claimant that the wage earner was in legal alien status and was authorized to be employed when his social security credits were earned. Otherwise, no credits would be allowed for earnings during any calendar quarter in which the wage earner was in violation of the Immigration and Nationality Act.

Conclusion

The Social Security Act does not prohibit aliens from earning entitlement to Social Security benefits based on earnings derived from covered employment in the U.S., even if the individuals were illegal residents, or legal residents who had engaged in unauthorized employment.

Under the Immigration and Nationality Act, both types of aliens may be deported if discovered for illegal entrance or violating their immigrant status by engaging in unauthorized employment.

There is a gap between the provisions of the Social Security Act and the Immigration and Nationality Act, which allows aliens to earn entitlement to Social Security benefits while violating the Immigration and Nationality Act. Consequently, millions of aliens both legal and illegal may have engaged in unauthorized employment and earned entitlement to Social Security benefits. The effects that benefit payments to these workers could have on the trust funds depend on their numbers and benefit levels.

The Congress may wish to consider whether aliens who work illegally in the U.S. should be allowed to earn entitlement to social security benefits for such work. If the Congress decides that aliens should not earn credits for illegal work, it could require proof of legal immigrant status before benefits are paid.

● Mr. MATTINGLY. Mr. President, I am pleased to support the efforts of the Senator from Oklahoma which rectifies inconsistencies in current law concerning social security payments to individuals who have worked in America illegally. Senator NICKLES' amendment will give the Social Security Administration authority to stop payment of benefits or credits from going

to any alien who is in violation of U.S. employment and resident laws. In addition, it would require the wage earner or dependent to provide sufficient evidence to the Social Security Administration that vestige in the system was earned while working and living legally in the United States.

Time and again throughout the past few weeks, as I have discussed the crisis the social security system is facing with citizens from Georgia, they have expressed their frustrations over misuse and abuse of the program. Often, they have mentioned this very issue, the payment of benefits to illegal aliens. The citizens of America realize that those who operate outside of the laws of this Nation should not be allowed to reap the benefits of Federal programs designed to aid our citizens. I believe recognition of this fact and action by the Congress is long overdue. Again, I am pleased to cosponsor the amendment of my colleague from Oklahoma.●

Mr. WARNER. Mr. President, as a cosponsor of this amendment, I rise to urge my colleagues to adopt its provisions. I had previously cosponsored the Senator from Oklahoma's legislation, S. 595, which would accomplish the purposes of this amendment, and would also reduce benefits to aliens living abroad. The average alien abroad has been receiving \$23 dollars for each dollar contributed, compared to the average American wage earner receiving \$5 for each \$1 contributed.

The purposes of the latter aspect of S. 595 was adopted by the Senate Finance Committee in their recommendations for this bill. I commend Senator LUGAR and the members of the committee for this action.

The Government Accounting Office estimates that illegal aliens in America may be receiving from \$900 million annually in social security benefits to \$2.4 billion annually. When Americans are asked to make the sacrifices we are asking in this difficult compromise package to save the social security system, how can we allow aliens who have worked illegally in this country, who have perhaps prevented Americans from receiving gainful employment during this time of high unemployment, to skim possibly \$2 billion from the depleted social security coffers?

I applaud my friend, the Senator from Oklahoma, for introducing both the legislation and this amendment to resolve glaring inequities in the current law. These inequities no doubt evolved unintentionally, but they are inequities which I am sure most Americans will want corrected now.

● Mr. LEVIN. Mr. President, I want to voice my opposition to the amendment offered by Senator NICKLES from which would eliminate social security benefits for some individuals who worked and contributed to the social security system while they were in this country illegally.

I share the Senator's concern of not encouraging or rewarding illegal immigration into this country. However, I could not support his amendment because it was overbroad and confiscatory.

I can understand why someone might want to stop the payment of social security benefits to individuals who are in this country illegally at the time that they are receiving the benefits.

But it is unfair to deprive an individual of social security benefits who has paid into the system for a number of years and who is now in this country on a legal basis, because they were here illegally when they were working. For example, under the amendment it would be possible for an individual to come into this country illegally and work for 40 years. During that entire time, they could have paid social security taxes. They could then go back to the home country for a few years, and then be readmitted to this country legally based on family bonds which may have been established earlier. Under the Nickles amendment, this individual would be ineligible for receiving social security benefits. The amendment specifies that benefits could only be collected if the individual can show that he is a U.S. citizen, or was once a U.S. citizen but has relinquished that status, or was once an alien who has legally admitted to work but gave up that status, or is now an alien who has been legally admitted to work. In the example I cited it is possible for an individual not to meet any of these criteria. Specifically, although the 70-year-old individual may be in this country legally now, she or he was admitted because of family bonds and not admitted "to work." I find it hard to believe that the authors of this amendment intended this effect, but it is the effect, nevertheless.

Also, this amendment is confiscatory because it would prohibit the payment of any social security benefits which are based on those working periods during which they were in this country illegally. In this case, the individual would not even be able to receive that portion of the social security benefits which were made up totally of their earlier contribution into the system.

I, therefore, oppose the adoption of the Nickles amendment, even though I share some of the frustration and anger of people with the present system and believe we should find equitable ways of avoiding rewards or encouragement for illegal immigration.●

Mr. MOYNIHAN. Mr. President, I cannot speak for the Committee on Finance but I certainly know the sentiments of its members and that this is a serious subject. We have made a major provision in the present law with respect to illegal aliens residing abroad and receiving benefits, one

which involves in effect taking from them their employer contributions, which were certainly a property right as far as I am concerned, but we did anyway. There is much to be learned. The Senator from Wyoming has spoken eloquently and calmly about the complexities. We will address those complexities in hearings and in orderly legislation which this body will not fail to take up, I am sure. Therefore, Mr. President, without prejudice to the provisions of the amendment as such but because we do not know enough about the subject and must learn much more, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Indiana (Mr. QUAYLE) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent due to an illness in the family.

Mr. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 34, nays 58, as follows:

(Rollcall Vote No. 34 Leg.1)

YEAS—34

| | | |
|-------------|------------|----------|
| Bentsen | Hecht | Mitchell |
| Bingaman | Heinz | Moynihan |
| Bradley | Inouye | Pell |
| Chafee | Jackson | Proxmire |
| Danforth | Kassebaum | Sarbanes |
| Denton | Kennedy | Simpson |
| Dodd | Lautenberg | Specter |
| Dole | Laxalt | Stafford |
| Domenici | Levin | Tower |
| Durenberger | Lugar | Tsongas |
| Eagleton | Matsunaga | |
| Glenn | Metzenbaum | |

NAYS—58

| | | |
|-----------|------------|----------|
| Abdnor | Gorton | Percy |
| Andrews | Grassley | Pressler |
| Armstrong | Hatch | Pryor |
| Baker | Hatfield | Randolph |
| Baucus | Hawkins | Riegle |
| Boren | Heflin | Roth |
| Boschwitz | Helms | Rudman |
| Burdick | Huddleston | Sasser |
| Byrd | Humphrey | Stennis |
| Chiles | Jepsen | Stevens |
| Cochran | Johnston | Symms |
| Cohen | Kasten | Thurmond |
| D'Amato | Leahy | Trible |
| DeConcini | Long | Wallop |
| Dixon | Mattingly | Warner |
| East | McClure | Weicker |
| Ekou | Melcher | Wilson |
| Ford | Murkowski | Zorinsky |
| Garn | Nickles | |
| Goldwater | Packwood | |

NOT VOTING—8

| | | |
|----------|----------|--------|
| Biden | Hart | Nunn |
| Bumpers | Hollings | Quayle |
| Cranston | Mathias | |

So the motion to lay on the table Mr. NICKLES' amendment (UP No. 92) was rejected.

Mr. DOLE. Mr. President, I wonder if we might agree to accept this amendment based on the tabling motion. I have discussed it with the proponents and opponents of the amendment. There is no similar provision in the House-passed bill.

I can understand some of the concerns that have been expressed. I think even the author of the amendment indicates that there is one area that he is willing to address.

If we might do that, I think we could take care of some of the concerns in the conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 92) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I will take a minute.

Given the importance of the legislation before us today, I would like to take a moment to state for the record the reason why my good friend and colleague, Senator BIDEN, is not able to be present for this session.

Senator BIDEN, as we all know, commutes daily from his home in Wilmington to Washington. As his train arrived this morning, he was greeted by the news that one of his sons had suffered a dislocated hip in a sports accident at school and had been rushed to the hospital, where he needed to be put under general anesthetic to have the hip put back in place.

As any good father or grandfather would; Senator BIDEN immediately took the next train back home and is with his son now at the hospital.

I am happy to report that the Senator's son is doing well, and I know that we all wish him a speedy recovery.

I yield the floor.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Rhode Island, amendment No. 88.

Mr. DOLE. Mr. President, will the Senator yield for 1 second?

Mr. METZENBAUM. I yield.

Mr. DOLE. The Senator from Kansas understands first the Senator from Ohio, Senator METZENBAUM, has an amendment pending. That will be modified by an amendment by Senators PERCY, DIXON, and LEVIN. When that is completed—and I understand the distinguished Senator from Oklahoma will speak in opposition to the amendment—we have an amendment

from the distinguished Senators from Kentucky, Senators FORD and HURDLESTON. That will be followed by a colloquy between myself and the Senator from Kentucky, Senator FORD. That will be followed by an amendment by the distinguished minority leader, to which I am not certain there is no objection, followed by an amendment of the Senator from Kansas.

I think, depending on the length of debate, if we can just stay on this area we might take care of a lot of the unemployment matters now.

UP AMENDMENT NO. 88, AS MODIFIED

Mr. METZENBAUM. Mr. President, I have an amendment pending at the desk and I now ask unanimous consent that I be permitted to send a modification of that amendment to the desk with the understanding that the Senators from Illinois and the Senators from Michigan may be permitted to reinsert the language which will be deleted from my amendment by modification, and without unanimous consent being granted I am informed that it would violate the rules of this body, and it is for that reason that I ask unanimous consent.

The PRESIDING OFFICER (Mr. COCHRAN). Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Senators RIEGLE, and LEVIN.

The PRESIDING OFFICER. The clerk will report the amendment, the modification.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes a modification to his amendment numbered UP 88.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 236, line 7, strike out "30" and insert "25".

On page 236, line 9, strike out "40" and insert "35".

On page 237, line 9, strike out "30" percent, 40 percent, 50 percent, and insert "25 percent, 35 percent, 50 percent".

On page 237, line 12, strike out the quotation marks and the second period.

On page 247, between lines 12 and 13, insert the following:

"(9) Any interest otherwise due from a State during a calendar year after 1982 may be deferred (and no interest shall accrue on such deferred interest) for a grace period of not to exceed 9 months if, for such calendar year in which the interest was due, the State had an average unemployment rate of 13.5 percent or greater."

Mr. METZENBAUM. Mr. President, the purpose of this amendment and the modifications which are to be suggested, which are to be offered, in a second degree by the Senator from Il-

Illinois and the Senators from Michigan and, I believe, the Senators from Kentucky as well, deal with a problem that has arisen by reason of the loans that have been made by the States from the Federal Government in order to continue to meet their unemployment obligations, and the Finance Committee, in its wisdom, has seen fit to provide some assistance but, at the same time, it provided some conditions in connection with the repayment of those funds. According to the committee report the bill requires State law changes which both increase revenues and decrease benefits by a total of 30 percent the first year, 40 percent the second year, and 50 percent the third year in order that the State may qualify for deferral of interest payments.

My amendment would change those numerical figures to 25, 35, and 50 instead of 30, 40, and 50.

The committee report stated that for interest due October 1, 1983, the change would have to affect benefits and taxes in calendar year 1984.

The committee bill is silent as to which calendar year the States' action must affect in order to qualify for deferral.

I now address this comment to the manager of the bill if I may have his attention for just one moment, if I could have the attention of the manager of the bill for one moment, Senator DOLE—I apologize to the Senator from Nevada—it is my understanding that in determining if a State qualifies for the deferral for interest due October 1, 1983, you look at the effect of the benefits and the tax changes in calendar year 1983, and I believe that my interpretation of that conforms with the staff on that subject. Would you confirm that for me, please.

Mr. DOLE. Yes; that interpretation is a proper one, 1983 would be the base year used for a determination on deferral of the interest owed in that year.

Mr. METZENBAUM. I thank the Senator from Kansas.

Now, another part of my amendment would provide that a State with high unemployment would be able to qualify for a 9-month grace period in which to remit the interest charges which are due. A State would qualify for this relief only if it has an average adjusted unemployment rate of less than 13.5 percent for the 12-month period immediately preceding the date on which the interest is otherwise due.

I hope the Senate will see fit to adopt the amendment but I believe there are two other portions of my amendment that I very strongly support, and it is now my understanding that the Senator from Illinois on behalf of himself, Senator DIXON and myself is prepared to offer that language that was originally in our amendment and has been set aside in order to accommodate the Senators from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague and my

fellow midwesterner from Ohio for yielding for this purpose.

UP AMENDMENT NO. 93 TO UP AMENDMENT NO. 88 AS MODIFIED

(Purpose: To provide that deferred interest shall not be subject to further interest.)

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself, Mr. DIXON, Mr. METZENBAUM, Mr. HEINZ, Mr. GLENN, Mr. BOSCHWITZ, Mr. FORD, Mr. HUDDLESTON, Mr. RANDOLPH, and Mr. SPECTER, proposes an unprinted amendment numbered 93 to Mr. METZENBAUM'S unprinted amendment numbered 88.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment offered by the Senator from Ohio add the following:

On page 235, lines 12 through 14, strike out "Interest shall accrue on such deferred interest in the same manner as under paragraph (3)(C)." and insert "No interest shall accrue on such deferred interest."

Mr. PERCY. Mr. President, the pending amendment that I have at the desk I offer on behalf of my distinguished colleague, Senator DIXON, who is the principal cosponsor. I wish to state that he has worked on every aspect of this problem with me. His vast experience in the Illinois government caused him to be particularly helpful in causing the State now to face up to its responsibility to reduce benefits and increase contributions so that we can meet the problem faced by the State.

We are joined by Senators HEINZ, HUDDLESTON, FORD, RANDOLPH, BOSCHWITZ, GLENN, and SPECTER as cosponsors.

Mr. President, I would also like to express my appreciation to Senator DOLE for working so closely with us on this amendment and for his attention to the special problems facing Illinois and other very high unemployment States, including the State of Ohio.

I am very honored, indeed, to add as a cosponsor of the pending amendment the Senator from Ohio, who has been deeply concerned about the problems of employment and the very high cost attendant to that unemployment in Midwestern States.

Mr. President, I ask unanimous consent that Senator METZENBAUM be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, while we hear a great deal of optimism lately about how economic conditions will improve, we must recognize that many States today remain in serious trouble. The unemployment situation in Illinois is nothing less than shocking. When other States stayed stable

throughout the country, Illinois went up again last month. We are at 13½ percent, and 13½ percent of our workers without jobs means a tremendous tax on the State, on its income, and on this particular unemployment compensation fund.

In some urban areas in Illinois, 1 out of 4 people are unemployed. These terrible conditions are the primary reason that Illinois has been forced to go into debt to the Federal Government.

The severity of the State's employment problem brought Governor Thompson to Washington to testify earlier this month before the Finance Committee to ask for some temporary relief from the interest burdens being placed on Illinois. He requested that the 10-percent interest on new net borrowing be reduced, and subsequently asked for my help and the help of Senator DIXON in eliminating the compounding interest on this debt. My preference would be that we do as Governor Thompson suggested and make both of these changes.

The pending amendment seeks to cover only the elimination of compounded interest. We have discussed this in great detail with the distinguished manager of the bill. We recognize the problem, but we do urge the conferees on this bill to consider reducing the interest rate, as well.

Let there be no mistake about it, I support Senator DOLE'S efforts to encourage States to put their unemployment systems in order. For this reason, I oppose attempts to eliminate or defer indefinitely all incentives for fixing the States' unemployment systems. In providing these interest incentives, however, we must be sure not to place burdens on the States which push them beyond the point of no return.

Over the last 10 years, the Federal unemployment trust fund has been strained by State borrowing attributed to two causes: A series of economic downturns in the last decade which have affected some States harder than others; and the inability or unwillingness of many States to either raise taxes or reduce benefits to keep their systems in balance. Because borrowing was interest-free until last year, there was little incentive for States to make the maximum effort needed to get their own houses in order.

In 1981, Congress faced the problem of attempting to balance two conflicting needs. It was our responsibility to make sure that the Federal trust fund remains fiscally sound so that it can continue to service the urgent funding needs of high unemployment States. Unnecessary borrowing was to be discouraged and States were to be given new incentives to tighten up their own systems. It soon became clear, however, that the States with the greatest debts to the Federal trust fund were States with continuing high rates of unemployment and severe economic

problems which made them least able to repay their debt in the foreseeable future.

In the Omnibus Budget Reconciliation Act of 1981, Congress enacted legislation calling for 10 percent interest payments on new net borrowing which was intended to decrease borrowing from the Federal Government. In addition, some relief was made available to States with high unemployment problems by allowing employers to qualify, under certain conditions, for a cap on the so-called penalty tax. When the legislation reached the Senate floor, I offered an amendment, along with my colleague ALAN DIXON, to enable the State of Illinois to qualify for this relief, and the issue was ultimately resolved on the floor.

Since that time, economic conditions in my State have deteriorated. The 1982 unemployment insurance deficit in Illinois was \$800 million and, even if the State had paid benefits at the level of the national average, our higher unemployment rates still would have caused a deficit, estimated to be about \$545 million. This is in spite of a substantial effort to reduce the costs of the State system by enactment of a \$500 million package in 1981 of increased taxes and reduced benefits. Additional efforts are underway in Illinois right now to further tighten up our system.

Governor Thompson, business, labor, and State legislative leaders, have been meeting over the past 4 weeks in Chicago and Springfield to fashion a new package of higher taxes and reduced benefits in order to limit as much as possible additional borrowing. I know our Governor met in Chicago with Chairman DOLE on January 19, with other Governors in attendance, as well.

The elimination of the compounding of interest on Illinois' debt will save the State an estimated \$40 million over a 4-year period. The remaining 10 percent interest on the debt will still place a heavy burden on the State—a burden which is more than is really needed to encourage it to fix its unemployment system.

I hope the conference can look at this point and consider reductions in the level of interest payments.

However, this \$40 million savings represented by the pending amendment is a first step in the right direction.

I urge my colleagues to support it.

Mr. DIXON. Mr. President, I wish to thank my warm friend and distinguished senior colleague for those fine remarks. I am honored to cosponsor with him this amendment which is significantly important for our State.

Mr. President, I would like to take this opportunity to thank the distinguished chairman of the Finance Committee, BOB DOLE, for his attention to the critical problems of my State of Illinois, as well as others, which have incurred a substantial debt to the Feder-

al Government for unemployment insurance.

As we all know, there are many reasons for these debts, and the solution to solvency is not a simple one.

I wish to say to my distinguished friend from Louisiana, who has been kind enough to listen to my concerns in regard to this problem in my State and many similarly situated States, that through the leadership of our Governor and the State legislature, in cooperation with labor and business leaders, we are working on the final details of a package of \$1.151 billion in tax increases and \$777.3 million in benefit cuts to shore up this system. Now, that is a pretty bitter pill to swallow. It will be introduced as an amendment to House bill 327, which is currently before the Illinois State Labor and Commerce Committee. This is in addition to \$500 million in reduced benefits and increased taxes in 1981.

This is a major change, Mr. President. But it is necessary in order to show the Federal Government that our State is making a substantial effort to meet a very substantial problem. I do not want to leave the impression that Illinois has been irresponsible, for we have not. Our tax effort is well above the national average—27 percent above and 12th in the Nation to be exact. But we are also third among 10 large States in unemployment, with a 13.5 percent rate in February. The length and depth of this recession is something that was never figured into our unemployment insurance system. It is designed to have some surplus in good times to carry States through during the bad. But the bad times have endured longer than that system could support.

I believe that any assistance that the Federal Government can offer to the 31 borrowing States should be, in effect, a partnership of responsibility. The States should show a goodfaith effort at making change in their systems which will contribute to improved solvency. Unemployment is a national problem—it is not the sole responsibility of States and local areas. Our economic difficulties affect each State, and have an impact on the world economy as well. Therefore, it is right for the Federal Government to be involved in aiding States to pay back their debts.

We are not asking for forgiveness of these debts. We are asking for a reasonable way of allowing us to pay them, a way which will not jeopardize the overall recovery effort. If we tax businesses to the point where they lock their doors and lay off more people, rather than hiring those already out of work, unemployment will increase and the overall solvency problem will be exacerbated. If we cut benefits to the point where people cannot meet even their most basic needs, then the system is no longer doing what it should.

The amendment proposed by Senator PERCY and myself, as well as others, would improve the package of assistance being proposed by the Finance Committee. It would eliminate the accrual of interest on the interest payments being deferred under the plan. This will mean a savings of that interest on interest of \$30 to \$40 million for Illinois, over the 3 years.

Again, I commend my friend from Kansas for addressing this critical problem, and for keeping further options open to improving this package. I have never seen Senator DOLE duck an issue of grave importance that has been within the purview of his committee, and some of those issues have been tough to address.

Mr. President, I also wish to thank my colleague, my colleague and warm friend from Louisiana, the ranking member, RUSSELL LONG; and my colleague from Ohio, who has accommodated us.

I earnestly hope that the Members of this body will support us in this effort to help those very tragically affected major States of this Union which have suffered under a terrible burden of high unemployment for a great many months.

Mr. HEINZ. Mr. President, I rise in strong support of the amendment of the Senator from Illinois, Senator PERCY. I agree with him in every respect in his excellent analysis of the situation of States like Illinois, Pennsylvania, and others, that are burdened heavily with the costs of this recession, where people have been forced out of work for longer periods than we have experienced in our recent memory.

His amendment will eliminate the interest on the interest, the compounding. Frankly, in my judgment, it is a very small step we should take to improve the Finance Committee package.

I particularly want to emphasize his point that it would be extremely helpful to States like Pennsylvania, Illinois, and other of the urban, industrial States that are having to set their houses in order, if the interest that is now 10 percent by statute could be further reduced.

It is my understanding—and I would like the attention of the chairman of the Finance Committee if he would be so kind to respond to some questions—that in 1983 there would be a revenue loss or additional borrowing to the Federal Government somewhere in the neighborhood of between \$230 million and \$320 million. Does the Senator from Kansas know if that is approximately correct, depending on the number of States?

Mr. DOLE. I am advised that is approximately correct.

Mr. HEINZ. In 1984 there would be a favorable impact on the Federal Government in the way of reduced borrowing of somewhere between \$700

million and \$1.025 billion. Is that about correct?

Mr. DOLE. I am advised that is about correct, yes. Keep in mind that such an effect will only occur if State legislatures make certain reforms in the UI programs.

Mr. HEINZ. And, again, in 1985 there would again be a favorable impact on Federal borrowing of between \$82 million and \$172 million. It is only in 1984 that there would be any unfavorable results, somewhat minimal, somewhere between \$180 million and \$75 million unfavorable cash flow for the Federal Government. Is that correct?

Mr. DOLE. As I understand, that is correct, provided the borrowing States take the action necessary to reform their systems.

Mr. HEINZ. Mr. President, I thank the Senator from Kansas for responding to those questions. As I add up those numbers, and taking the most conservative assumptions, it means that over the 4-year period 1983-86, we could expect a favorable impact by passing this legislation, including Senator Percy's amendment which would have a reduction of some \$40 million and the impact, that the Federal Government will come out about \$340 million better off as a result of what the Finance Committee has done.

Mr. President, that suggests to me that there is room in conference to get some additional relief to our hard-pressed States. It is my hope that the conferees, both the Senate conferees and the House conferees, will bear in mind the already significant burden that our States bear and indeed will make every effort to achieve relief. In terms of this Senator's priorities, I would hope the first place we would look would be at the interest rates that we are now charging the States and we would seek to lower the 10 percent.

Mr. BOREN addressed the Chair. The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I am certainly in sympathy with the situation being faced by the States, and the situation explained by the Senator who presented this amendment. I think all people in the country have compassion for that situation. I am told that in some of these States the benefits have been cut. I believe the Senator from Illinois, Senator Dixon, told me that benefits have been cut some \$700 million in the State of Illinois and revenues increased over \$1 billion. Certainly, those kinds of efforts have been brought about because of the economic necessities of those States and deserve the understanding, the thoughtful understanding, of all the rest of us, particularly those from States which have, to some degree, escaped the full impact of needing to take actions of that magnitude.

But I am concerned that we not go too far in what we are doing. I think that those who represent these States

would understand that if we were to open the door too far, we would take all the pressure off from all the States to take actions that are necessary to keep their financial houses in order.

Over the past 3 or 4 years, the Finance Committee has worked very, very hard to bring about some positive changes in the unemployment compensation program. In many cases, the programs have been tightened up, the costs have been reduced, and certain categories, such as those who have voluntarily quit their jobs as opposed to those who are unemployed, have been no longer qualified to receive benefits. These were changes that were long overdue. In fact, we went for some 40 years in this program without any changes at all in the area of saving any costs. I am told from the period of time when the program was first adopted, it was not until the Finance Committee took action some 3 or 4 years ago that a single dollar was ever saved out of that program, that costs were reduced by even 1 penny. Every single change in the intervening decades have been changes which added costs to the program.

So I am concerned that we not go too far while reacting and responding to what is truly a financial emergency. While we attempt to be very understanding, we also have to realize that there are some States which have taken even more drastic actions than others. I believe the State of Michigan and the State of Louisiana have met this 30-percent threshold change. They reduced their benefits or raised their revenues as much as 30 percent.

If we were to go too far or if the Senator from Ohio was proposing an amendment saying to go to 5 or 10 percent, I assure you I would be opposing it, not only from the point of view of the general public in the States but of the States which have measured up to this very high standard. It would not be fair to Michigan or the other States which have taken actions for us then to say, "Now that you have taken the tough actions we will pass something to water down the requirements so that other States can come in under an easier test."

This is a modest change that we are talking about, a 25-percent cut in benefits or increases in revenues. Certainly, I would agree with the Senator from Ohio that is not minor but it is a harsh degree of the sacrifice required.

I am not going to oppose that portion of the amendment. I would ask the Senator from Ohio if he understands the point we are making and if he will help us in the future, that we not have a recurring year after year effort to water down these standards too much because they do need to keep pressure on in some of the States to assure that those State governments react in a responsible way.

I would hope he would be willing to join me in this effort, and in this case if we try to show sympathy and under-

standing we not make this a recurring situation year after year to do that.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I very much appreciate the thoughts expressed by my good friend, the Senator from Oklahoma. The points he makes have validity. I appreciate very much his referring to this matter, not making a battle royal in connection with the pending amendment but raising his concerns, voicing them.

Certainly, we share those concerns and we look forward to working with him to see to it that we do not have to return time after time for the same kind of special consideration.

Mr. BOREN. Mr. President, I thank the Senator from Ohio. I might just ask the senior Senator from Illinois—the other part of the amendment envisioned in the change from the 30 down to 25 percent to the threshold is a matter of the interest penalty that has been raised by the senior Senator from Illinois and the Senator from Michigan and the junior Senator from Illinois and others. Would it cause problems if we only provided this removal of the compounding of the interest for, say, a 2-year period and still be able to defer for 4 years, but give us a chance to look at this again in 2 years? Or would this create an undue problem?

Mr. PERCY. Mr. President, first, let me say to my distinguished colleague that I have listened attentively to his concerns. I very much appreciate his willingness not to object at this time. As a former Governor, I think he can walk in the shoes of Governors of States such as Illinois that have such a tremendous influx of immigration.

We have a problem unlike Oklahoma's, in many respects, where we have structural unemployment. We do stand 10th, because of the very high cost of living, among States in benefits paid, whereas Oklahoma, because of its more favorable conditions, is 49th in that regard and owes no-debt whatsoever. Illinois' debt is a crushing \$2 billion.

In answer to the specific question of whether we should sunset this in 2 years, I think it would cause some real concerns. The compounding which I am asking be deleted, would not have kicked in until the second year anyway, thus, a 2-year sunset would provide little relief. I assure my colleague that our Governor and State legislature, as testified to by my distinguished colleague (Mr. Dixon), are doing everything conceivable to face up to this situation—reduce benefits, increase the income to this fund, and reduce this debt—just as rapidly as they possibly can.

Two years may simply be too soon. The compounding effect compounds the problem, obviously. Emotionally, as I explained privately to my distinguished colleague, this has been a source of great agitation and concern.

I think this step alone—I hope in conference, we can look at the rate we actually do charge. Even with adoption of the amendments before us, Illinois will have \$70 million in interest alone added to its debt owed the Federal Government next year. Compounding of this interest would place excessive and unnecessary burdens on a State already under tremendous strain. Given these factors, I hope we would not eliminate compounding for only 2 years.

Mr. BOREN. Will the Senator yield?

Mr. PERCY. Yes.

Mr. BOREN. There is not a provision like this in the House bill, is that correct, at this time?

Mr. DIXON. There is not.

Mr. BOREN. Therefore, in terms of the proposal we are talking about now, there would be no possibility that the figures would come out of the conference any less stringent; the least possible stringent standards that would come out would be the standards in this amendment, is that correct?

Mr. PERCY. Yes. I point out, Mr. President, that the compounding figure we are talking about does not kick in until near the end of 1984.

Mr. BOREN. Mr. President, I appreciate the comments that my colleagues have made. I did come to the floor because I am concerned. As I say, we have made such progress in the Committee on Finance on this subject, I think it is something we do not want to engage in a massive retreat from. At the same time, I do not think that we should take the position that we are so locked into what we have done in the past that we shall not consider the suffering that is going on in parts of this country right now.

I know the people in my State have been fortunate. We are one of the two most fortunate States in this category. It is also partly because we have had the most massive changes in our unemployment compensation laws. That is part of it, too, at the States level. We have completely rewritten our law in the past decade.

We do have a strong feeling that we are a part of this country and that we cannot stand by and have others suffering in other parts of the country without its ultimately reflecting on our own people. We do want to be helpful to those in other parts of the country.

Mr. President, I shall just say I am not going to lodge any objection. I shall not ask for any rollcall. I shall not oppose this amendment. I appreciate the sensitivity that my colleagues have expressed to the need to keep the system stringent so that we do not just open the doors so widely that States no longer have an incentive to take action. I hope that we can hold this at this point now and that we shall not see further attempts in the future to weaken the standard.

I appreciate the time of my colleagues, but I did think it wise that we have an airing of this. I can say to all

of them that they have been very persuasive and forceful in the arguments that they have made. I am sure the people in their States appreciate the efforts which they have made here, on the floor, in their behalf.

Mr. METZENBAUM. Mr. President, I think we are going to concur on this matter. I think there is pretty general agreement that it is a good amendment. Do I understand the Senator from Michigan (Mr. LEVIN) wishes to be recognized to speak on this matter on which he is a cosponsor?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me just thank my friend from Oklahoma for his usual reasonable approach on this. As he knows, we spoke on this in private and after this amendment is accepted and adopted, I shall be offering an amendment which does the same as the earlier act, avoiding compounding the interest on the tougher act, which we adopted a few months ago—just as the Percy-Dixon-Metzenbaum-Heinz amendment would avoid compounding it on this act.

I just wanted the Senator to know that I shall be offering that. I do thank him very much for his position.

Mr. BOREN. I thank the Senator very much. I do understand his amendment is the same. For the reasons already stated, I shall not be lodging any objection to that amendment.

Mr. DOLE. Mr. President, I also commend the distinguished Senator from Oklahoma because, as he indicated, we have made some substantial progress in the Finance Committee. We relied, I say for the record, largely on the expertise of the Senator from Oklahoma in this field. We appreciate his assistance in the committee and his constructive remarks on the floor today.

Let me reassure the Senator from Oklahoma and other Senators, because there are some States that are not borrowing, we cannot continue taxing nonborrowing States to take care of those who are borrowing, even though some of the borrowing States are among the hardest hit—Ohio, Illinois, Pennsylvania, Michigan—by the recession and high unemployment.

When I met with some of the Governors in Chicago earlier this year and later here in Washington, the demands they made were great. They wanted interest forgiveness; they wanted reduced interest rates; they wanted no compounding on interest—we have agreed on that—they wanted forgiveness of old loans, and they wanted to apply mandatory payments to interest-bearing loans before repaying old loans. They had a laundry list that would not stop.

It seems to this Senator we can try to accommodate some of their concerns, because many States are in a real financial bind. However, many States, particularly Michigan, Louisiana, and the District of Columbia,

have made rather Draconian changes in their systems. They stand as examples to such States as Pennsylvania and Ohio. There can be some relief without abandoning the principle of tightening up the State programs. That is what we tried to do in the Finance Committee proposal.

I think we should encourage States to continue to make changes as Illinois is about to do. I understand that in a few days, based on the agreements reached by the political leadership in that State, organized labor, management, and others, Illinois may enact some real reform.

I assure the Senator from Oklahoma that there is no effort here to abandon what we believe are some of the most important changes in the UI field in many years—the Omnibus Budget Reconciliation Act of 1981 reforms.

Mr. President, I have agreed to support the amendment offered by the Senators from Illinois and the Senators from Pennsylvania even though it represents a liberalization of the interest requirements enacted as part of the Omnibus Budget Reconciliation Act of 1981. The Percy/Dixon/Heinz/Specter amendment removes the requirement that interest be charged on the interest deferred as a result of the 5-year deferral which is provided under this bill.

There is no doubt that this amendment will have a fiscal impact. The Federal Government will forego the collection of interest on deferred interest and this is a sum which will never be recouped. The record should indicate that is what will happen.

However, it is my view that the big borrowing States may need additional encouragement to bring their programs to solvency. These States also may need additional time before the payment of large sums of interest to the Federal Treasury. The loan and interest relief provisions of S. 1 do provide the additional incentives and time for States to reform their State programs. Unfortunately, economic conditions in those States have been such that the payment of a large interest liability could be crippling to the reform effort itself.

The Percy amendment, preventing the accrual of interest on deferred interest, would result in a major benefit for the big borrowing States. Interest will still be paid by the States on the original borrowing, however, they will be relieved of the burden of a constantly growing interest liability.

This is a major amendment providing substantial relief. It represents a concession on the part of all taxpayers in nonborrowing States—the very point the Senator from Oklahoma made.

I trust, as we have already had some indication, that my colleagues representing the borrowing States will recognize this concession and that they will make an effort to encourage their States to accept this relief and go

about the business of reforming the State systems.

I understand that a number of Senators wish to cosponsor this amendment, including Senators DURENBERGER, BOSCHWITZ, FORD, HUDDLESTON, and RANDOLPH.

I have been discussing with Senator PERCY why we cannot change the interest rate charged on State borrowing. We have made a reduction in cases where the States have made big changes. But the interest rate charged the States on new loans is the same interest rate that the Federal Government pays the solvent States with reserves in their unemployment accounts deposited with the U.S. Treasury. The rate charged to the States is capped at 10 percent. Thus, the States are charged a fair interest consistent with the interest rate paid by the U.S. Government.

So I would say to Senators that I realize that they are going to have inquiries from their Governors and others as to why we cannot get the interest rates down.

Well, we suggested to the Governors that if we could pay them less interest on the reserves, maybe we could charge less interest on borrowing, but that did not seem to ring the right bell.

I want to assure everyone that we believe we have provided some relief to the States who face a difficult time and serious unemployment problems. At the same time we have not gone overboard on relief. We know there are other States watching what we do to see if we are discriminating against States who refused to borrow but chose instead to tighten their programs.

The Finance Committee reported a responsible loan and interest relief provision which is deserving of the support of the full Senate. The committee developed a plan which will allow a State to spread the interest it owes on borrowing from the Federal Government over a 5-year period. The State can also qualify for a reduction of 1 percent in the interest rate charged on borrowing. Additionally, a State which does not qualify for the full cap on the loss of Federal unemployment tax (FUTA) credit may now qualify for a partial cap.

Some action on the State's part for this relief is, of course, necessary. The Finance Committee proposal requires States to make progress toward solvency of 30 percent the first year, 40 percent the second year, and 50 percent the third year to qualify. Senator METZENBAUM's amendment changes those levels to 25 percent and 35 percent. If the State makes an effort to reach solvency which increases those percentages to 50, 80, and 90, the interest rate charged on borrowed funds will be reduced by 1 percent.

This limited relief will have a Federal budget impact. The loss of interest paid to the Federal Government could total as much as \$319 million in fiscal

year 1983 and \$483 million in fiscal year 1984. The partial cap of the FUTA credit loss will also have an impact—\$145 million in fiscal year 1984 and \$360 million in fiscal year 1985. However, the committee recognized the fact that the current recession has been deeper and more prolonged than we expected in the summer of 1981 when the interest requirement was enacted. Therefore, the committee was willing to make some temporary changes in the current law in order to allow States extra time to enact the necessary State law changes to bring their programs closer to solvency.

Some background may be helpful to put this whole issue in perspective. Twenty-six States, plus the District of Columbia, Puerto Rico, and the Virgin Islands have totally exhausted their unemployment benefit reserves. These jurisdictions have received Federal loans of over \$11 billion and more borrowing is certain. The account in the Federal unemployment trust fund from which loans to States are made is also insolvent and general Treasury borrowing has become necessary. In total, over \$15 billion has been loaned to the States over the past 10 years.

Obviously, the current insolvency of the unemployment trust fund is not a new development. In fact, in the early and mid-1970's, 25 States and jurisdictions depleted their trust fund reserves and required advances from the Federal Treasury. Many of the debtor States repaid their advances. However, 11 of the 25 States have been in debt continuously since then, and 4 others have repaid loans only to borrow again a short time later. Obviously, a number of States did not permit reserves to build up in their trust funds during the recovery years as is the purpose of the account system. Some States, such as Pennsylvania, instead used the brighter economic picture as an excuse to lower taxes and increase benefits.

Under the law in effect in the 1970's, it made good fiscal sense for a State to borrow from the Federal Government to meet benefit costs. After all, the loans were interest free and repayment was not required for up to 2 to 3 years after the loan was made. A State's employers were supposed to experience a loss of the credit against the Federal unemployment tax, but Congress passed several delays of the offset. Credit reductions were not imposed for loans outstanding from 1975-80. Finally, credit reductions were effected and, as of January 1, 1983, 16 States and jurisdictions are experiencing credit reductions.

Congress recognized that the brakes had to be applied to unlimited State borrowing. In the 1981 Reconciliation Act, we enacted the interest and loan reform provisions which a number of States are seeking to escape this year. First, interest of up to 10 percent is now charged on loans made after April 1, 1982, except those classified as

"cash-flow." Second, States are allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met. Since the enactment of these provisions, some 22 States have made changes in their State laws to increase solvency. A number of States have made truly remarkable reforms—Michigan and Louisiana are the primary examples.

Other States have, unfortunately, chosen not to take the high road. Instead, those States have continued to borrow and to incur large interest liabilities. Some States have expressed the view that Congress will "bail" them out by eliminating or "forgiving" the interest liabilities. Some States even believe that the Congress will forgive old loans and reschedule payment of new loans. We have heard some States say that they will simply refuse to pay and that the Federal Government will be unable to enforce the interest charges. Other States threaten to increase the taxes on employers in the State to pay the interest charge. Few States have been willing to make the reforms necessary to eliminate or at least reduce the need for borrowing.

What does State borrowing and the failure to repay loans mean to non-borrowing States? In essence, it means a tax increase on every citizen in the solvent, responsible States. The Federal Treasury does not borrow in the private marketplace interest free. The cost of Federal borrowing contributes to the deficit and is thus passed on to every taxpayer.

The Finance Committee proposal responds to the needs of the debtor States, but it does not ignore the solvent States. Further changes which may be proposed on the floor or suggested in conference could upset the balance which the Finance Committee has attempted to establish. Allowing States to escape interest charges effectively forces the States with fiscally sound programs to subsidize States that fail to balance benefit expenditures against tax revenues.

Providing relief to States simply on the basis of unemployment rates higher than the national average ignores the fact that a number of States with high unemployment—Oregon and Alaska, for example—have not borrowed but have instead reformed their programs to bring outlays and expenditures closer into balance.

I urge my colleagues to support the Finance Committee loan and interest provision modifications with no further changes. We are close to the point at which the administration may just refuse to approve loan and interest relief at all. Let us not jeopardize what we have accomplished.

Mr. SPECTER addressed the Chair. The PRESIDING OFFICER. The Senator from Pennsylvania (Mr. SPECTER).

Mr. SPECTER. Mr. President, I thank the distinguished Senator from

Kansas and the distinguished Senator from Oklahoma for their comments in support of these amendments which will provide significant relief for States like Pennsylvania, Michigan, Illinois, and Ohio.

After listening to the debate on the subject this afternoon, I should like to briefly comment that there is more involved in this issue than the reform of unemployment compensation programs. The central problem arises because of the very, very high unemployment levels in States like Pennsylvania, Ohio, Michigan, and Illinois. That is the central issue for which we have not yet found an answer.

Two months ago, when the unemployment rate nationally declined from 10.8 to 10.4 percent, the unemployment rate of Pennsylvania increased from 12.9 to 13.7 percent. We truly face a national problem. The unemployment rate in Pennsylvania turns significantly on the serious situation in the American steel industry, which is compounded by the problem that the Government has taken ineffective stands against dumping by foreign importers. The International Trade Commission shows that subsidies of British steel were in the range of \$250 a ton, but compromises were worked out on that issue largely in recognition of foreign relations between the United States and Great Britain and the implications of the North Atlantic Treaty Organization. The impact of automobiles turned on relations between the United States and Japan. This is truly a national problem where some States as a result of a great many factors have incurred great disadvantages.

The central factor of this unemployment compensation problem is the unemployment rate itself. So that when the distinguished Senator from Kansas relates to the comments about the laundry list that the Governors of a number of States have presented, they are talking about some very serious long-range problems which may have to be addressed on another day.

I thank my colleagues from States which have not incurred this kind of problem for their consideration, and I think that the step taken on the absence of interest, on the compounding factor, and the delay of interest is a significant step forward. However, we cannot lose sight of the underlying problems and the necessity for a national approach to this problem which has resulted in some States being hit harder than others. The problem is far beyond the control of those individual States and to a significant extent is because of national objectives on foreign policy resulting in national policies which worked to the disadvantage of a few States like Illinois, Michigan, Ohio, and Pennsylvania.

Mr. President, I yield the floor.

● Mr. BOSCHWITZ. Mr. President, I rise to express my support for Senator Percy's amendment. I am a cosponsor of his amendment because I feel it is

necessary to offer some relief to States who have experienced high unemployment for a long period of time; 29 States are now borrowing from the Federal unemployment trust fund because they do not have the money to pay the unemployment claims. Over 225,000 Minnesotans are unemployed, with over 125,000 in actual claim status. The drain on the financial system has been enormous.

Minnesota requested \$43 million for the month of March, and due to the shortfall in the trust fund received only \$18 million. Hopefully we have resolved this problem by passage of the supplemental appropriations bill, but Minnesota will still have an outstanding loan of \$400 million by the end of this month.

To put this in perspective—Minnesota's tax collections for the UI program are projected to be only \$200 million this year.

According to the State's department of economic security, they are paying 10 percent interest on \$208 million this year, plus paying the three-tenths of 1 percent penalty from last year. This penalty adds another \$25 million to the bill.

The amendment now being offered would partially relieve States like mine, by eliminating the requirement that States pay interest on the interest charged them. This will save Minnesota several million dollars.

I also am strongly supportive of the work the Finance Committee has done to help out the States who are borrowing. Their proposal to allow deferral of payments to States who have made honest efforts to resolve their financial difficulties is a welcome step. I appreciate Senator DOLE's cooperation and responsiveness on this issue.

I believe that the Finance Committee's efforts, along with this amendment, will go a long way toward putting State UI programs into the black. ●

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the amendments offered by my colleagues from Michigan and Ohio. These amendments constitute modest but important relief for high-debt States devastated by the recession.

Nowhere have the disastrous effects of this recession been felt more keenly than in my State of Michigan. Michigan has suffered double-digit unemployment for 38 consecutive months. In order to pay unemployment benefits to its jobless workers, Michigan has incurred a debt to the Federal Government that exceeds \$2.3 billion. Michigan is forced to pay over \$216,000 per day in interest charges alone. Estimates indicate that Michigan will owe almost \$275 million in interest charges during 1983-86. Michigan is a proud State struggling to recover from the economic agony that it has suffered. It has enacted major reforms in its unemployment insurance laws to accelerate the repayment of its debt. The staggering interest charges

it faces, however, make its recovery exceedingly difficult. The interest relief embodied in the Metzbaum and Levin amendments will help speed the recovery in Michigan and other industrial States.

The Metzbaum amendment provides a 9-month grace period for interest payments due on October 1 for those States whose unadjusted employment rate for the prior 12 months equals or exceeds 13.5 percent. This provision will benefit those States which continue to suffer exceedingly high unemployment by granting them more time to raise additional revenues. While it does not forgive the interest payments due, it provides needed relief for high unemployment and high debt States such as my own.

The Levin amendment permits a waiver of all interest assessed on amounts permitted to be deferred under the Tax Equity and Fiscal Responsibility Act of 1982. This provision simply mirrors the interest waiver that other States will receive on amounts they can defer as a result of a provision in this bill. Estimates indicate that this interest waiver will save Michigan \$11.3 million during 1984-86.

I urge my colleagues to join me in support for these important amendments.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Illinois?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. As I originally indicated, this amendment was a part of the original amendment. It obviously has good support on the floor. We appreciate the consideration given to it by the Senator from Oklahoma. I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 93) was agreed to.

UP AMENDMENT NO. 94 TO UP AMENDMENT NO. 88 AS MODIFIED

(Purpose: To provide that no interest shall accrue on any deferred interest.)

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. FORD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. This is an amendment to the amendment of the Senator from Ohio.

Mr. METZENBAUM. Correct.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN, for himself, Mr. RIEGLE, and Mr. METZENBAUM), proposes an unprinted amendment numbered 94.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 237, between lines 14 and 15, insert the following: (c) Section 1202 (b)(3)(C)(i) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting "No interest shall accrue on such deferred interest."

Mr. LEVIN. Mr. President, this is a second-degree amendment to the Metzzenbaum amendment, and I believe it is acceptable to the committee and acceptable to Senator METZENBAUM.

A few months ago, Mr. President, we agreed to defer interest under certain circumstances on loans from these funds. Today we are agreeing to defer interest under other circumstances for other States for loans from these funds. We have just agreed to the Percy-Dixon-Metzenbaum modification which says that on the deferred interest we will not be compounding interest, we will not require those States to pay interest on interest. The amendment which I have just sent to the desk does the same thing for the deferred interest under the bill which we just adopted a few months ago called the Tax Equity and Fiscal Responsibility Act of 1982 that we are doing on today's bill. It would in effect say, for the same reasons, that we do not want to charge interest on those deferred payments as we are deciding today not to charge interest on interest on the deferrals that we are allowing today.

I might just quickly say that my State of Michigan, which benefited under that early act, has increased taxes by \$2 billion and cut benefits by \$1 billion. It is the kind of Draconian action which the chairman has referred to. We have taken that bitter medicine.

We are very appreciative of the work of the chairman of the Finance Committee in working this out with us. He has been extremely accommodating. I must say again, as in so many other matters that come before the Senate, in the first instance a few months ago in working it out so that we could get some relief from the compounding interest in today's bill.

I also want to thank the Senator from Ohio for accepting this amendment, for working through this process with us. We have worked very closely with him, as we have worked very closely with Senator DOLE. He is the principal cosponsor along with Senator RIEGLE of my modification to his amendment. I am very happy that he has agreed to go at it in this way, and again my thanks to the chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the amendment of the distinguished Senator from Michigan and cosponsors is a good amendment, one of those we talked about at an earlier point. I am happy to accept his amendment to my amendment.

Mr. DOLE. Mr. President, the amendment of the Senator from Michigan is consistent with what we have just done with regard to the Percy amendment. The amendment should be adopted. We support the amendment.

I was just explaining to the Senator from Michigan that if anybody does not understand what has happened in his State, they should take a look at loan projections based on the President's budget assumptions and provided by the U.S. Department of Labor, dated March 15, 1983. These projections indicate that Michigan is borrowing about \$1.1 billion in 1983, \$816 million in 1984, \$596 million in 1985, \$294 million in 1986, down to \$87 million in 1987, and zero in 1988. These figures take into account the substantial reforms enacted by the State legislature in December 1982 under the leadership of then Gov. Bill Miliken.

These DOL figures are based on assumptions, but they do indicate the magnitude of the changes made in that State. They also provide an indication of why we believe we are justified in providing some relief for States like Michigan, which have made such drastic changes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 94) was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Ohio?

Mr. METZENBAUM. Mr. President, we are about ready to act on this amendment, as amended by both second-degree amendments, but before doing so, I should like to express my appreciation to the Senator from Kansas, the manager of the bill. He has done that which he felt necessary in order to send a strong and loud message to the States, as well as to see to it that the States do try to catch up with their arrearages and meet their obligations to the Federal Government. Yet, he has been understanding enough to make it possible for this amendment, as amended by the two second-degree amendments, to be considered and to be acted upon. I express to him my appreciation for his cooperation on the floor of the Senate.

I wish I could say the same about the Department of Labor, because in considering this amendment, we attempted to find out from the Department of Labor what the projected interest payments were, on a State-by-State basis, through 1988. For some reason unbeknown to me, they indicat-

ed that that information had a kind of confidentiality about it, which I cannot understand. They talked about it being State sensitive.

I have heard a lot of things around this community being marked confidential and privileged, and so forth, but I cannot understand why figures such as that are State sensitive from the Department of Labor.

I wish to advise them, in loud and clear tones, that I do not expect them to refuse any Member of the Senate or any Member of Congress any information of this kind, unless there is some special law that makes it possible for them to do so.

Having gotten that off my chest, Mr. President, I am happy to proceed with action on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (UP No. 88), as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I had omitted one matter. I ask unanimous consent that the name of my colleague from Ohio, Senator GLENN, be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 95

(Purpose: To change the date after which a State solvency action must have been taken)

Mr. FORD. Mr. President, I send to the desk an amendment on behalf of myself and my colleague, Senator HUDDLESTON, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Bradley amendment will continue to be set aside.

The amendment of the Senator from Kentucky will be stated.

The bill clerk read as follows:

The Senator from Kentucky (Mr. FORD), for himself and Mr. HUDDLESTON, proposes an unprinted amendment numbered 95.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, line 23, strike out "October 1" and insert "March 31".

Mr. FORD. Mr. President, this amendment that I and my colleague from Kentucky, Senator HUDDLESTON, are offering is of a technical nature. It moves back the effective date from October 1, 1982 to March 31, 1982, for

board would go a long way to restoring public confidence in the social security program. When the original Social Security Act established a Social Security Board as an independent agency, it was clear to the public that this program would be managed as a separate social insurance program with its own tax contributions. This Board had no matters competing for its attention and its resources other than the efficient management of this important program. Young workers could clearly understand the relationship between their tax payments and their eventual entitlement for benefits. There was no confusion about how the tax revenues were being used or why changes were made in the program.

I wish to highlight why this is a necessary approach.

Over the years, the Social Security Board has been subsumed under other administrative units and has become only one part of the confusing array of health and welfare programs provided by the Federal Government. In the process, the operations and objectives of the social security program have been obscured, both within the Government and to the view of the general public. This process of absorption began in 1939 when the original Social Security Board was subsumed under the Federal Security Agency. In 1953, the Social Security Administration was made a part of the Department of Health, Education and Welfare—later the Department of Health and Human Services. In 1977, as part of the reorganization of the Department, medicare was separated from the Social Security Administration and placed, along with the medicaid program, in a new Health Care Financing Administration (HCFA). Several public assistance programs, including aid to families with dependent children and child support enforcement programs were at that time shifted to the Social Security Administration to be administered. As a result, today there is no clear distinction in either the organization or the administration of the Department's programs between those programs which are financed with general tax revenues and those which are based on the payroll tax contributions of workers.

Not only is the present organization confusing and distressing to those in the public who are contributing taxes today in the expectation of receiving benefits in the future, it is also counterproductive to the efficient operation of the social security program. In recent years, the Social Security Administration has shown increasing signs of difficulty in administering the social security program. Constant turnover in leadership at the Department and the agency level has made it difficult, if not impossible, to establish consistent policy priorities in that very important agency.

The clearest evidence of this ever-fluctuating policy has appeared in the failure of the agency to develop a con-

sistent plan to upgrade and revise its computer system which can survive long enough to be implemented. As a result, the Social Security Administration is now operating a computer system barely able to keep up with the maintenance of earnings records on hundreds of millions of workers and the regular computation of benefit checks for over 35 million beneficiaries.

As one of the operating divisions within a conglomerate Cabinet-level Department, the Social Security Administration has been saddled with responsibilities for programs unrelated to social security which place an added burden on its already overcommitted staff and computer resources. In addition, as part of a broader Department, the agency is apportioned both program and administrative budget reduction targets based on overall departmental needs and without regard to social security program considerations or operational needs. This mathematical apportioning of resources and responsibilities is interfering with the ability of the Social Security Administration to manage the social insurance program it was intended to administer.

While the Social Security Administration resources are stretched to the limit, the separate administration of the medicare and cash benefit programs has led to duplication of staff in budget, policy planning, and administrative services between these two agencies and between them and the Department as a whole. This duplication is both a source of added overhead cost and a source of problems in coordination of activities and policy.

From our perspective, the most distressing side effect of this administrative confusion is that our constituents are finding it increasingly difficult to get decent service from the Social Security Administration. Increasingly constituents with errors in their checks or earnings records are having to seek recourse through their Congressman's district office because the Social Security Administration is slow or reluctant to respond to their concerns.

The confusion in the general public about the social security program and its administration is a major source of declining public confidence in the program. In the last few years, confidence in the future of the social security program has declined sharply—among younger people in particular, the proportion of those with little or no confidence in the program has risen from one-half to three-quarters. I see this confusion about the financing and management of the program in the letters I receive from constituents. Many younger people believe their payroll tax deductions are used to finance welfare programs.

I have people come up to me every time I am having a town meeting in the State and they say: "Senator, you have just to get these welfare programs out of the Social Security Ad-

ministration. They are robbing us of our retirement."

Of course, we all know there are no welfare programs in the social security program. It is the old age and survivors program. There is the disability program. There is a health insurance program, medicare. Each of those programs have their own tax rate to pay for those programs. There are no welfare programs in social security.

Others believe that changes in the program are made only to reduce budget deficits or to finance increases in the defense budget. The sense that this program can be altered merely to meet budget needs or for other largely political reasons is a major source of the recent loss in public confidence.

Mr. President, the agency I am talking about is the second largest agency in the Federal Government. The Social Security Administration has more employees (80,000) and a larger budget (over \$150 billion) than any other Federal Department except the Department of Defense. This is an agency that dwarfs the rest of the Department of Health and Human Services, and yet it is treated as only one of several divisions in that Department. I believe it is time the Congress clearly indicated its intention to consolidate and separate the operations of the social security program so that its important mission can be accorded the special attention it so badly needs.

I recognize that the separation of this agency raises a number of difficult questions about reorganization. Quite rightly these questions should be the subject of a careful study to develop the details of a reorganization plan. But I hope we will not be deterred now by these questions from expressing our intent to develop a strong Social Security Administration with a clear set of responsibilities, strong leadership, and the resources to manage this important program effectively. It will take a strong signal like this from the Congress to convince the American people once again that this earnings-related program is unique and separate and is not simply another of the many discretionary programs this Government operates from time to time.

I think, Mr. President, we are only going to really clarify that question for our constituents when we have a separate Social Security Administration. We are only going to run it right when there is a separate Social Security Administration, and that is why I want and hope that my colleagues will accept this amendment.

I might add that later on this afternoon I will offer an amendment to take one of the other steps which I believe is necessary and that is to separate the social security old age and survivors and disability insurance programs financially from the unified budget, but that is not what this amendment seeks to do.

So at this point I am only urging my colleagues to join me in setting in motion the process of restoring as it once was the Social Security Administration to independent status.

Mr. DOLE. Mr. President, this amendment by the distinguished Senator from Pennsylvania and the Senator from New York (Mr. MOYNIHAN), has been discussed and also has been modified so that it now is a study.

I think the idea has a great deal of merit.

The one concern we had with the original amendment was that it became self-executing if nothing were done by a certain date. It now satisfies the chairman and others that it is a good amendment and we hope that it might be accepted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 98) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 99

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey (Mr. BRADLEY) will continue to be set aside.

The clerk will report the amendment of the Senator from Kansas.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 99.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 239, line 16, strike out through page 240, line 11, and insert the following:

PENALTY FOR FAILURE TO PAY INTEREST

SEC. 414. (a) Section 303(c) of the Social Security Act is amended by striking out "or" at the end of paragraph (1), striking out the period at the end of paragraph (2) and inserting "; or", and adding at the end thereof the following new paragraph:

"(3) that any interest required to be paid on advances under title XII of this Act has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund, until such interest is properly paid."

(b) Section 3304(a) of the Internal Revenue Code of 1954 (relating to certification of State unemployment compensation laws) is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

"(17) any interest required to be paid on advances under title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund; and".

and shall not be paid, directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund; and".

Mr. DOLE. Mr. President, this amendment should have followed the other amendments relating to unemployment insurance. But the Senator from Pennsylvania wanted to offer his amendment, and the Senator from Kansas deferred.

What my amendment does is to strengthen the collection authority of the Federal Government in regard to overdue interest on unemployment compensation loans.

First, the amendment spells out the implicit fact that a State's failure to pay its interest liabilities could result in the loss of State certification.

This would mean that State employers would no longer be eligible for full credit against the Federal unemployment tax. Such a proceeding has been carried out fully only once. However, it does provide an effective tool for enforcement and compliance questions with the States.

Second, the amendment would withhold administrative funds from a State which fails to meet the payment schedule of its interest liabilities. The funding, which is all Federal, would be withheld until the required payment is made.

The amendment provides for the late payments which qualify under the Metzbaum amendment, but the provision I am proposing would become effective for late interest payments beyond the grace period.

I urge my colleagues to approve this amendment as it is simply good business policy to require payments in a timely fashion of debts. The Federal Government hopefully will never have to utilize this provision, but it should be available if necessary.

I think this amendment has been discussed with the minority manager of the bill. It is a strengthening amendment, and I hope there is no objection to it.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. LONG. I do not object. It accomplishes the purpose it has in mind.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 99) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I understand the Senator from Kentucky (Mr. HUDDLESTON) has an amendment which we are in the process of reviewing, and perhaps while he is discussing it we can take a look at it.

UP AMENDMENT NO. 100

Mr. HUDDLESTON. Mr. President, I thank the floor manager of the bill. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey will continue to be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself and Senators DANFORTH, RANDOLPH, FORD, and PELL, proposes an unprinted amendment numbered 100.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I add the following new section:

Sec. . (a)(1) Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"ELECTIVE COVERAGE FOR MINISTERS AS EMPLOYERS

"(r) Services performed in the exercise of his ministry by a duly ordained, commissioned, or licensed minister of a church who has made an election under section 312(v)(1)(A) of the Internal Revenue Code of 1954 with respect to such service shall constitute employment under this section beginning with the first day of the calendar quarter in which coverage becomes effective with respect to such service under section 312(v)(3) of such Code."

(2) Section 210(a)(8)(A) of such Act is amended by striking out "except that" and inserting in lieu thereof the following: "except as provided in subsection (r), and except that."

(3) The last sentence of section 211(c) of such Act is amended by inserting "(i)" after "unless", and by inserting before the period at the end of the sentence the following "or (ii) in the case of service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry as described in paragraph (4), the service constitutes employment under section 210(r)."

(b)(1) Section 3121 of the Internal Revenue Code of 1954 (definitions under Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(v) MINISTER.—

"(1) TREATMENT OF SERVICE AS EMPLOYMENT.—Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, shall constitute employment under this section if—

"(A) he has elected to have such service covered as employment under this section; and

"(B) the church has elected to have such service covered as employment under this section.

"(2) ELECTION BY MINISTER AND CHURCH.—

"(A) Any minister who makes an election under paragraph (1)(A) shall file a certificate of such election in such form and manner, and with such official, as the Secretary shall by regulations prescribe. Such certificate shall specify the date on which the minister wishes such election to become effective for him, but in no case shall such election become effective (i) prior to the

first day of the earliest calendar quarter which begins on or after the first day of the sixth calendar month before the month in which the minister files such certificate, or (ii) later than the first day of the quarter following the quarter in which the minister files such certificate.

"(B) Any church which makes an election under paragraph (1)(B) shall file a certificate of such election and a waiver of exemption from the taxes imposed by section 3121. In such form and manner, and with such official, as the Secretary shall by regulations prescribe. Such certificate shall specify the date on which the church wishes such election to become effective for the church, but in no case shall such election become effective (i) prior to the first day of the earliest calendar quarter which begins on or after the first day of the sixth calendar month before the month in which the church files the certificate of such election, or (ii) later than the first day of the quarter following the quarter in which the church files such certificate.

"(C) In any case where a church is subject to the control of a national, regional, or other governing body with respect to the selection and compensation of its ministers (under the constitution, by-laws, or other administrative arrangements of the denomination of which such church is a part), the election under paragraph (1)(B) through the filing of a certificate under subparagraph (B) may be made on behalf of the church by such governing body; and any election so made shall be deemed for purposes of this subsection to be the election of the church.

"(3) EFFECTIVE DATE OF COVERAGE.—Coverage shall become effective with respect to service specified in paragraph (1) on the first day of the first quarter for which both an election by the minister is effective under paragraph (2)(A) and an election by the church is effective under paragraph (2)(B). Such service shall constitute employment under this section beginning with the first day of the calendar quarter in which coverage is effective with respect to such service.

"(4) APPLICABILITY OF ELECTION.—

"(A) Any election under this subsection shall be irrevocable. An election made under this subsection by a minister shall apply with respect to any service performed by such minister in the exercise of his ministry in the employ of any church which has made an election under this subsection; and an election made under this subsection by a church shall apply with respect to any such service performed in the employ of such church by a minister who has made an election under this subsection.

"(B) A church which has made an election under this subsection shall not, for purposes of sections 3102 and 3111, be considered to be the employer of any minister who has not made an election under this subsection".

(2) Section 3121(b)(8)(A) of such Code is amended by striking out "except that" and inserting in lieu thereof the following: "except as provided in subsection (v), and except that".

(3) The last sentence of section 1402(c) of such Code is amended by inserting "(1)" after "unless", and by inserting before the period at the end of the sentence the following: "or (ii) in the case of service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry as described in paragraph (4), the service, constitutes employment under section 3121(v)."

(4) The second sentence of section 1402(e)(3) of such Code is amended by inserting "and shall not be affected by any election subsequently made under section

3121(v)(1)(A)" immediately before the period at the end thereof.

(C) The amendments made by this section shall apply with respect to service performed on or after the first day of the first calendar quarter which begins after the date of the enactment of this Act.

Mr. HUDDLESTON. Mr. President, the amendment I am proposing to the pending social security legislation would bring consistency and equity to the social security payroll tax system for members of our Nation's clergy. I am pleased that the distinguished Senator from Missouri, (Senator DANFORTH), the Senator from West Virginia (Mr. RANDOLPH), Senator FORD, my colleague from Kentucky, and the Senator from Rhode Island (Mr. PELL) have joined me as cosponsors of this amendment. As a member of the Senate Finance Committee, Senator DANFORTH has devoted a great deal of time and effort toward the social security issue and therefore, I believe, has a unique perspective on the problem addressed by our amendment.

Current law requires that clergy members be considered self-employed for the purposes of social security taxation. This means that they must pay taxes on their wages based on the rate applied to the self-employed, a rate measurably higher than that paid by employed individuals.

The inconsistency arises out of the fact that in the vast majority of cases, the clergy member's salary is not self-generated, but is actually paid by the church or synagogue just as that of all other individuals serving that house of worship.

The church, therefore, is withholding income taxes from clergy salaries as employees of the church, but at the same time is not paying the employer portion of the social security tax for its clergy based on current law which deems these individuals self-employed.

The situation as it now exists requires one Government agency, the IRS, to recognize clergy members as employees of their church or synagogue, while another (SSA) insists that, for social security tax purposes, these individuals are self-employed.

The amendment I am proposing would relieve this inconsistency by providing the option for churches and synagogues to contribute the employer's portion of the social security tax on behalf of their clergy. Briefly, it would permit duly ordained, commissioned, or licensed ministers to enter into voluntary agreements with their churches to be treated, for social security tax purposes, as employees of their church or synagogue. In essence, it would be a mutual decision arrived at between the two parties involved.

Mr. President, I believe this approach to be both purposeful and compromising; it restores a balance to the method by which we tax these respected members of our community, while allowing those churches and clergy members with particular objection to this change to simply opt against implementing it.

The language I am proposing merely provides the vehicle for change, and allows the final, sometimes delicate employment classification of clergy to be made by those directly affected by it.

It is important to point out that my amendment does not tamper with the actual revenue inflow to the social security trust funds, since it simply shifts responsibility for a clergy member's social security payroll taxes from one source to another.

I am submitting for the RECORD a letter from the National Council of Churches indicating their support for my amendment.

Mr. President, I believe my amendment adequately addresses a problem which is in great need of correction, and I urge my colleagues to join Senator DANFORTH and I in support of it.

Mr. President, I ask unanimous consent the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF THE
CHURCHES OF CHRIST IN THE
U.S.A.,

Washington, D.C., March 18, 1983.

Hon. WALTER D. HUDDLESTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUDDLESTON: On behalf of the National Council of the Churches of Christ in the USA, I write to commend your efforts in relation to the question of Social Security coverage for clergy.

We support the amendment you are offering today, which would allow clergy the option of being treated as employees for purposes of Social Security.

Since some religious groups may not wish to have their clergy treated in this way, we especially appreciate the fact that, under your amendment, the election to be covered as an employee would be completely optional.

Thank you for the leadership you have provided on this issue.

Sincerely yours,

JAMES A. HAMILTON,
Associate General Secretary
and Director, Washington Office.

Mr. HUDDLESTON. I would be happy to respond to any questions the manager of the bill or the distinguished ranking member might have at this time.

Mr. DANFORTH. Mr. President, I am pleased to join with Senator HUDDLESTON in offering this amendment, which touches a subject with quite an interesting history. Under the Social Security Act at present, members of the clergy can only be considered self-employed persons. This means that they bear a larger social security tax than an employed person, who pays one-half the full social security tax. Many clergymen and women would, for the purposes of social security, prefer to be considered employees of their churches. Similarly, many churches, properly interested in providing a decent standard of living for their ministers, would gladly pay the employer share of the social security

tax in order to reduce their ministers' social security tax burden.

More is at stake in this question than, mere dollars and cents. The root question is more than a financial one. Some ministers could never consider themselves the "employees" of a church. Likewise, some churches could never agree that they are in an employer-employee relationship with their ministers or priests.

It is for this reason, as I understand it, that an employer-employee relationship has been avoided for purposes of social security.

The beauty of this amendment is that a clergyman or clergywoman and his or her church, by a voluntary and mutual agreement, could consider themselves in that relationship of employer and employee. Under such an agreement, the clergyman would pay the employee share of the social security tax, and the church the employer share. Again, the amendment mandates no such change—it merely allows such a change if both parties agree.

Happily, the amendment is revenue neutral. It will not affect the social security trust funds.

I urge the adoption of the amendment.

Mr. DOLE. Mr. President, the Huddleston-Danforth amendment would allow ministers to be treated as employees for FICA tax purposes if both the minister and his church elected such treatment.

There would be no adverse impact on the trust funds and no adverse impact on general revenues by the adoption of this amendment since our bill equalizes the SECA rate and the combined employer-employee social security tax rate.

My only concern would be whether the affected ministers and churches would agree that this is an appropriate amendment. It is my understanding that there is no problem so long as the provision is elective—which it is—and that, in appropriate circumstances, a national, regional, or other governing body has the authority to make the election on behalf of the local church. These concerns have been addressed by the amendment, in a fair and equitable manner.

Therefore, the Senator from Kansas believes the amendment should be accepted, and I have no objection to the amendment.

Mr. LONG. I have no objection.

Mr. HUDDLESTON. I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. TRIBLE). Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UF No. 100) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, as I understand it, we are waiting for the arrival of the Senator from New Mexico (Mr. DOMENICI).

We have disposed of 10 or 15 amendments since noon, so we have made good progress.

I do not believe there are that many amendments left. We have an amendment by the distinguished Senator from New Jersey (Mr. BRADLEY), the Senator from Louisiana, and other amendments relating to that one topic. If there are other amendments, I would say to Members who may be in their offices that we would like to continue to dispose of amendments this afternoon. I think that is the hope of the majority leader; is that correct?

Mr. BAKER. That is correct.

Mr. President, will the Senator yield to me?

Mr. DOLE. Yes.

Mr. BAKER. Mr. President, we really need to do as much as we can this afternoon. I congratulate the Senator from Kansas, the chairman of the committee, and others for moving along as expeditiously as they have been doing.

May I ask the manager of the bill whether or not he thinks that we can be usefully employed this afternoon for another hour or so, so that Senators can be on notice?

Mr. DOLE. I would say probably another hour, maybe an hour and a half.

Mr. BAKER. I would like to get to third reading if we can, and, if we cannot, to do as much as is possible to do in any event so that we can finish this bill on Monday.

Mr. DOLE. There may be one additional rollcall vote today.

Mr. BAKER. I thank the chairman.

Mr. DOLE. Mr. President, I suggest the absence of a quorum while we await the arrival of the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Kansas is advised that the amendment we had hoped to take up now probably cannot be disposed of or even considered until sometime on Monday. It concerns whether or not social security should be within the budget process. That may take, I would assume, at least an hour or an hour and a half of debate. Hopefully it would not take longer than that amount of time.

Because of a conflict between four or five principal players we cannot act on that amendment this afternoon. I hope that other Members in their offices who may have amendments could offer them. I know the distinguished

Senator from Florida, Senator HAWKINS, has an amendment, as does the Senator from New Jersey, Senator BRADLEY. Both will require rollcall votes.

If there are Senators who believe they have noncontroversial amendments, this would be a good time to discuss them and determine if they are noncontroversial. We would like to dispose of additional amendments this afternoon. It is our purpose to complete action on this bill on Monday.

I suggest the absence of a quorum while, hopefully, Members start coming this way.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVING SOCIAL SECURITY FROM THE UNIFIED BUDGET

Mr. HEINZ. Mr. President, it had been my intention to offer my amendment to remove social security from the unified Federal budget this afternoon, but Senator CHILES, the ranking member of the Budget Committee, and Senator DOMENICI have travel arrangements that, were I to offer the amendment at this time, would prevent them from fully engaging in debate. What I shall do instead is discuss the amendment this afternoon. I shall send the amendment to the desk not to be taken up and to be considered, but I shall simply have the amendment printed and printed in the RECORD at this point but not as if for consideration.

The amendment is as follows:

At the end of title I, insert the following:

REMOVAL OF SOCIAL SECURITY TRUST FUNDS FROM THE UNIFIED BUDGET

SEC. . Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"REMOVAL OF SOCIAL SECURITY TRUST FUNDS FROM THE UNIFIED BUDGET

"SEC. 1136. (a)(1) For the fiscal years beginning after September 30, 1984, and ending before October 1, 1988, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and a separate category for estimates of revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States Code, for each such fiscal year. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of out-

lays and revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1984, and ending before October 1, 1988, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund and in specifying the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(b)(1) Notwithstanding any other provision of law, at the time the President submits the budget under section 1105(a) of title 31, United States Code, for any fiscal year beginning after September 30, 1988, and at the times the President submits the supplemental summary and changes in budget authority, outlays, and receipts under section 1106 of such title for any such fiscal year, the President shall transmit to the Congress a separate statement specifying requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and estimates of revenues for such Trust Funds and revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year. The budget for any such fiscal year submitted under section 1105(a) of title 31, United States Code, and any supplemental summary or changes in budget authority, outlays, and receipts submitted under section 1106 of such title for any such fiscal year, shall not contain any requests for new budget authority or any estimates of outlays or revenues for any such Trust Fund for such fiscal year or any estimates of revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1988, shall not include in the provisions specifying—

"(A) the appropriate level of total new budget authority and total outlays required under section 301(a)(1) of such Act for such fiscal year;

"(B) the estimates of total new budget authority and total outlays for each major functional category required under section 301(a)(2) of such Act for such fiscal year; or

"(C) the recommended level of Federal revenues required under section 301(a)(4) of such Act for such fiscal year,

any amounts attributable to budget authority and outlays for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year or any amounts attributable to revenues for any such Trust Fund or revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year.

"(3) Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1988, or any amendment thereto or any conference report thereon, shall not contain any specifications or directions described in the second sentence of section 310(a) of such Act which relate to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954.

"(C) The budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for any fiscal year beginning after September 30, 1988, shall be exempt from any general limitation imposed by statute on budget outlays of the United States, including any limitation on net lending.

"(d)(1) For the fiscal year beginning on October 1, 1988, and the succeeding fiscal years, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and a separate category for revenues for such Trust Funds and revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States Code, for each such fiscal year. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of outlays and revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1988, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and the recommended level of revenues for such Trust Funds and for revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such

Trust Funds and revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(e) The provisions of subsections (a)(2), (b)(2), (b)(3), and (d)(2) are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(f) For purposes of this section—

"(1) the term 'budget outlays' has the same meaning as in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974;

"(2) the term 'budget authority' has the same meaning as in section 3(2) of such Act; and

"(3) the term 'concurrent resolution on the budget' has the same meaning as in section 3(4) of such Act."

Mr. HEINZ. Mr. President, let me take my colleagues' time to consider what I view as a very important choice before the Senate.

The amendment we shall take up on Monday, that I shall offer then, would separate the operations of the social security trust fund, first, as a distinct functional category in the next congressional and Presidential budgets, and then would remove social security entirely from the unified budget beginning in fiscal year 1989. Specifically under this amendment, the operations of the old age and survivors insurance—OASI—the disability insurance—DI—the hospital insurance—HI—and the supplemental medical insurance—SMI—trust funds would be separated from functional categories 550 and 600 and displayed as a separate function in the President's and the congressional budget effective with the fiscal year 1985 budgets.

In addition, the operations of the OASI and DI trust funds would be separated from the President's budget and the congressional budget and exempt from any general limitation on spending of the U.S. Government, effective for fiscal year 1989.

Mr. President, so that there is no misunderstanding of what this amendment would achieve, I ask unanimous consent that a section-by-section analysis of it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT TO REMOVE SOCIAL SECURITY FROM THE UNIFIED FEDERAL BUDGET BY SENATOR HEINZ—SECTION-BY-SECTION ANALYSIS

(a)(1) For fiscal years 1985 through 1988, the President's budget would contain a sepa-

rate functional category for the budget authority and outlays of the Old-Age and Survivor's Insurance (OASI), the Disability Insurance (DI), the Hospital Insurance (HI), and the Supplementary Medical Insurance (SMI) trust funds; and a separate category for the revenues to these trust funds. These trust funds would not be classified in any other categories. Budget authority, outlays, and revenues for these trust funds would still be included in the budget totals.

(2) Budget resolutions for fiscal years 1988 through 1988 would use the categories established by the President in specifying budget authority, outlays, and revenues for the OASI, DI, HI, and SMI trust funds. These trust funds would not be classified in any other categories, and would be included in the budget totals.

(b)(1) For fiscal years 1989 and beyond, budget authority, outlays, and revenues of the OASI and DI trust funds would not be included in the unified budget submitted by the President. However, when the President sends the unified budget and mid-year revisions to the Congress, he would send, in addition a separate statement on the operations of the OASI and DI trust funds.

(2) Concurrent budget resolutions for fiscal year 1989 and beyond would not include in the totals, functional categories, and revenues, any amount attributable to budget authority, outlays, or revenues for the OASI and DI trust funds.

(3) Concurrent budget resolutions, and amendments to or conference reports on concurrent budget resolutions would not include reconciliation instructions to Committees which relate to the OASI or DI trust funds, effective for fiscal years 1989 and beyond.

(c) The OASI and DI trust funds would be exempt from any general limitations on outlays and net lending which might be imposed (e.g. were there a statutory requirement that outlays could not exceed revenues in any given year, the OASI and DI trust funds would not be included).

(d) For fiscal years 1989 and beyond, the SMI and HI trust funds would be included in the unified budget but would be treated as a separate functional category in the budget.

(e) This provision simply restates that limitations on what can be included in concurrent budget resolutions are considered part of House and Senate rules and not a matter of statute, and can be changed as such by either House.

Mr. HEINZ. For the sake of emphasis and clarity, let me say again that the amendment insofar as it affects the congressional budget process, including reconciliation, would only be with respect to the two cash benefit trust funds—old age and survivor's insurance and disability insurance—and that it is those two and those two only that would be removed from the unified budget beginning in fiscal year 1989. Therefore, it would not remove the two medicare trust funds, HI and SMI. The medicare trust funds would remain in the budget as a separate functional category.

There are two reasons for leaving the two medicare trust funds in the budget. First, although one of these—HI—is financed by the payroll tax, there really is no relationship between the earnings of the worker and the benefits provided under the program. Once an individual is entitled to medicare, they have full access to the bene-

fits of the program, no matter how many quarters they worked beyond the minimum of 40 quarters, and without regard to the amount of earnings they had in this period. So in this regard, the sense of having earned the benefits is really quite different than it is with regard to the cash benefits.

Second, and more important in my mind, is that the medicare program is facing serious financing difficulties beginning in a few years and extending into the foreseeable future. These financing problems are so severe that they call into question our ability to continue operating medicare as it is currently structured. Medicare's financing problems are only a signal of far greater financing problems in the general area of health care. With hospital costs rising at twice the rate of inflation, we are not only facing alarming increases in medicare expenditures, we are facing a substantial erosion in tax revenues as well through our income-tax treatment of private health insurance. These are problems we will have to address broadly throughout the budget. The solutions to them may involve a restructuring of medicare financing making it inappropriate to have this program outside of the unified Federal budget. So I do not believe this is the proper time to address the issue of how we should treat medicare financing in the unified budget.

Mr. President, I would like to contrast the financing problems we have in medicare with those we have been experiencing in the cash benefit programs, because I think this reinforces the justification for separating the cash benefit programs from the unified budget. While the nominal cost of funding the current structure of benefits in OASI and DI is expected to rise substantially over the next 75 years, the cost of these programs relative to the economy as a whole will not necessarily increase over levels we are already supporting. In other words, today the cash-benefits account for about 5.2 percent of the GNP, and under intermediate II-B assumptions, they are expected to be 5.4 percent of GNP in 2060. In the interim, OASDI outlays will fluctuate under these assumptions between 4 percent and 6 percent of GNP. But the point is, over the long run, this is a relatively stable spending program. Where Federal spending fixed as a percent of GNP in the future will be the case, this program would account for a relatively stable share of that spending over quite a long period of time.

Medicare, however, is quite a different matter. Health care costs generally have been and are expected to continue rising at alarming rates. Health care accounted for only 6 percent of GNP as recently as 1965. It has jumped to nearly 11 percent of GNP today and is still climbing.

In sum, I think it makes good sense to wait until we resolve the problems in health-care financing and see how

medicare is financed at that time before we make any final decisions about including or excluding medicare from the unified Federal budget.

Mr. President, for several years, Congress has been debating whether social security ought to be a part of the unified budget and whether it ought to be considered each year in the context of the congressional budget process.

I believe the time has come to stop discussing that question. We have given it a tremendous amount of study. I believe the time has come to act.

We have before us today a social security financing bill which will do a great deal to restore public confidence in the social security program. It will provide \$165.5 billion in additional financing in the shortrun and totally eliminate, under current forecasts, the longrun financing deficit. Despite its success in providing new financing, it fails to address one of the root causes of declining public confidence, namely, cynicism about the way the Congress develops social security legislation.

I have been in a number of forums where the work of the Finance Committee and of the Budget Committee has been misunderstood. Any time somebody proposes to try and put social security on a firm financial footing so that we may assure the elderly that their benefit checks are going to go out, someone will get up and say: "These changes are being proposed to balance the budget on the backs of social security recipients."

How many times we have heard that in the last 2 years are too numerous to count. Whatever the reasons, there is a general misunderstanding in the public of the way social security is financed and of its relationship to the rest of our Federal programs.

Many people honestly believe that the Federal Government uses social security funds for other purposes and that the current financing problems have resulted because the Congress has repeatedly raided the trust funds.

Mr. President, I do not know of a single Member of this body who wants to be accused, even to let it be thought for a moment that they want to make a single change, no matter how modest, in the social security system if it is for the purpose of balancing the budget, or for that matter for the purpose of helping finance the defense budget, or any purpose other than maintaining the solvency of social security itself.

But I must say, I think the fact that we have had to deal with social security in the annual congressional budget debate in the last few years is largely to blame for this growing public skepticism. Congress has given the American people the impression that payment of social security benefits is conditional upon the status of the overall Federal budget, and not solely upon the financial condition of

the trust funds. Annual quick fixes in social security, made in the rush of reporting out a comprehensive budget, have flown in the face of the fact that this is a social insurance program dependent on long-term commitments by workers and the Government. Its inclusion in the budget process has made it look more like discretionary spending than the social insurance that it is.

Mr. President, the need to restore public confidence in the long-term stability of social security is of overriding importance. In the last few years, while the Congress has been debating what to do about social security, the public, particularly younger workers, has lost faith in the future of this program. In 1978, surveys showed that nearly half of all workers between 18 and 49 had confidence that they would receive benefits from the program when they retired. Today, fewer than one in four of these workers believe they will receive benefits. Mr. President, that is not a reversal. It is a wholesale loss of public confidence. It is a serious problem because the whole structure of this social insurance program rests on a compact made across generations. Younger workers today pay taxes to finance benefits for today's retirees in the expectation that future generations will also be willing to pay taxes when it is their turn to retire. Such growing doubts about the future of social security threaten to undermine the willingness of workers to support the payroll tax upon which the entire system rests.

The bill before us will begin the process of restoring public confidence in social security. In part, we will do this through the financing measures we adopt here. But we will also need to reassure the 115 million contributing workers and 35 million social security beneficiaries that these measures are being adopted solely to finance social security. To do this we must remove the social security trust funds from the unified Federal budget.

Restoring public confidence in social security is one good reason for removing social security from the budget, but it is not the only reason. If we look at this question from a budget perspective, it is even clearer that social security does not belong in the unified budget.

Mr. President, the social security program is a very different kind of program than those we generally find in the budget. It is a program which has its own dedicated taxes and its own financing reserve. This reserve is intended to provide resources to the program, cushioning it from the ups and downs of economic cycles. When social security runs deficits, it draws on its reserves; when it runs surpluses it builds the reserves back up. As part of the unified budget, however, social security's deficits add to the budget deficit and its surpluses mask budget deficits that might otherwise be more apparent. But social security is not a program which should be continually

adjusted to correct these temporary effects on the overall budget. It is a program which should be set on a sound financial basis and, to the extent possible, left alone to weather economic and demographic fluctuations with its own resources.

If we make the mistake of leaving social security in the unified budget, I think we are going to have tremendous difficulty in the future managing the social security program in a consistent manner. None of us can know for sure what the future will hold, but there are a few events which we know have a high probability of occurring. One of these which is going to have tremendous effects on social security financing, is the inevitable aging of the baby-boom generation. Like a rabbit swallowed by a snake, this generation will advance slowly through the age groups—first swelling the ranks of workers, and then, after 2015, swelling the ranks of retirees. This demographic pattern will result in annual surpluses for social security from the 1990's for about 25 years—in other words through about 2015—followed by annual deficits for social security after 2015. It seems to me, if we can gaze into the crystal ball for a moment, that this will lead to two kinds of problems in the context of the unified budget.

Mr. President, the charts behind me indicate the periods when social security will be in surplus and when it will be in deficit. As my colleagues can see, there are very large yellow areas between the years 1990 and 2015 that represent both annual and accumulated surpluses. After the year 2015, there is a large area of red that diminishes over time to a greater or lesser degree, depending on assumptions, that represents deficits, both annual and accumulated, that the system will experience.

Let us look at one of the surplus years. Take the year 2010. Under present law in that year, the old-age, survivors, and disability insurance trust funds are going to receive in revenues an estimated \$60 billion in 1982 dollars, today's dollars—not the dollars of the future some 30 years hence—they will receive \$60 billion more than they will spend in outlays, adding this to a trust fund of more than \$600 billion, again 1982 dollars, not future dollars.

If we enact H.R. 1900, as I hope we do, this surplus could run as high as \$125 billion in that year, and the trust fund itself might total as much as \$1 trillion that year.

It seems to me that if we have annual surpluses this large there will be enormous pressures for excess Government spending in other areas since this excess spending could occur without generating or creating a budget deficit.

Now let us gaze still a little further ahead into the future, and what we see is a very different problem for social security and, indeed, for the country. This time let us look at the

year 2025. Now the OASDI trust funds are spending under current law about \$100 billion more than receipts in revenues, again in 1982 dollars, and it is beginning to draw down on its reserves of more than \$230 billion.

If H.R. 1900 is enacted, the deficit would be somewhat smaller, perhaps only \$50 billion, and trust fund reserves would be quite a bit larger. But the general problem will be the same. These large deficits—equal to about 5 percent of Federal outlays—will put tremendous pressure on the Congress to either cut spending in other Federal programs or cut spending in social security, despite the fact that social security will have adequate trust fund reserves to meet its own needs through the 2050's and beyond.

These pressures to cut more or spend more because of the fluctuations in social security appear substantial when we look into the future. But we can see similar, though less intense, pressures operating on the Congress today. In fiscal year 1969, when President Johnson first included the operation of the social security trust funds in the Federal budget, it had the side effect, because social security was running surpluses in those years, of making the spending on the Vietnam war look smaller, and obscuring its impact on the budget deficit. By contrast, in recent years, social security deficits have intensified the overall budget deficits and increased the pressure to cut spending. On at least one occasion, these pressures have led the Congress to make cuts in social security that were, in my opinion, hasty and ill-advised.

The mismatch between social security and the unified budget is only too clear. The horizon of the budget process is 1 to 3 years. By necessity it must focus on program changes which can go into effect quickly and produce either immediate savings or immediate increases in revenues. On the other hand, the horizon of social security is an individual's working career and retirement. Its trustees project the actuarial balance of the system over a 75-year period. To consider social security only in terms of its financial condition in the next year or so is not only shortsighted but can be extremely dangerous for the long-run integrity of the system.

Some have suggested that my legislation would take social security off budget and hide it somewhere in the murky gloom of unknown and uncontrolled off-budget agencies. This is ridiculous. I do not think anyone would seriously believe there is any danger of losing a program the size of social security in the shadows. We will always know where it is and what it is doing.

It is interesting to note that even before social security was thrown in with the rest of the budget, the role of social security spending as a part of overall Federal spending was abundantly clear to the Congress. Prior to

the submission of the first unified budget, there were two separate Federal budgets: a trust fund budget and an administrative budget. Though these budgets were presented separately, they were combined in a single table for use in assessing the overall impact of all Federal spending programs on the economy. The amendment I will offer on Monday would not hinder in any way the ability of the Congress to evaluate the economic effects of social security spending. What it would do is separate the issue of social security solvency from other budget issues which are substantively unrelated.

Mr. President, the time has come to clarify for the American public that social security is an independent and separate program which must survive on its own basis and not be continually adjusted to respond to budget pressures. I ask my colleagues to support this method of dealing responsibly with the issue when we address it on Monday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDREWS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have just conferred with the distinguished chairman of the Finance Committee, Senator DOLE, who is on the floor. He indicates to me that there are one or two, maybe three, other amendments that can be disposed of this afternoon. I hope so, because we need to do as much as we can. It does not appear that those amendments will require rollcall votes.

In view of that, and in view of the number of absentees on both sides of the aisle which have developed by this hour, I wish to announce that there will be no more rollcall votes today. We will continue on this bill, however, and do as much of it as we can without further record votes today.

I urge Senators who have amendments and are willing to take them up today to come to the floor and make that known to the two managers.

Mr. President, so much has been done today that I feel we all should offer congratulations to the chairman of the committee and the ranking minority member, who have done their usual excellent job of moving this bill along. I believe that we are now in striking distance of finishing on Monday.

I announce, Mr. President, that Senators should be prepared to stay late on Monday and finish this bill, because it is essential, in my view, that we get this bill to conference as soon as possible.

The adjournment resolution that will come to us from the House of

Representatives will provide for the adjournment of the Senate over for the Easter recess on Wednesday, Thursday, or Friday.

I need not belabor that point, except to say that the sooner we get the social security bill out of the way and get to conference and get the jobs bill out of the way, the sooner we will be able to adjourn and perhaps improve the schedule for the Easter recess by a day or so.

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The Senate resumed consideration of H.R. 1900.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. SARBANES. Is it the majority leader's intention to try to finish the bill on Monday?

Mr. BAKER. Yes, it is.

Mr. DOLE. Mr. President, in view of and following what the majority and minority leaders have discussed, I would indicate that we are not encouraging any more amendments. We have still some to deal with. I know that the amendment by Senator BRADLEY, if he pursues that amendment, will be a record vote because there is strong opposition, including opposition from the chairman and the ranking minority member of the Finance Committee to that amendment.

Senator HAWKINS, the distinguished Senator from Florida, has an amendment which would cost about \$2 billion. We do not have \$2 billion. That will be strongly opposed.

And as far as I know at this point, then the budget issue will probably require a rollcall vote. I am talking about Monday.

Others, if they pursue the amendments, could require rollcall votes.

Sometime perhaps on Monday the distinguished Senator from Louisiana (Senator LONG), will have an amendment which will be amended and that will require some rollcall votes.

So there will probably be a number of rollcall votes. I doubt any would be before 2:30 p.m.

I know we are waiting. Senator BENTSEN has an amendment.

Would he be willing to add Senator THURMOND as a cosponsor to his amendment?

Mr. BENTSEN. I am delighted to do so.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Jersey will continue to be laid aside.

UP AMENDMENT NO. 101

(Purpose: To treat nonqualified deferred compensation the same as other elective deferred compensation for social security purposes)

Mr. BENTSEN. Mr. President, I have an unprinted amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. THURMOND, Mr. ZORINSKY, Mr. DURENBERGER, Mr. LUGAR, Mr. SYMMS, Mr. BAUCUS, Mr. SASSER, and Mr. BRADLEY proposes an unprinted amendment numbered 101.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. Strike lines 3-19 on page 104 and strike lines 20-25 on page 106, and lines 1-11 on page 107 and in each place insert the following new paragraph:

"(2) treatment of certain nonqualified deferred compensation plans"

"(A) IN GENERAL.—Any amount deferred under a deferred compensation plan shall be taken into account for purposes of this chapter as of the later of

"(i) when the services are performed, or

"(ii) when there is no substantial risk of forfeiture of the rights to such amount.

"(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) shall not thereafter be treated as wages for purposes of this chapter.

"(C) DEFERRED COMPENSATION PLAN.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'deferred compensation plan' means any plan or other arrangement for deferral of compensation other than a plan described in subsection (a)(5).

"(ii) EXCEPTION FOR CERTAIN GOVERNMENTAL PLANS.—In the case of a governmental plan (within the meaning of section 414(d)), the term 'deferred compensation plan' shall include only a plan described in sections 457(a), 457(e)(1), 457(e)(2)(B), 457(e)(2)(D), and 457(e)(2)(E).

SEC. 2. Strike lines 4-18 of page 110 of amendment 516 and insert the following:

"Any amount deferred under a deferred compensation plan (within the meaning of section 3121(v)(2)(C) of the Internal Revenue Code of 1954) shall be taken into account for purposes of this title as of the later of when the services are performed, or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into account as wages by reason of the preceding sentence shall not thereafter be treated as wages for purposes of this title."

SEC. 3. EFFECTIVE DATE.—Sections 3321(v)(2) and 3306(r)(2) of the Internal Revenue Code of 1954, as added by this section, shall apply to services performed after December 31, 1983.

Mr. BENTSEN. Mr. President, I have an amendment to correct what I believe to be an unintended result reached by the Finance Committee.

Many employers, particularly small employers, use nonqualified deferred compensation arrangements as a method of providing retirement income for their employees. Under current law, amounts deferred under these nonqualified deferred compensation plans are not subject to FICA (social security) or FUTA taxes when received as retirement payments. The blue ribbon Greenspan Commission did not recommend a change in this treatment. Likewise, the House of Representatives did not subject these deferred amounts to FICA or FUTA taxes.

Unfortunately, the Finance Committee has chosen to subject these nonqualified, deferred amounts to FICA and FUTA taxes when actually paid as retirement payments. This has the result of subjecting recipients to a social security tax burden when they are already retired and receiving social security. It has the additional onerous effect of eliminating the person's social security benefits because of the wage limitations. By indirection, it effectively increases the wage base for these persons way beyond the wage base currently in the bill, which, as we know, has already been dramatically increased. Finally, the Finance committee amendment is retroactive and, consequently, would drastically increase taxes by changing the rules after people already elected to defer some of their compensation.

My amendment corrects these results by simply subjecting these amounts to FICA and FUTA taxation when the amounts are deferred, not when they are eventually paid or made available. This simple, easily understood solution is exactly the same as the Greenspan committee recommendation and the House and Senate Finance Committee action in reference to section 401(k) plans and all similar plans under the bill. My amendment will help preserve the social security base from erosion by, in effect, ignoring nonqualified deferred compensation agreements for social security purposes without, however, imposing a drastic penalty on this form of compensation.

In most cases, under nonqualified deferred compensation agreements it is a relatively simple matter to determine when amounts are deferred and the amount that is being deferred. Likewise, as in many other areas of our tax law, simple rules can be established to determine the present value of amounts deferred in other cases.

My amendment preserves social security benefits for retired persons by simply making amounts deferred under nonqualified compensation plans subject to FICA and FUTA when deferred, not when eventually paid or made available.

There is negligible revenue loss, if any, and the amendment should be adopted.

Mr. President, what we are dealing here with is an amendment that deals with deferred compensation and under the present law, this is one where you would not have a tax incurred. What I am asking for and what has been checked with the chairman of the committee and with Senator LONG, the ranking minority member, is a piece of legislation that is revenue neutral and was not in the blue ribbon commission report of recommendations nor was it in the House bill and frankly would allow the deferred compensation to be recorded as of the date that it is earned rather than deferred to some future date at the time when it was received.

I believe that is the proper way to approach the problem and if we do not have that, then I think we have an unintended result in what was reported out of the committee and I believe that it would result in a number of deferred compensation plans being dropped.

I believe that is a good way to try to encourage retirement plans, and I urge very strongly that this amendment be accepted, and I state that it has been submitted to staff and to the chairman of the committee.

I yield to the Senator from Kansas for any comments that he may make.

Mr. DOLE. Mr. President, this amendment has been discussed with both the Senator from Texas and the Senator from South Carolina, and earlier today I had a colloquy, which is in

the RECORD, with the distinguished Senator from South Carolina, Senator THURMOND, on this same subject.

This amendment is further clarification, and, as the Senator from Texas indicates, it is a conforming amendment in many respects.

Essentially, the Bentsen-Thurmond amendment will conform, as closely as possible, nonqualified deferred compensation arrangement to the FICA tax treatment, section 401(k) plans as agreed to by the Finance Committee. It is fair to treat all deferred compensation equally for FICA purposes.

There may be additional areas such as ad hoc cost-of-living adjustments which may have to be worked out in conference, but this amendment goes a long way toward equalizing the FICA tax treatment of qualified and nonqualified deferred compensation arrangements and should be adopted.

I am willing to accept the amendment as I understand the distinguished Senator from Louisiana is willing to accept the amendment.

I am happy to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able manager of the bill.

We feel this is a sound amendment, and I hope the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 101) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, are there other amendments that might be disposed of without record votes?

Mr. BAKER. Mr. President, may I inquire of the distinguished chairman of the committee if there are other amendments that appear available to us? If not, I intend to ask the Senate to have a period for the transaction of routine morning business.

Mr. DOLE. Mr. President, I know of no other noncontroversial amendments. There are some that may become noncontroversial, but at this point we are still in the negotiation and discussion stage.

So I think that is about all we can do today.

Mr. BAKER. I thank the Senator. Mr. President, it has been a good day, and the chairman of the committee and the ranking minority member should be commended for their good work this day.

TREATMENT OF DEFERRED EMPLOYEE COMPENSATION UNDER THE SOCIAL SECURITY EARNINGS TEST

Mr. THURMOND. Mr. President, I wish to have a brief colloquy with the distinguished floor manager of the social security bill concerning the bill's treatment of deferred employee com-

pensation under the social security "earnings test."

I have been advised that, as reported from the Finance Committee, the social security bill apparently would have had the unintentional effect of causing thousands of retired recipients of deferred compensation to lose all or part of their social security benefits.

This would occur as a result of the interaction between the revised definition of "wages"—which would include certain types of deferred compensation—and the "earnings test", which causes social security benefits to be reduced if the retiree has earnings in excess of the allowed amount. Since another provision of the bill completely eliminates the retirement earnings test by 1994, an objective which I strongly support, I am sure that it is not the intent of the committee to bring under the earnings limitation a large group of individuals—retired recipients of deferred compensation—who heretofore have not been subject to it in respect to that deferred compensation.

Mr. DOLE. The Senator's observations are well founded. This was simply a drafting error which we will take care of through a committee technical amendment. The amendment reflects the intent of the committee that the receipt of income by a retired employee under a deferred compensation plan will not be counted as earned income for the purpose of the earnings test.

Mr. THURMOND. I thank the distinguished chairman of the Finance Committee for recognizing and taking care of this problem.

DRG'S

Mr. BURDICK. I say to the chairman, I hope we can clarify a concern I have about the diagnosis-related groups, or DRG's. I am concerned that the proposed system will not take into consideration the costs at those institutions which have research costs associated with the care of their patients.

As you may know, the Senate Appropriations Committee, on which I serve, has a long history of supporting community-based cancer centers. In fact, the Labor-HHS Appropriations Subcommittee has included report language in 2 of the last 3 years directing the National Cancer Institute to continue this effort. In part because of this interest, the Institute is establishing closer links between local community physicians and hospitals and the larger cancer centers. Two examples of this outreach are the regional cancer research groups and the community clinical oncology program. These kinds of programs are allowing patients at the local level to participate in and benefit from NCI research. In the upper midwest, we have a fine program developing in which community-based physicians and hospitals are involving their patients in cooperative research programs which benefit not only the patients, but the larger body

of medical knowledge. This research does not involve excessive additional costs, but it sometimes requires a greater intensity of care, more careful monitoring, additional testing or slightly longer hospital stays.

I feel strongly that this kind of cooperative, community-based research should continue so that citizens from all parts of the country can share the benefits of NCI research. I would hate to see the prospective reimbursement system limit this or reduce the opportunity for participation for medicare patients. I would hope that the Secretary will have the flexibility to recognize the additional research-related costs that may be involved in these cases, and that she or he will have the authority to make appropriate adjustments for them.

Mr. DOLE. I fully understand your concerns about this and share your belief in the importance of community-based research. We have no intention of discouraging legitimate research from taking place. Under the terms of our bill, the Secretary will have the authority to take the intensity of these cases into consideration in making adjustments to the standard DRG's.

Mr. BURDICK. I thank the Senator for clarifying this matter. ●

● Mr. DECONCINI. Mr. President, I see that judicial and administrative review are not available for the initial rates for each diagnosis related group (DRG) and the DRG classification system itself.

I wish to clarify that, subject to the present jurisdictional requirements for review by the Provider Reimbursement Review Board (PRRB), judicial and administrative review are available for matters relating to updating the rates, including the composition of the market basket, and the Secretary's decisions on the advisory panel's recommendations.

Mr. DURENBERGER. That is correct. The exclusions from judicial and administrative review are those items necessary to maintain budget neutrality during fiscal year 1984 and fiscal year 1985. In addition, the establishment of specific DRG's and their relative weights are not reviewable. Matters affecting aggregate expenditures and the DRG rates in subsequent years are reviewable.

Mr. DECONCINI. Are subsequent additions to or subtractions from the initial list of DRG's reviewable?

Mr. DURENBERGER. I do not believe so.

Mr. DECONCINI. Then the Secretary could cut the number of DRG's in half, or double the number, or do anything else he wanted at his total discretion. He could also refuse to change the relative weights of the DRG's, even though it was absolutely proven that a given DRG was under or over weighted. This is particularly significant because, as I understand it, a relatively small number of DRG's ac-

count for the majority of all hospital discharges. The Secretary could make all these changes at his total discretion regardless of their impact on hospitals and patients. This is a very broad grant of discretionary authority, and one that I believe my prove unwise.

Mr. DURENBERGER. Mr. President, the concerns of my colleague from Arizona have some merit. We have attempted to address these concerns in part by establishing an independent commission of experts whose responsibility it will be to work with the Secretary in determining the changes that need to be made in and among the various DRG's. In addition, I expect to hold hearings during the second session and into the future, and to consider any reasonable changes to the legislation as become necessary as we learn more about the new system. I invite my colleague from Arizona to share with me his specific recommendations.

Mr. DECONCINI. I thank my friend from Minnesota for his generous assistance and continued able leadership in the health area. I look forward to working with him next session.●

● Mr. WALLOP. Mr. President, one of the most important pieces of legislation to be enacted into law this century is the Social Security Act of 1935. It is an act of Congress that affects virtually every American, providing protection against destitution, assistance during ill health, and dignity in retirement. The program has been enormously successful and popular. During the almost 50 years of its existence, the social security program has expanded both coverage and benefits. Funding for the program has followed Franklin Roosevelt's decision to use the payroll tax rather than general revenues. Today, even those who publicly oppose it rely on it to undergird their own security, whether they realize it or not.

As the program matured, it was relatively painless to expand benefits. Money was flowing into the trust fund, and outgo was minimal. This halcyon period reflected the fact that the number of covered workers retiring was small in relation to the active work force, and the economy was quite robust.

Social security has reached its mature phase. The program covers virtually all workers and the tax applies to most wages. The number of retirees has expanded as the original participants have retired. This maturing has coincided with a period of sluggish economic growth and high inflation. The two developments have been devastating to the financial stability of the social security trust fund. As the number of retirees to workers has increased, the ability of workers to finance this pay-as-you-go program has diminished because of a weak economy.

The social security system is faced with a funding crisis. This crisis has

two parts, the short term and the long-term phases. Earlier this year, the National Commission on Social Security Reform presented a series of recommendations to the Congress which would keep the program solvent for both the short and long term.

Merely reaching an agreement on recommendations was a major achievement for the Commission. The members represented many different perspectives on social security. However, the severity of the problem forced a consensus. As I said last month, there are provisions in the package with which I agree and other provisions with which I disagree. But, this is a time for realism, and I realize that we all must swallow hard and do what is right. I joined as a cosponsor of S. 1, the social security reform bill. I also cosponsored S. 76, a bill to resolve the remaining long-term funding problem by raising the retirement age.

Last Thursday, the Senate Finance Committee approved the reform package by a vote of 18 to 1. I strongly support the package. The committee bill improves on the Commission recommendations by including a sensible solution to that portion of the long-term funding gap not addressed by the Commission. The Finance Committee rejected higher taxes over the long term. Instead, the retirement age will be increased to age 66 by the year 2012. And, initial benefits will be reduced by 5 percent beginning in the year 2000. Though the benefit calculation will be reduced, benefit levels will continue to grow as the wage level increases. This will avoid any hardship caused by the 5-percent reduction.

The Finance Committee also approved other sensible changes. The retirement earnings test would be eliminated. Thus, the penalty on work would be removed for those who have reached the retirement age. We also improved the tax credit to offset the burden of increased payroll taxes for the self-employed. Last, the committee agreed to changes in the treatment of spouses and former spouses to improve the treatment of women. For instance, two dropout years would be allowed for child bearing without losing entitlement to benefits.

This is a good package. The advancement of this program demonstrates that our political process does work, that the Congress can successfully deal with major problems. I urge my colleagues to support the Social Security Amendments of 1983.●

time so we may dispose of these amendments in a timely fashion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, when the Senate convened today, I indicated that there were a number of absentees and it would appear to be very difficult to anticipate final passage of this bill today, with the likelihood that we would have to go over until tomorrow. For a change, I have good news, Mr. President. I have to report that our absentee list has shrunk to less than half the size reported to me earlier today.

While we have an agreement and understanding that there will be no votes prior to 2:30 p.m. this afternoon, I urge the managers of this bill to get on with the matter at hand and see if we cannot finish this bill today at a reasonable hour or, if we cannot finish it, at least make substantial progress toward that goal. I am prepared to stay as long as the managers want to stay, but so that Members may make their plans—and I know a good number may have to rearrange or remake their plans based on the schedule today—I also ask that we get an appraisal soon of how much we can do, whether we can finish, and to what time the managers would like to go.

With that, Mr. President, let me rescind the statement I made earlier. We may be here later than I had thought. We may be able to finish the bill. That is still a fond hope, perhaps, but I think it has improved considerably by the reduction in the number of absentees that had been reported.

AMENDMENT NO. 520

The amendment is as follows:

On page 100, between lines 12 and 13, insert the following:

DISABILITY RETIREMENT BENEFITS

Sec. : (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

DISABILITY RETIREMENT BENEFITS

Sec. 234. (a) Every individual who—
 “(1) meets the criteria for entitlement to old-age insurance benefits which are specified in paragraphs (1) and (2) of section 202(a) (but only if he first meets the criterion specified in paragraph (2) of such section in or after the calendar year 2000).

“(2) is under an occupational disability (as defined in subsection (c) of this section); and

“(3) has filed application for disability retirement benefits.

shall be entitled to a disability retirement benefit for each month beginning with the first month for which he would be so entitled under clause (A) or (B) of section 202(a) if such benefit were an old-age insurance benefit, and ending with the month preced-

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The PRESIDING OFFICER. The unfinished business will be stated.

The acting assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the Medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I shall take a minute to notify Senators, who are in their offices, or their staffs, that we wish to immediately start work on the Social Security Act Amendments of 1983.

There are a number of amendments that I understand will be brought up. Some may require rollcall votes.

The pending amendment is the amendment offered by the Senator from New Jersey (Mr. BRADLEY). We are certainly willing to proceed with that amendment.

The distinguished Senator from Colorado (Mr. ARMSTRONG) has a couple of amendments. We are willing to proceed with those amendments. The Senator from Florida (Mrs. HAWKINS) has an amendment. We are willing to proceed with that amendment.

But I hope that we can have the cooperation of Senators so that we can move this bill along and hopefully finish it this evening because we have at least six or seven amendments which may require rollcall votes.

So, Mr. President, I hope that those who have amendments will come to the Chamber at the earliest possible

ing whichever of the following months is the earlier: the month in which he dies, or the month in which he attains retirement age (as defined in section 216(1)).

"(b) Except as provided in section 202(q)(12), an individual's disability retirement benefit for any month shall be equal to his primary insurance amount (as defined in section 215(a)) for such month.

"(c) For purposes of this title, the term 'occupational disability' (with respect to any individual) means the inability of such individual, by reason of any medically determinable physical or mental impairment (as defined in section 223(d)(3)), to engage in substantial gainful activity of the type primarily performed by such individual during the 10-year period immediately preceding the onset of such inability (or, if such individual has not engaged in any one type of such activity for 2 years or more during such 10-year period, the inability to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time).

"(d) The Secretary shall by regulations prescribe the criteria for determining whether or not an individual is under an occupational disability; and an individual shall not be considered to be under an occupational disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require.

"(e) Except as otherwise specified in this section or in other sections of this Act, the provisions of this title shall apply with respect to disability retirement benefits in the same way they apply with respect to old-age insurance benefits."

"(b)(1) Section 201(h) of such Act is amended by inserting ", including payments of disability retirement benefits," after "226".

"(2) Section 202(a)(3) of such Act (as amended by section 201(c)(1)(A) of this Act) is further amended by inserting "or disability retirement benefits" after "disability insurance benefits".

"(3) Section 202(q) of such Act is amended by adding at the end thereof the following new paragraph:

"(12) Paragraph (1) of this subsection shall apply with respect to disability retirement benefits payable under section 234 in the same way it applies with respect to old-age insurance benefits; except that paragraph (9) shall not apply and, with respect to an individual applying for or receiving disability retirement benefits, the reduction period and adjusted reduction period for any such benefit shall be determined under paragraph (7) as though retirement age (as otherwise defined in section 216(1)) were age 65."

(4) Section 226(b)(2)(A) of such Act is amended—

(A) by inserting "or 234" after "benefits under section 202" in subsection (a)(2)(A); and

(B) by adding after "or" at the end of subsection (b)(2)(A) the following new clause:

(iv) disability retirement benefits under section 234, or"

(c) The amendments made by this section shall apply only with respect to benefits for months after December 1999.

Mr. DOLE. Mr. President, as I understand it, the pending amendment is the Bradley amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. The Senator from New Jersey, as I recall, did briefly discuss

the amendment last Thursday. At that time, I suggested to the distinguished Senator that he give us an opportunity to look at it, because it is an area that the Senator from Kansas had not had a chance to focus on. We have since had that opportunity.

The amendment does not take effect until the year 2000, so I hope we shall not have to rush in to do something today that is not going to take place until the year 2000. We have not had 5 minutes of hearings on this in the Finance Committee. It does liberalize the eligibility for disability benefits for older workers in the year 2000 when the increase in the retirement age becomes effective. It would cost something like \$600 million a year in 1983 dollars, which is .04 percent of the taxable payroll in the long range. The proposal would work, as I understand it, so that people age 62 or older who are not disabled enough to qualify for benefits under the regular DI program would be eligible to receive payments out of the retirement fund if they were "occupationally disabled." This would include people who could no longer perform the major occupation they held during the preceding 10 years. Such people would then receive benefits financed out of the old-age and survivors insurance trust fund at a rate equal to the amount payable to early retirees under present law. In other words, they would not receive full benefits—as they would if they met the regular DI eligibility requirements—nor would they suffer the full penalty for early retirement that would be in effect under S. 1 after the turn of the century.

An "occupationally disabled" person aged 62 after the year 2000 would be eligible for 80 percent of his full benefits, rather than 75 percent were he or she to simply take early retirement.

Mr. President, this amendment may have great merit. I assume it does or it would not be offered by the distinguished Senator from New Jersey, but raising the retirement age will clearly put new strains on the DI program. The majority of the National Commission acknowledged this in the statement recommending that the retirement age be increased.

As stated in the Commission report:

Because some workers, particularly those in physically demanding employment, may not benefit from improvements in mortality and be able to work longer, we assume that the disability program will be improved prior to the implementation of this recommendation to take into account the special problems of those between age 62 and the normal retirement age who are unable to extend their working careers for health reasons.

It is not that I am not sympathetic to the idea of the Senator from New Jersey. It just seems to me it is an area we ought to look at carefully before we suggest adopting it on the House program. It is not in the House bill. I suggest we schedule hearings on this proposal. Again, I see no great urgency, since we have some time before we

reach the year 2000. Some have more time than others.

I support the approach in the House bill of studying our options carefully. We have the time. As I have said, the retirement age does not change for another 17 years, then only a month a year.

The House bill (H.R. 1900) would require the Secretary of Health and Human Services to report to Congress by January 1, 1986, with a comprehensive study of the implications of raising the retirement age for people in physically demanding jobs and those with health problems. Such a report would contain any recommendations the Secretary finds necessary or desirable.

On that basis, Mr. President, I hope we might reject this amendment.

Mr. BRADLEY. Mr. President, this amendment is a very important message to send to that small group of working Americans who look at the action of the Senate with regard to retirement age and conclude that, while indeed, life expectancy has increased, their ability to work longer has not increased commensurate with that raising of the retirement age. There are still people in very difficult manual labor jobs in the country who, by the time they reach age 62, are ready for retirement, and certainly by the time they reach age 65 are ready for retirement. All my amendment does is say to this group of Americans that they shall not be penalized because of the action that this Congress will no doubt take in raising the retirement age.

As it is now, a worker can opt to retire at age 62 and receive 80 percent of his benefits. Under the Finance Committee bill, once the retirement age is reversed, that benefit would drop to 75 percent of his full retirement benefit if he chose to retire at age 62. Likewise, at age 63, under current law, if a person chooses to retire because his profession is exceedingly difficult, he or she could receive 87 percent of the full retirement benefit. Under the bill pending before the Senate, that benefit would be reduced to 80 percent. Under current law, if a person chooses to retire for health reasons at age 64, he presently will receive 93 percent of his full retirement benefits. Under the bill we are now considering, that would be reduced to 87 percent of the full retirement benefit. At age 65, under current law, a person who chooses to retire may receive a full 100 percent of his retirement benefit. But under the bill that we are now considering, that person who is planning to retire at age 65 will have that benefit cut to 93 percent of his full retirement and it will not be until age 66 that he will be able to receive 100 percent of what has been promised to him through the social security system.

Mr. President, all this amendment says is that people with poor health who are working in difficult profes-

sions—in professions in which manual labor and occupational strain and occupational safety are very real threats to their physical well-being—if they choose to retire at age 62, they should have the same rights and benefit levels as they do under current law prior to the proposed changes in the social security retirement age. That is all this amendment says. It will be characterized by some as an enormous new disability program. It is not. It simply holds harmless those people who are out there today who would qualify for early retirement and get 80 percent of the social security benefit.

I say let us not cut him back arbitrarily to 75 percent of their full benefits. Why 75? Why not 85, why not 70, why not 80? What is the rationale for 75 percent?

Mr. President, this amendment is, I think, a prudent amendment because it has a much smaller eligibility pool than the disability program. There are about 100 million workers in the United States today, and all are potentially eligible for disability benefits, but the eligibility pool for people helped by this amendment is not all 100 million workers. It is, rather, about 6 million workers—those people who are between the ages of 62 and 66. So this is not a new large disability program that 100 million people will be eligible for. This is a very narrow program that attempts to hold harmless those people who themselves have had very dangerous work experiences and deserve the same retirement benefit as they would receive under current law.

Another point, Mr. President, is that the cost per award for this new program is significantly smaller than the regular disability program. The average disability worker with a family who qualifies for disability insurance now receives about \$841 per month. For our program, the average increase over the regular OASI benefit that a worker with a spouse would receive is about \$35 to \$50 a month. That is all. It is not a new disability program costing an additional \$800 a month per worker. It says to those 6 million workers between the ages of 62 and 66 that if they, indeed, are in a line of work that is adverse to their health, they should have the right to get the same benefits as they would under current law, which means an additional \$35 to \$50 a month.

Mr. President, to say to someone who has had a very dangerous occupation, someone who has worked in a steel mill for 30 years, or someone who has worked in an asbestos factory or in a coal mine, or whatever, "Yes, you can retire at age 62 but if you retire, you can only get 75 percent of your benefit instead of 80 percent." I think, is the wrong message to send to a large number of American workers.

Mr. President, the growth in the disability program, indeed, has exceeded expectations and the question has to be asked: Will the same thing happen

to this program? Mr. President, I say no for two reasons. First, we have a smaller eligibility pool—not 100 million workers eligible but only 6 million workers eligible. And, second, the cost per award is much smaller—not \$841 per month but \$35 to \$50 per month.

Mr. President, we are legitimately addressing a very critical issue—the long- and short-term stability of the social security system. We should not neglect what a majority of the members of the Social Security Commission itself said about the need for this kind of amendment. Mr. President, a majority of the members of the Social Security Commission, including Senators Dole and Heinz, recommended that the retirement age be raised, that is true. In addition, these same members recommended a liberalization of the disability program for those aged 62 or above, and I quote from the Commission report:

Disability benefits are now available under somewhat less stringent definitions for those age 60 to 64. However, because some workers, particularly those in physically demanding employment, may not benefit from improvements in mortality and be able to work longer, we assume that the disability benefits program will be improved prior to the implementation of this recommendation to take into account the special problems of those between age 62 and the normal retirement age who are unable to extend their working careers for health reasons.

Mr. President, that is not the Senator from New Jersey speaking. That is not the Senator from Louisiana speaking. That is not the Senator from Iowa speaking. That is a majority of the members of the Social Security Commission, composed of that wide spectrum of American political life, that came together and gave us a solution in very difficult political times to the threat that exists out there to our social security system. The recommendation I have just read comes from the Commission, not from any one Senator, and it says very clearly, "Let us do something about those who will have their benefits reduced if they, indeed, fall under, as they will if we do nothing, this change in the retirement age of the social security system."

So, Mr. President, it finally comes down to a question of timing: Do we pass an amendment such as this that clearly expresses the intent of Congress to hold harmless these older workers in ill health who are in dangerous professions? Do we provide for these people the right for an early retirement benefit or do we simply commission a study and say to these people, "Your day will come in the future. Maybe."

Mr. President, I think that my conclusion is quite clear. It is important for us to include this amendment in this bill to say to that group of Americans that they still count, and that they will be protected. Mr. President, I prefer to act now and tell these people out there who are working that we are going to be able to hold them harmless

against charges in the retirement age. The Secretary still has 17 years to devise regulations that will answer the worry of every Senator about the possibility that this program might be abused, which, as I have said, because of a smaller eligibility pool and a smaller increase in benefit, is highly unlikely.

Mr. President, I do not think that that is too much to ask, and that is, indeed, why I have offered this amendment. It comes again at the time when we are proposing to raise the retirement age from 65 to 66—the House has raised it to 67—and, indeed, to reduce early retirement benefits. The amendment is quite simple, and I hope that the Senate will see its merit and adopt it.

Mr. President, I ask unanimous consent that the following individuals be added as cosponsors: Senators Hollings, Sasser, Hart, Glenn, and Biden.

Mr. Sasser. Mr. President, I rise today to offer my support for the amendment offered by the distinguished Senator from New Jersey (Mr. Bradley). The issue of raising the retirement age is one which certainly cannot be taken lightly. The amendment offered by the Senator from New Jersey sufficiently addresses serious inequities which would exist if the retirement age were simply raised without regard for those who find that they no longer can work past a certain age.

I have had grave reservations over raising the retirement age above 65 because of its adverse effects upon the early retirement benefit formula. For many workers, particularly those in stressful or physically demanding occupations, it is important to keep the option to retire early open. Very simply put, there are many individuals who cannot work past the age of 62. These individuals must be afforded protection from an unwarranted reduction in early retirement benefits. The Bradley amendment provides this protection.

Supporters of raising the retirement age point to demographics: longer life expectancy rates and labor supply shortages in the coming century. These statistical calculations, however accurate, fail to take into account workers with poor health, low skill levels, and inconsistent work histories who will be unable to work or will be unable to find employment when they are older. The Bradley amendment would establish a new program that will allow a limited group of workers aged 62 up to the "normal retirement" age to qualify for "disability retirement benefits." Workers qualify for these benefits if they can demonstrate inability to perform the major occupation they had held during the 10-year period before the onset of their disability. The costs of the program are minimal, estimated to be 0.04 percent of payroll, and benefits would be paid

out of the Old-Age and Survivors Insurance Trust Fund.

Without this amendment, I believe it would be very hard for many of us here to support raising the retirement age to conform to the Senate Finance Committee recommendations. Thus, I urge my colleagues to join me in lending support for this needed amendment.

THE DISABILITY RETIREMENT SAFETY NET

● Mr. GLENN. Mr. President, I am pleased to cosponsor the disability retirement amendment offered by the Senator from New Jersey (Mr. BRADLEY), which would all a measure of fairness to the provision of the social security bill which raises the retirement age for full benefits.

If we increase social security's retirement age, we need to have a safety net for older persons, who for health reasons, cannot continue working. This amendment provides that a limited number of workers between the ages of 62 and 66 would receive a "disability retirement" benefit if they are unable to continue their jobs because of poor health. These benefits would be paid according to the current law retirement benefit formula.

The disability retirement amendment's purpose is to provide financial protection for those older workers who cannot keep their jobs because of poor health, yet cannot meet the stringent standards of the regular disability insurance program. It would allow these workers to retire with dignity and security. Older workers would be eligible for benefits if they can show they can no longer perform the major type of work they did before the onset of health problems. This is of particular importance for manual laborers.

The savings provided for in the Finance Committee bill slightly exceed those estimated as necessary to insure the long-term solvency of the social security system by 0.08 percent of payroll. Since the amendment is targeted to help a specific group of workers—an estimated 10 percent of future retirees—it would not be a solvency buster. Rough calculations show its long-term cost to be relatively low—0.04 percent of payroll—which can be accommodated by the bill's savings.

Overall life expectancy has increased since the 1930's. This has not been at issue in the debate over increasing social security's retirement age. One of the major questions has been whether there will be parallel improvements in health and the ability to work, and whether certain groups of people will be unable to participate in a trend toward longer working life.

The National Commission on Social Security Reform had two witnesses who testified on the issue of increasing social security's retirement age. They were Dr. Jacob Feldman from the National Center for Health Statistics and Dr. Robert Butler, formerly Director of the National Institute on Aging. Their testimony supported the conclusion that an increase in retirement age

would have a disproportionate impact on some future retirees.

Dr. Feldman testified that the downward trend in mortality for men aged 50 to 69 had been matched by increases in the incidence of disability. For men aged 60 to 64, Dr. Feldman said that during the past decade the rate of longevity has improved 10 percent, but during this same time, the disability incidence rate has increased 26 percent.

Dr. Butler told the Commission that minority citizens in physically demanding jobs largely retired before age 65. Unfortunately, at this time, these citizens still endure poorer health and mortality rates nearly double of other workers. They suffer the addition burden of a higher unemployment rate.

Dr. Butler's testimony is consistent with data from the Department of Labor's national longitudinal survey, which has shown health and one's employment history tend to interact to cause retirement from the labor force before age 65. A study published just a few months ago in the Social Security Bulletin, "Mortality and Early Retirement," offered additional analysis that workers seeking retirement at age 62 were more likely to suffer health problems and higher death rates than other workers.

Available evidence demonstrates that workers who retire early for the reason of poor health tend to be the recipients of lower social security benefits. Many of them spend a lifetime in physically demanding jobs. These are the people who cannot afford significant reductions in their social security checks and are most in need of full, early retirement benefits.

I commend Senator BRADLEY for his work on this amendment and for raising the issue for the Senate's consideration. I urge all my colleagues to vote for the pending amendment.●

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I regret that I cannot support the amendment.

The Senator from Louisiana was one of those who sponsored the amendment many years ago to provide disability benefits both under public welfare and under social security.

Mr. President, our experience in that program has been disappointing in that we had so many more people who have claimed and obtained the disability benefits than we had in mind. I recall when Walter George, a Senator from Georgia at the time and former chairman of the Senate Finance Committee, made the closing speech for the amendment on social security. He laid out the number of people that we expected to be affected. His estimate was based on what he could obtain from the Department and from other sources.

Looking at our disability program today, we have about three times the number of people in that program,

with the program costing about three times as much in terms of percent of payroll, as the Senator from Georgia estimated at that time.

As a cosponsor of the amendment, I know that I was in good faith in supporting it and voting for it, and so were the other cosponsors. I am sure the same applied to every Senator who voted for that disability proposal.

What happened down through the years was just human nature, I suppose, among those administering such a program, which would cause them to be more tolerant toward those persons who were handicapped, who were partially disabled but not totally and permanently disabled.

We have a program today costing about \$18 billion in social security alone because of disability, in terms of percent of payroll, about three times what we estimated that program would be costing us at this point.

I am not here to look with scorn on those judges and the administrative personnel who handled this program down through the years. I believe that with regard to many of these people who obviously had a severe disability, looking at it personally, they would be inclined to be sympathetic toward the applicant. In many cases, the applicant would know that he could retire on disability if he could persuade others that he was disabled. He would start out by persuading himself he was disabled, and then persuade others that he was disabled, including the persons who had the responsibility to handle the administrative appeals.

I can just picture a judge, having reversed the people in the Department who found that this applicant was not disabled, saying to himself: "Well, I think I will sleep well tonight. I know that person wasn't really totally and permanently disabled, but I felt sorry for that man and his family. They need the income, and that fellow probably couldn't find a job anywhere else. So, thanks to my decision, he will be taken care of, at the taxpayers' expense, from this day until the good Lord calls him home. While I know that is not what Congress had in mind, I don't feel bad about it. I feel good about it. I'll have a good night's rest by deciding that case in that person's favor."

I have no doubt that that is the way a lot of judges looked at it when they were restoring to the rolls those people who had been found not to be totally and permanently disabled and who were never intended to go under that program.

We are having great difficulty trying to get the genie back into the bottle, and so far we have not succeeded in doing that.

I think that if Congress at this point voted a benefit for occupational disability, which would obviously be intended to be a liberalized standard of disability, this would indicate that Congress is not really serious about

staying to the strict definition of disability that is in the law.

Things have happened in recent years to give signals to those who are trying to administer programs for us out there, tough though it may be to reject people who are severely handicapped, but not totally disabled. The signals coming from Congress have not always been as clear as they are today. For us now to put into the law a program for occupational disability can only be construed by those who are out there in the field, trying to do what Congress intended—and that is to provide disability benefits only where somebody is so disabled that the person is incapable of holding any job, incapable of earning any substantial income from gainful employment of any sort—that Congress is retreating from the position it took.

Mr. President, if this provision is to be approved by the Congress, I have no doubt that if it becomes the law, long before the effective date of this provision, long before the year 2000, there will be other amendments triggering more benefits to persons who are occupationally disabled; and I have a lot of sympathy with that.

It was my father, as a young lawyer, and his brother, a more senior lawyer to him, in the State of Louisiana, who played a major part in winning the lawsuits to have a person construed in our State as being totally and permanently disabled when a person was occupationally disabled; this is, disqualified to do the job that person had done previously.

The State law had provided that there would be a certain benefit schedule if a person lost a hand, and there would be a larger benefit schedule if he lost two hands, and a still larger benefit schedule if he were totally disabled. In the case of my father and his brother, they were successful in persuading the court that if a person had been a switchman on a railroad and had a job that required two useful hands, he was totally disabled if he lost one hand. I find much sympathy for that type of proposal because it runs in my family tradition.

However, Mr. President, must we do this now, understanding that during the next 18 year this will be setting the stage for large increases in disability payments in other programs, totally unrelated to this?

It challenges the imagination to think of the many different situations in which one can urge that this precedent be used to advance disability coverage to others. If we put this into the law, how can anyone contend that, once having provided a special benefit for disability on an occupational basis at age 62, we should stop at age 62? Cannot Senators understand how a Senator in the future could appear with his amendment and say, "The Congress has already agreed that this person ought to receive retirements

benefits for occupational disability at age 62. That is agreed in the law. Having agreed to that, why should he have to be 62? Why not 60? Why not 56? Why not 52? Why not 50? How can you be so cruel? This person is disabled from doing that job, and he is only 49 years old."

Mr. President, from what begins to be a small acorn, a giant oak grows; so that the taxpayers, in due course, are picking up the tab for all this.

That has been the history of many of these spending programs, particularly in the social welfare area. Someone starts out with something, makes an eloquent appeal, such as today, and in due course he sells Congress on it, without Congress thinking about the ramifications and what happens further down the road.

I know there is no particular joy to me—and there is no particular joy to the Senator from Kansas—to stand here and oppose more and more benefits, to advocate that we tighten up on programs rather than loosening up on them. But that sort of duty besets one when he assumes a position of responsibility.

It was a degree of pressure this Senator never experienced before, when he became the ranking member of the Finance Committee and at one time the chairman of the committee, to have to be the one to oppose all these proposals that were going to do many things for many people, at great expense—some of them at not such great expense—knowing that we do not have the money to pay for them.

But, Mr. President, this would do no good for anyone for the next 18 years. As the Senator from Kansas, the distinguished chairman of the committee has pointed out, if this is right we have plenty of time to do this during this next 18 years. If it is not something we can afford, we would be unwise to set a precedent that would lead to a great deal of additional cost in other areas that the mind of man cannot fully anticipate at this moment.

I hope that the amendment will not be agreed to at this point and that this proposed liberalization, along with others that will be suggested, will be reserved by the Senate for hearings on future social security and public welfare bills, because this is an area that we will continue to explore. This is an area that in time we may want to liberalize. But I submit that the time is not yet here.

Mr. BRADLEY. Mr. President, I appreciate the comments of the distinguished Senator from Louisiana. Indeed he found himself in very difficult positions when he was chairman of the Finance Committee in the Chamber arguing against expansions of the disability program. I understand his long record of responsible spending policy, and I understand it is not easy to do what he has done over the years.

But I would argue to the Senator from Louisiana that this is a different kettle of fish—that the pool of potential eligibles for this new program is not 100 million workers as it is under the disability program. It is only about 6 million workers who find themselves between the ages of 62 and 66.

Mr. President, I understand how the Senator can say that it is very difficult to know whether someone is really disabled when he is there before a judge with his human case. Indeed, judges possibly allow more people on the disability rolls under the law because of this human factor.

Same paragraph but under my amendments, that human factor is limited by one thing, and that is demographics. There are only a certain number of people between the ages of 62 and 66 and they are only a fraction of the number potentially eligible for disability.

Mr. President, the Senator's other fear is that if we take this step to hold harmless those people who are out there working in manual jobs and dangerous occupations, somehow or other we will lower the age from 62 to 60 and then 55. I think it is important to remember that it was in 1956 that early retirement for women was put into the law and 1961 that early retirement for men was put in the law. So, Mr. President, I argue that it would be unlikely that we would do anything irrationally on the retirement age since we have not done anything since 1961 for men and 1956 for women.

I think the best way to get at the modesty of this amendment is to take a human situation and look at what the law is today, what it would be under the bill presently pending, and then what it would be if this amendment is passed.

Mr. President, right now let us say that one is a steelworker. He reaches age 61 or age 60 after working 30 years in the steel mill. He has problems breathing. He has gone to work every morning before dawn for 30 years. He realizes that his health will not allow him to continue to work to age 65. He would like to spend some time with his family. So this person under current law decides he will opt for early retirement at age 62 and accept 80 percent of the benefit that he would receive if he worked until age 65.

That is the calculation that the worker makes today: "I am in bad enough shape that I will retire early and take 80 percent of what I would get if I continued to work until age 65."

Mr. President, all this amendment does is to say that this person will continue to receive 80 percent of his benefits if he retires at age 62. If this amendment is adopted, there is no greater incentive to retire at 62 than there is under current law. There is simply no greater incentive because the person would still only get 80 percent of his benefits. Right now the

best argument against the charge that the cost is going to mushroom into some gigantic spending bill is that right now you do not find people stumbling over themselves to retire and take only 80 percent of their benefits. They continue to work.

Mr. President, under the bill before us, this person's benefits would be cut to 75 percent. Why cut it to 75 percent? Keep it where it is now at 80 percent. Again, there is no more incentive for that person to retire early with my amendment than there is under current law.

Finally, Mr. President, I want to address the cost issue. The Senator from Kansas said that according to the social security actuaries the cost will be \$600 million a year, or one-hundredths of 1 percent of payroll. I personally find it very difficult to determine what costs are going to be. I can see the outward limit but I find it difficult to see what costs are precisely going to be. I do know one thing and that is that there is a surplus in this bill over what the long-term needs are, of \$1.2 billion a year, or eight-one-hundredths of 1 percent of payroll, and all this amendment would do is to cut that surplus in half.

Mr. President, I think that the least we should do is send the right message to those sick people who have had very hard work lives and should be able to retire at age 62 with 80 percent of their benefits, as under current law, instead of 75 percent of their benefits, as under the bill before us.

Mr. President, if the Senator has concluded, I am prepared to ask for the yeas and nays unless the Senator is going to accept the amendment.

Mr. DOLE. No; I would like to but I cannot.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I am not certain there is going to be any surplus. We had all these actuaries working up the long-term and the short-term estimates, and 0.04 percent is half the projected long-term surplus. But there are other amendments going to be offered, in fact one by the distinguished Senator from Louisiana, that would wipe that out and more if he is successful because we are advised by the actuaries that, in fact the Federal employees are not included, we are going to lose 0.28 percent of payroll, which is a substantial amount. That is long term, and that would more than take care of any surplus which is probably only hypothetical in any event.

But I urge the Senator from New Jersey to wait, and again I do not quarrel with any of his statements, but I do not understand why with a program that would not even take effect until the year 2000, when we are trying to rush and pass this program

to save the social security system we have to act on his program right now. I understand there has never been a hearing, not 1 minute, not 1 hour, not 1 day of hearings on this particular subject concerning what we call occupationally disabled in the Finance Committee.

It would seem to me before we launch into a new program that may have great merit, we may want to see whether there are other things that should be done in addition. We may decide the program does not have any merit or very little merit, but at least the matter ought to be heard and, therefore, it would seem to me, as I said earlier, that the House took the appropriate course in asking that the Secretary of Health and Human Services report to Congress by January 1, 1986, with a comprehensive study about the implications of raising the retirement age for people in physically demanding jobs and those with health problems.

The Senator from Louisiana has had much more experience in this area than the Senator from Kansas. We watched the disability program grow between 1970 and 1980, where the cost of the disability program rose fivefold, from \$3.3 to \$15.8 billion. Between 1970 and 1977 alone, the number of disabled workers on the rolls almost doubled, from 1.5 to 2.9 million.

As my colleagues are aware, a series of events in recent years, including the periodic review of continuing disability and generally tighter administration, have led to a recent decline in the number of people on the DI rolls.

Today the program spends about \$19 billion on 4.4 million beneficiaries, including spouses and children.

Twenty-two percent of the DI worker beneficiaries are 62 or older; 10 to 12 percent of new awards are made to people 62 or older.

So it just seems to me that we ought to proceed with caution when we start out and when we talk about making modifications of the disability determination process. That was a statement that was made by the distinguished Senator from Louisiana, and one this Senator shares.

Again I think it would be great to stand here all day and appropriate more benefits for this group and more benefits for that group. The only reason we are here today is because we provided too many benefits in years past, and that is why we are asking Federal workers to come into the system, why we are delaying the COLA's, and why we are taxing benefits and accelerating payroll taxes, because we have been too generous in the past.

I hope we will not make that same mistake. Give us a chance to look at this over the next few years. There is no big rush. Certainly there is no need to do it today on this legislation.

So, Mr. President, I hope this amendment will be defeated. I thought about moving to table the

amendment. Does it make any difference to the Senator? Is it better if it us up or down? It is better for you.

Mr. BRADLEY. Yes, I would prefer an up-or-down vote.

Mr. DOLE. If you can assure me you would lose. [Laughter.]

Mr. BRADLEY. It depends on how many of my colleagues indeed want to address the problems of the person in ill health who has been out there in a very hard physical job for 30 years at the same time that we are addressing the issue of the raising of the retirement age.

I hope we will have an up-or-down vote.

Mr. DOLE. The Senator from Kansas is willing to have an up-or-down vote. I know the Senator from New Jersey feels strongly about the amendment. It would have been my hope that he would have made this very persuasive argument and then withdrawn the amendment and then allow us to have a chance to have an appropriate hearing.

It would seem to me this should be a fairly clear test on whether we should liberalize a program 17 years in advance, which does not make much sense to this Senator, and I hope my colleagues will reject this amendment, give the Senate Finance Committee an opportunity to take a look at it before we make any such change.

The Commission recognized this problem, and, as the Senator from New Jersey properly pointed out, the Senator from Kansas was a member of that Commission. But I would like to have the amendment voted on so that we can get onto other amendments and maybe pass this bill, although I must say there are rumors lurking around that there is another withholding amendment to be attached to the social security bill. Apparently, the American Bankers Association, not having been successful in attaching the withholding amendment to the bill on the jobless and the homeless, want to attach withholding to the social security bill. I hope that is not the case. The American Bankers Association has a lot of money and not much else to do, and this looks like another good target for the strategists in the American Bankers Association.

I am prepared to vote on this one and, hopefully, get onto something else.

Mr. BRADLEY. Mr. President, I would like to add Senator RIEGLE as a cosponsor of this amendment, and I ask unanimous consent to do so, and to just clarify for my colleagues who are listening that this amendment does not deal with interest withholding. This amendment deals with whether we are going to hold harmless those people who have worked hard for 30 years in the steel mills and are forced to retire because of poor health.

Mr. DOLE. I think we ought to withhold judgment on it until we have had hearings.

The PRESIDING OFFICER. Without objection, Senator RIEGLE will be added as a cosponsor.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from South Dakota (Mr. PRESSLER), the Senator from Indiana (Mr. QUAYLE), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Oregon (Mr. PACKWOOD) are absent due to a death in the family.

Mr. BYRD I announce that the Senator from California (Mr. CRANSTON) and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER (Mrs. HAWKINS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 30, nays 61, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—30

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|-----------|------------|------------|
| Biden | Glenn | Metzenbaum |
| Bingaman | Heflin | Mitchell |
| Bradley | Hollings | Pell |
| Burdick | Inouye | Proxmire |
| Byrd | Jackson | Randolph |
| Chiles | Kennedy | Riegle |
| DeConcini | Lautenberg | Sarbanes |
| Dodd | Levin | Sasser |
| Eagleton | Matsumaga | Tsongas |
| Ford | Melcher | Zorinsky |

NAYS—61

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|-------------|------------|-----------|
| Abdnor | Goldwater | Moynihan |
| Andrews | Gorton | Murkowski |
| Armstrong | Grassley | Nickles |
| Baker | Hatch | Nunn |
| Baucus | Hatfield | Percy |
| Bentsen | Hawkins | Pryor |
| Boren | Hecht | Roth |
| Boschwitz | Heinz | Rudman |
| Bumpers | Helms | Simpson |
| Chafee | Huddleston | Specter |
| Cochran | Humphrey | Stafford |
| Cohen | Jeepsen | Stennis |
| D'Amato | Johnston | Stevens |
| Danforth | Kassebaum | Symms |
| Denton | Kasten | Thurmond |
| Dixon | Laxalt | Trible |
| Dole | Leahy | Warner |
| Durenberger | Long | Weicker |
| East | Lugar | Wilson |
| Exon | Mattlingly | |
| Garn | McClure | |

NOT VOTING—9

| | | |
|----------|----------|--------|
| Cranston | Mathias | Quayle |
| Domenici | Packwood | Tower |
| Hart | Pressler | Wallop |

So Mr. BRADLEY's amendment (No. 520) was rejected.

Mr. DOLE. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order, please.

UP AMENDMENT NO. 102

(Purpose: To require the Quadrennial Advisory Council to study and make recommendations on the increase in the retirement age and its effects on SSI, DI, and unemployment compensation programs)

Mr. HEINZ. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 102.

Mr. HEINZ. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 100, between lines 12 and 13, insert the following:

(d)(1) The 1987 Quadrennial Advisory Council on Social Security appointed pursuant to section 706 of the Social Security Act shall study the effect of raising the normal retirement age, and shall recommend to the Congress changes in the supplemental security income program, disability insurance benefits, and unemployment compensation which may be necessary to meet the special needs of individuals between the ages of 62 and 66, effective in the year 2000 who are unable to work because of poor health or lack of employment opportunities.

(2) In order to adequately address the issues described in paragraph (1), the Secretary of Health and Human Services shall appoint to such Council representatives of organized labor, and experts on the problems of older workers, disability and employment, and the labor market. Such experts shall be appointed subject to the approval of the chairman of the Senate Committee on Finance and the chairman of the House Committee on Ways and Means.

Mr. HEINZ. Madam President, the amendment I am offering would direct the 1987 Quadrennial Social Security Advisory Council to study the effect of raising the normal retirement age in social security, and to report to the Congress on changes which should be made in the supplemental security income program, the disability insurance program, and unemployment compensation to assure that the needs of those who will be unable to work longer are met.

Madam President, the proposal to raise the retirement age gradually to 66, beginning in the year 2000, is a partial recognition of the dramatic changes that have taken place and are expected to continue to occur in life expectancy. Over the last 40 years, life expectancy at age 65 has increased among men by 2 years, and among women by 5 years. By the year 2000, life expectancy is expected to increase by another 1½ years among men and another 2 years among women. It is also a proposal which is expected to coincide with changes in preferences for work and the demand for labor which should occur before the turn of the century. By the year 2000, we fully expect that our older citizens will not

only be living longer, but that they will want to and be able to work longer as well. Demographers today project that toward the end of this century there will be proportionately fewer younger workers in the labor force, leading to labor supply shortages and an increasing demand for older workers. In addition, today's younger generation, which entered the labor force later, has developed a higher level of education and skills, and has worked in less physically demanding occupations than their elders, may prefer to work longer than the current generation of retirees.

But, Madam President, while the average worker may be able to work longer, there will be those who will need to maintain the option to retire early. During the deliberations of the National Commission on Social Security Reform last year, those of us who participated in those sessions had the opportunity to hear from two experts on the question of life expectancy and health trends. It was apparent to me from their testimony that there is no clear evidence at this time that improvements in life expectancy are going to be accompanied by improvements in morbidity. Even though we fully expect people to live longer in the future, there is no assurance that they are going to be any healthier.

Today nearly two-thirds of those who retire under social security receive benefits which are reduced for early retirement. While many of these people are receiving reduced early retirement benefits by choice, perhaps as many as one-third of them had to stop working for health reasons. Workers who have spent 40 years in back-breaking labor frequently find it impossible to continue in their line of work by the time they reach 62. With few other job opportunities, older workers who have to stop working in one job stand little chance of finding employment in another line of work.

In addition to those no longer healthy enough to work in the same occupation, there are those in hazardous jobs demanding physical skills such as balance and timing which cannot be relied upon in later years.

While the average worker of the future may choose to delay retirement, there will still be those in stressful or hazardous jobs who will need to maintain the option to retire early. There will continue to be workers with poor health, low skill levels, and inconsistent work histories who will be unable to work or find new employment when they are older.

For those who can work longer, raising the retirement age will conform to their choices and their opportunities. Combined with the incentives in this package to delay retirement—the increase in the retirement age should help to dilute the strong association which has existed in the past between age 65 and retirement.

For those who cannot continue working past age 62, improvements should be made in disability insurance (DI), supplemental security income (SSI) and unemployment compensation to assure that those unable to work longer are not unfairly or unnecessarily punished for events which are fully beyond their control.

Madam President, I do not believe we know yet what kind of improvements should be made in these programs to respond to the special needs of these workers. Instead, I believe we have the time to develop solid legislation to complement the increase in the social security retirement age, since this increase is not scheduled to go into effect for another 17 years.

This amendment will charge the next quadrennial council, already scheduled to convene in 1987 to study programs authorized under the Social Security Act, with the responsibility of reviewing this issue and making specific recommendations to the Congress. By the end of the decade, I am confident we will have a clear sense of how to proceed to assure those who will have to rely upon early retirement will not be unfairly penalized by the increase in the social security retirement age.

Madam President, the amendment I am offering would simply direct the 1987 Quadrennial Social Security Advisory Council to study the effect of raising the formal retirement age in social security, as we do in this bill and, for that matter, as the House does in their bill, by 1 additional year, and to report to the Congress on changes which should be made in the supplemental security income program, the disability insurance program, which was the subject of Senator BRADLEY's amendment, and the unemployment compensation program, to assure that the needs of those who will be unable to work longer indeed are met.

Madam President, I will not explain the need—

Mr. DOLE. Madam President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. Those wishing to have conversations, including those on the sofas in the back of the room, will retire from the Chamber.

Mr. HEINZ, Madam President, I shall not take the Senate's time to explain the need for this amendment. Indeed, it attempts to answer the very real questions that Senator BRADLEY very persuasively raised in offering his amendment. Let me say that, although I happen to oppose the amendment of the Senator from New Jersey, I have a great deal of sympathy for it. I originally had intended to support it, but when we got the additional cost estimates of some \$800 million a year, I decided that now is not the time to start liberalizing some additional benefits, when we have 17 years to make the changes to do so.

It so happens that there is a careful and thoughtful way we cannot only meet the objectives of the Senator from New Jersey, but address, rather than in a piecemeal fashion, the problems that we shall encounter in the other programs that we use to take care of the special needs of not just working people who are relatively well to do, but those people, for example, who are not well to do but who are covered by the SSI program or, for that matter, those people who become unemployed and have to rely on the unemployment compensation program.

Those were not specific features of the amendment of the Senator from New Jersey, even though I salute the objective and the principle that he had in mind, which is to recognize, quite simply, that there are people who are simply going to be unable to work longer, even though Congress would like them to.

For that reason, Madam President, I offer this amendment. I hope that it is adopted by my colleagues. I have discussed it somewhat with the managers of the bill, and I hope they will accept it.

Mr. DOLE. Madam President, this has been discussed, and I think it is a responsible alternative. Again I am sympathetic with the efforts of not only the distinguished Senator from New Jersey, but the distinguished Representative from Oregon, who has been working on this for some time. This will give us an opportunity not only to outline what the distinguished Senator from Pennsylvania has just stated, but also have some hearings in our committee. We still have ample time, it seems to me. This will be an appropriate approach.

I am willing to accept the amendment. I know there is no objection to the study on the other side.

The PRESIDING OFFICER. Is there further debate?

Mr. LONG. Madam President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 102) was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Madam President, I thank the sponsor of the bill for his support of this amendment.

UP AMENDMENT NO. 103

(Purpose: To delay implementation of the withholding provisions on interest and dividend income until January 1, 1984)

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 103.

Viz: At the end of the bill add the following new section:

"DELAY IMPLEMENTATION OF WITHHOLDING ON INTEREST AND DIVIDEND INCOME

SEC. . Section 308A of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out 'June 30' and inserting in lieu thereof 'December 31.'"

Mr. DOLE. Madam President, as I understand, this is a sense-of-the-Senate resolution but one which I hope the Senate will not agree to. It is a second shot by the American Bankers Association to not only hold up the jobless and the homeless but now all those who depend on social security. I hope we do not spend a great deal of time on this. I shall move to table the amendment at an early time.

I know everybody wants to get into the act because this is very popular. It is easy to be on the side of the bankers. They are flooding us with mail. We learned yesterday from the Washington Post that they had two-way mirrors to find out how people react to this scheme before they set it in motion, a sort of "banks scam" so they could find out how to proceed with this campaign. I think it shows a new low the American Bankers Association reached when it kicked off this campaign.

I hope we shall keep our eye on social security.

Mr. MELCHER. Will the Senator yield?

Mr. DOLE. As soon as I finish, I shall. I am probably going to be here for some time.

What we are trying to do is carry out what I consider to be the most important piece of legislation we shall have for a long, long time in this body and in the Congress itself. I know that everybody wants to be on record as being with the bankers and the financial institutions and the power in this country and the big PAC's and all those things, but we are talking about benefits to 36 million Americans and 115 million to 116 million people affected who are paying into the social security system. I hope we might get on with the social security bill but if, in fact, there is going to be a debate, we may as well start it now rather than April 15.

It is this Senator's feeling that we had agreed in this Chamber that we would debate the merits of withholding on interest and dividend income commencing April 15.

The Senator from Kansas learned when he left the floor that day that we had withholding on interest and dividend income back in 1862. I shall be discussing that at greater length starting on April 15, but this is not something that has not been around before.

As I understand the Senator's amendment—we do not particularly need to understand it fully, but it is injecting withholding back into this debate. If that is the intent of some of the Senators on the floor, we ought to find out right now, because that will change how long we stay tonight and how long we stay the rest of the week.

I am prepared to yield the floor.

Mr. MELCHER. Madam President.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. I think perhaps, from the kind remarks of the Senator from Kansas, he misunderstands the amendment. The amendment is not a sense-of-the-Senate resolution; the amendment goes directly to the implementation date of the withholding tax on savings and interest. It would move that date from July 1 to the end of the year.

For all the reasons that have been debated on the floor concerning the Kasten amendment, which would have repealed the withholding tax provision on interest and dividends, it is clear that there does need to be further consideration, as the Senator from Kansas, the chairman of the Committee on Finance, has often stated, and complete and thorough discussion, as the chairman has repeatedly stated regarding the Kasten amendment to repeal withholding. To accomplish that purpose, Madam President, I have introduced this amendment. This will give time for Congress, both the Senate and the House, if they are so inclined, to look at the proposal, to look at whether or not the withholding of taxes should go into effect is reasonable.

Mr. DOLE. Will the Senator yield?

Mr. MELCHER. Yes, Madam President.

Mr. DOLE. The Senator said withholding tax. It is not a tax.

Mr. MELCHER. Withholding of the tax on dividends and interest. I thank my friend from Kansas. We want this to be clear. We want this to be thoroughly understand. I know this is not a new tax.

If there is any doubt in the minds of the taxpayers just what the advantages or disadvantages of this are for the Nation of the withholding of taxes up to 10 percent on interest and dividends, it should be thoroughly and completely reviewed by Congress. It was clear that the Kasten amendment for outright repeal created some problems, although I support repeal.

It was clear that the Kasten amendment created some problems for the administration. Treasury strongly objected to it. Some of the members of the Finance Committee of the Senate very vigorously disagreed with it.

So this amendment I am offering today is to give us time for a thorough consideration of the question. The Senate has agreed by unanimous consent to debate the issue on another bill starting April 15.

The chairman of the Finance Committee, the Senator from Kansas, my good friend, has stated that it will require considerable discussion at that time. The Senator has frequently stated that whatever the discussion of the matter, it should be thoroughly aired and that it can be thoroughly aired and he hoped defeated at that time.

Recognizing the feelings and the overwhelming vote for repeal that occurred on the Kasten proposal when we had the vote on cloture, it seemed to indicate a rather strong feeling for consideration of the matter, for thorough debate of it and thorough discussion as to the merits or demerits of—

Mr. HELMS. Will the Senator yield for a question?

Mr. MELCHER [continuing]. The withholding provision in the tax bill of 1982.

Yes, I yield to the Senator from North Carolina.

Mr. HELMS. Looking at the amendment of the Senator, it is not a sense-of-the-Senate vote, is it? I thought I heard reference to "sense-of-the-Senate."

Mr. MELCHER. I thought I heard it also from the Senator from Kansas, but it simply is not a sense-of-the-Senate amendment.

Mr. DOLE. I might just say that we had not been furnished a copy of the amendment. We understood there was going to be a sense-of-the-Senate amendment. We also understood some on this side were drafting different amendments. We now know it is not a sense-of-the-Senate amendment; it simply delays the effective date.

If there is any hope that the banks were serious about implementing it on that date, that might be worth discussing but, having been taken for a ride by postponing it for 6 months in the first place on my motion in the conference, I think all we are doing is providing another 6 months to kill withholding, which we can discuss when the Senator from Montana finishes.

Mr. MELCHER. Madam President, whether or not this provision is repealed will depend upon the votes of the Senate, the votes in the House and the question of whether or not the President wants to veto a bill that has it in it. That is a separate matter.

What my amendment seeks to accomplish is to set a timeframe for that discussion and that debate and, indeed, it is a debate that is thought to be very important by a great number of Americans across the country.

Mr. LONG. Will the Senator yield?

Mr. MELCHER. Yes, I yield to the Senator from Louisiana for the purposes of a question.

Mr. LONG. Do we understand that the amendment of the Senator is not a sense-of-the-Senate amendment?

The Senator, as I understand it, is offering a legislative proposal to defer the effective date of the withholding for 6 months?

Mr. MELCHER. That is absolutely correct.

Mr. LONG. He would defer withholding until January 1 or December 31 of this year? Is the date December 31 or January 1?

Mr. MELCHER. Not before December 31. So, if nothing is done, then the withholding provision would be in effect on January 1.

Mr. LONG. So if the amendment of the Senator becomes law, then withholding would start on January 1, not before?

Mr. MELCHER. That is absolutely correct.

Mr. LONG. It will be on January 1, 1984, not prior to that time?

Mr. MELCHER. That is right.

Mr. LONG. I thank the Senator.

Mr. MELCHER. That is absolutely correct.

The reason we are in this box is this: The provisions in the tax bill of 1982 had a number of tax increases which affected telephones, airline tickets, aviation fuel, tip reporting by people who worked in food and beverage establishments and motels and hotels, a tax increase on some forms of insurance provisions and deductions of health costs.

For instance, if you cut the allowable deduction in the health care or health insurance the taxpayer is allowed, that resulted in a revenue gain for the Treasury, but it also included within that package this provision, that on unearned income from interest and dividends the institutions would start withholding income taxes at 10 percent of the amount of the payments.

Now, that in itself is surely, as the Senator from Kansas has very aptly described, not a tax increase. It is a collection of taxes due. It is patterned somewhat after the Ruml provision in 1943 of withholding taxes on wages and salaries of individual taxpayers, which is a wartime measure that was very much needed because the Treasury needed to get additional revenue very rapidly, and this was one way of doing it. But in turn for that provision, the taxpayers that were required to have withholding on their wages and salaries were forgiven the taxes for the preceding year, whatever they might have owed. Since that time, we have had provisions for estimating taxes due on income of self-employed, partnerships, farmers and ranchers, all sorts of people, and withholding is really the name of the game.

For well over a decade that I can remember a requirement by law for withholding of income taxes on unearned income such as interest and dividends has been a very big issue. As the Senator from Kansas has very correctly said, the wage earner says, "If you are going to withhold it from me, why do you not withhold it from somebody on unearned income?" And labor organizations for a number of years, for well over a decade that I can

remember, have picked up that argument and been very persuasive about it. They insisted that Treasury and Congress consider it. We have just never done it. Indeed, during the debate the Senator from Kansas reported to us about a note that he received from off the floor from the United Food Workers signed by Arnold that said, "Anything we can do to help?" And it portrayed the intensive interest that labor has had on making everybody pay their share of taxes, closing what they figured was a big loophole.

Well, we have had a long history of attempting to establish withholding on unearned income, but during that long period of time much has changed about collecting the income taxes due on interest and dividends. One of those changes was the requirement for these institutions paying interest or dividends to file 1099 forms. We all receive them if we have any income at all on interest or dividends, and even holders of insurance policies get a 1099 form.

While my experience with this type of income is not all that great, I think in our house my wife and I get probably a half dozen 1099 forms every year from institutions saying, "Well, here is what you received from us on income; report it on your income taxes." That goes a long way for everybody understanding that indeed that is income and they had better pay their taxes on it, because there is a form sent to you, as an individual taxpayer. You get that 1099 form and the IRS gets it, too. So it is known. Maybe that gap is closed. But there are other steps to be taken.

In the tax bill of 1982, the question of reporting interest from Treasury notes as well as from other types of bonds was taken up, and the requirement for that type of reporting by the people who are handling those bonds was required, to close the gap, so that people could not escape paying their taxes that are due on that type of income.

We hear about underreporting, of tax evasion in this area, outright cheating.

As we review what studies are available, the Treasury presents us with one that says that 88 percent of the tax money is collected on interest and dividends. That is a startling figure; because if that study is accurate, it means that about 12 percent is uncollected.

A further study of the Treasury Department says that 97 percent plus of individual people pay all the tax that is due from interest and dividends.

So the question really is, with the aid of 1099 forms and the revisions in the 1982 tax bill itself, which closed the gap on the reporting of interest on Treasury notes and similar bonds, whether or not the gap is pretty well closed. Could it be, if now the same study was made by the Treasury Department, it would find 96 percent of

the money is collected and that 99 percent plus of the people who report are the people who pay taxes on interest and dividends? I do not know. But there is a way to tell, and that is by matching up the 1099's with the amount actually paid in taxes and seeing whether or not all the taxpayers paid what they were supposed to pay. That would be complete checking.

The IRS assures us that at present, with the computer ability they have currently, they cannot do that; but they project that sometime in the future, perhaps next year, that would be possible, but very costly. They say there might be some errors, anyway. Of course, there might be some errors. What we are after is cheaters, and the errors are both ways. Some people overpay, never get it back, do not realize they have overpaid. An audit might show that they had some money coming back. But if the audit showed they had not paid their taxes, those individuals would be identified and they would get their dun plus the penalty from IRS to pay it up.

What does this provision in the 1982 tax bill do? Instead of collecting all the taxes, it simply says 10 percent will be withheld. Ten percent of dividends and interest will be withheld as if it were a tax obligation. That is not a new tax. That is just paying part of your taxes that way.

It is claimed by IRS, Treasury, and the chairman of the Finance Committee that this will be a net gain of approximately \$4 billion per year in revenue. Part of that is early collection of taxes due. For fiscal year 1984, it would be more than \$4 billion, if the figures are correct, because it is really early collection in that particular year; but in subsequent years, the early collection part of this is just a fraction. What they really feel is that about \$3 billion a year from years after 1984 would be produced in new revenue from taxpayers who simply are not paying what they are supposed to pay on interest and dividends.

The IRS states that for \$85, on an average, they can track down a nonfiler. That is the biggest area in which this supposedly \$3-billion a year is going to bring in additional revenue to the Treasury—from nonfilers, people who do not file an income tax form.

If you can find a nonfiler and bring that nonfiling taxpayer into the proper fold with the rest of us who are paying our taxes, who are filing their 1040 forms and paying their just taxes, it would seem that \$85 to track down a cheater is not that much money.

We can project all kinds of figures on the floor of the Senate. We can quote all kinds of studies and all kinds of figures proposed by the agencies or by independent groups. We all know that those figures are just as good and just as sound as the particular agency or the particular private group that proposed them and how sound the study and the reasoning are.

There was a reason for a lot of people asking us this simple question: Why not go after the cheaters? I ask that question, too. Why not? Is it too costly? Certainly, \$85, on average, to track down a nonfiler is not too costly. That seems to me a very good business for the Treasury Department and the IRS to engage in.

The people who ask that question, ordinary taxpayers, are asking it because they know that they pay their taxes on interest and dividends. They say, "What is this new requirement in the law that forces upon us a new method of collecting taxes?" Many of them state in their letters to me—and I assume to every other Senator—that they do pay their taxes; they do view it as income and report it. They attach their 1099 forms to their tax form at the end of the year, the 1040 form. They know they are paying it. Why put another level on this?

I might say this, in sort of rebuttal to what has been said here previously when we are discussing the Kasten amendment for repeal.

I do not believe that we should take too lightly the complaints of these taxpayers. That is No. 1. I think these taxpayers are legitimate in saying to us in their letters: "Why is it necessary to have a new requirement placed on myself and my wife when we have been reporting all of the interest and dividend income that we have? Is this not another intrusion or another layer of IRS regulations upon us? And what good is it?" Those complaints or statements are simply inquiries. I do not think we should take those too lightly because we must be able to justify why this is in the law if it is going to stay in the law. They are the people who provide the money for the Treasury. They are the people whom we represent and the people who are really in a representative form of government supposed to be heard and listened to.

I am not too much impressed by the counterargument that anything dealing with this—the Kasten amendment for an outright appeal or my amendment now for simply a delay in implementation of withholding provisions in the law—is a ploy of the American Bankers Association. I do not believe that has had much effect on me individually. I cannot recall ever a time when I became real concerned about what the American Bankers Association had to say on a tax matter that affected individual taxpayers.

I look to the banking association to give me a viewpoint of banking law, but I am not overly impressed either by whatever they have to say on this particular provision of law or by any counterargument that says "Well, all you are doing is sort of a kneejerk reaction to what the American Bankers Association position is."

I think that that probably holds true for all the Senators of this body. I think it probably holds true for all the

Members of the House of Representatives.

I simply cannot believe that the American Bankers Association takes a stand and then immediately that generates thousands upon thousands of letters from Montana to me and scores of thousands of letters to Senators from larger States.

I do not even recall that we mentioned much about the savings and loan people to date. I believe they share about the same position as the American Bankers Association. Hardly ever do we have much comment on what the credit unions feel about this, although I believe and am well aware that they are opposed to this provision; and later on, I will submit some studies that they have provided just recently in a letter to me on March 18 on what they feel from their point of view are the objections of the credit unions both as managers and individual members of a credit union.

What I really believe is that what we are experiencing now is a true form of representative government, where a lot of people all at the same time are zeroing in on something that they feel is not a good tax provision that affects them personally because taxes, after all, for a taxpayer are a very personal thing whether or not you are bearing your share or whether or not you are burdened with a new form or whether or not you put a new requirement of IRS on when you pay or how you pay your taxes. They simply seem to be saying to me they do not feel that this particular provision has merit and they have had too much of this. They want to get rid of some of it.

I do not believe it serves any purpose to glibly overestimate what this particular tax provision would gain in revenue for the Treasury. I think there has been overestimation, and the reason I think there has been overestimation is that I think it has been underestimated how many people will actually readjust their tax payments because of withholding on some of the interest and dividends that they receive.

Why do I say that? If it is an ordinary wage earner or salaried individual who has a certain amount of withholding out every month or every week or every 2 weeks out of every paycheck and he, after July 1, finds that there is additional withholding out of some of the interest income that he has, then he is going to make an adjustment, and that is, our course, provided by law. It is required. It is one of the provisions. How else would it be fair, unless on the same basis of the taxes you have already paid in you decide you do not want to have either overpayment or that much overpayment of tax obligations? So you readjust the amount of taxes simply by changing the number of withholding individuals that are listed as dependents and provided by law. It is a common way of doing it, a common way of adjusting.

I think that it is worth noting right here that the Treasury Department's Office of Tax Analysis in connection with this issue in 1980, when President Carter asked for the withholding proposal, indicated taxpayers would be able to offset this increase through legitimate adjustments, and the Treasury's Office of Tax Analysis in 1980 said approximately 95 percent of the acceleration effect of withholding on dividend and interest income would simply be offset by adjustment.

For the individuals who estimate their taxes due and do it on a quarterly basis, whether they are salaried or self-employed or farmers or ranchers or partnerships, they can also, according to law, change their estimates of what their taxes are due under existing law, and after July 1 it is reasonable to believe that when they make those quarterly estimates they are going to adjust those quarterly estimates on the basis of how much may have already been withheld in taxes from unearned interest or dividends or would be through the remainder of that taxable year.

So a statement that simply says this is a gain of \$3 billion for the Treasury may or may not be correct, plus several days ago I submitted a study done by Puglisi, who came out with an entirely different set of figures and computations for the amount of revenue that would be gained by this provision.

A note about people who write us letters on this: Many of them are elderly, and they say that they are very careful about their tax obligation and that either way they are going to pay it. They are going to continue to pay all their income tax obligation, but they really query and they have strong doubts that this provision will really generate much additional revenue. It seems to them that if there is that many people who are evading taxes, cheating on their income tax and not paying on this, surely there must be a way of getting them and making sure that they pay their taxes.

This was pointed out to us as very obvious: What does the 10-percent tax on dividend or interest payment actually mean in the tax obligation for someone who is cheating?

Treasury says if they are nonreporting, if they are just one of those millions of people—and they say 5 million, and I find that a little difficult to believe, nevertheless I accept it for the sake of argument right now—I will just concede it is 5 million—they are going to pick up a lot of people who have never reported and really owe taxes. Well, we have already gone over that a little bit earlier, there is a method of doing it: Just go out and search for people who are nontaxpayers, nonfilers of the 1040 form, and the Treasury, according to the Joint Committee on Taxation, says that costs about \$85 per individual.

The other method is to compare the 1099 form with the taxpayer's statement and see whether or not he really

did file and look for that. We have the 1099 form, and look for that individual and see whether he has got a 1040 form, because surely there ought to be some reason for them to file a 1040.

So people are saying, "Well, you know it is pretty hard to believe you can get away without paying taxes and without really being an out-and-out crook, and being a very determined crook." I think there is a lot of merit to that simple statement and there is a lot of truth to it. So they say, "What is that burden?" First of all, it is a withholding provision that would start to come out of their payments on interest and dividends. Then, second, if they do not think they really should be covered at all they can file what is called a W-6 form. That is just something else they can file. They file that with each institution.

Well now I have already stated that while in our household my wife and I receive about half a dozen of these 1099 forms per year, we are not very big in this field and there are a lot of elderly who are receiving more income from different institutions than what is represented in our household, of my wife and me. So let us say many of those households have about 10 different 1099 forms. So they can file a W-6 form if they feel they would be exempt, they can file that W-6 form with each of those institutions and then they are exempt. Those are filed presumably also with the IRS by the institutions. We are told that that figure might be as many as 200 million W-6 forms.

So you begin to understand the magnitude of what this complaint is about. It is about paperwork. It is about additional forms, and it is about really wondering, when it is all over, about that number of forms, about that number of individual transactions with the institutions and the individual taxpayers and then relate it to whether or not the IRS really comes up with any additional revenue.

I happen to believe the estimates for this gain in revenue for the Treasury has been overestimated by the Treasury Department. But even if it were not overestimated I would say to Treasury, I would ask them the same simple question that is asked in so many letters I receive from taxpayers of Montana and that is, why not go after the cheaters then? Why not match up these forms and go after them and collect the money from them, gather them right into the tax-paying fold where they belong?

UP AMENDMENT NO 103—MODIFIED

Madam President, without losing the floor, might I inquire if this amendment is properly drafted to modify the committee substitute?

The PRESIDING OFFICER. It is drafted to the bill.

Mr. MELCHER. I ask it be modified to be drafted to the committee substitute.

Mr. DOLE. Does that require unanimous consent?

The PRESIDING OFFICER. No, it would not. The amendment is so modified.

Mr. MELCHER. So we are at the point where we are really questioning whether all the paperwork is necessary and whether it is really going to bring in the amount of revenue that it is projected to bring in.

Madam President, I would suggest that is the reason for my amendment because there are legitimate questions, because there are unanswered questions, because there is really some concern about this being just another batch of forms to be filed by individual taxpayers without really benefiting anybody very much, and particularly not benefiting the country and the Treasury with additional revenue.

Why? Because, No. 1, how much does it cost to handle all the paper, just to file to be exempt? That is No. 1. We do not have the answer to that. If you ask the Treasury Department, if you ask the Joint Committee on Taxation, if you ask the Senate Finance Committee what does that cost, you will get an answer that is honest and very short; they do not know. They have no idea.

The next point is, what does it really cost the individual taxpayers? Well, there is a cost, sure it is not a new tax, it is just paying your taxes early, but there is a cost because it is an adjustment, and the adjustment is this: That 10 percent that will be withheld from the unearned interest and dividends could have been reinvested for the balance of the year or there may be a provision in the particular setup with a savings account, whether it is in a credit union or an S&L or in a bank or with a particular—whatever the institution is, there may have been an arrangement for that just to be added right back into that—that interest be added right back into the principal and it would be generating new interest income or dividend income.

So that is an amount that would be taken away from the individual saver, and the individual taxpayer, and it too can be calculated, and it is part of the additional revenue that is received by the Treasury by this particular provision of law, this withholding provision.

The concern comes in estimating how much that is and really whether the individual taxpayer feels that the loss to that individual saver is not all that great.

Let me point out what we are trying to do in this very sick economy of the United States is to get additional revenue for the Treasury so the deficit is not as large as it is, and also to encourage savings by individual Americans, and the reason we want to encourage savings is because we realize that the amount of savings per individual in America is lower than any other industrial country, and that is one of the reasons which prevents us from bringing down interest rates as rapidly as

we would like to see them brought down.

We have done a lot in the last year or two around here in encouraging savings. Individual retirement accounts come to mind immediately and it is a very sound mechanism, a very sound provision in our tax law to encourage savings, and it is having some advantages.

Now, this, if this is viewed by individuals who have savings as a bad piece of tax law there may be some inadvertent discouragement for greater savings on the part of individual people. That will be counterproductive if that happens to be the case and that should be thoroughly evaluated so that all taxpayers understand "Well, really this is something that does not bother me very much" or "We establish this indeed as something that does bother me as an individual Senator and I think your point is well taken," and I think we ought to reconsider this, and I am hoping for reconsideration.

Our amendment would do that and allow us time for that reconsideration.

Is there a need to consider this proposal if this method gains net dollars for the Treasury? In all candor and in all honesty, I would have to state that it is my judgment that this is the crux of this particular law. If this really gains much in dollars for the Treasury, we have to be very sure that if it is going to be repealed, it is going to be considered that there is some offsetting revenue gains.

Now, I did not happen to vote for this particular bill in 1982. I objected to this provision in it and several other provisions in it and thought it was a rather poor tax revenue bill. But that is just my judgment.

But I felt the proponents of a tax bill, that tax increase, had merit to the argument that additional taxes were necessary; that the economy was at a very fragile stage; that further increase in the deficit over and above what was projected would be very damaging to an economic recovery.

So part of the consideration I believe that must be given to this issue is indeed what the Senator from Kansas, the chairman of the Finance Committee, has so correctly stated. If it is going to be repealed, where is the revenue lost going to be made up?

That presents two points, of course. The first is, what will be the revenue loss? I voice my judgment that revenue gain, as indicated by the Treasury, is overexaggerated; that there simply is not that much revenue gain for the reasons I have outlined and perhaps for others that I have not noted. That can be better addressed, I suspect, in the coming months when we review not only the updated presentation of the Treasury but also updated points that will be made by the opponents of this and see what the merits of the argument are.

But we are going to be looking at a lot of different tax revenue measures.

The first one I suspect we are going to be looking at is whether or not the July 1 tax cut that is scheduled will go into effect in its entirety or parts of it or maybe none of it. I suspect we are going to be looking at that.

I suspect we are going to be looking very seriously at all of the interest that has been generated by the Treasury Department telling us that there are so many people who do not pay their legitimate taxes and we want to be reassured by the Treasury Department that they indeed are on top of it. Because if all they are going to get is 10 percent of somebody who does not report, 10 percent of tax obligation of somebody who does not report, I would say that most of us or all of us are going to be dissatisfied. Because if they are really cheating, if they are really evading what their tax liability is, we do not want just 10 percent of that interest and dividend payment, we want whatever they are required to pay, whether it is 12 percent, 15 percent, 38 percent, 45 percent, or 50 percent.

I earlier stated that one of the provisions of the 1982 tax bill was that there would be a correction in different reporting procedures on the middle people that handle these bonds, Treasury notes, or other types of bonds they would have to be reporting. Part of that comes from States.

The State of Montana officials wrote me and said they could not be ready to meet all the requirements of this withholding by July 1. And I suspect other States wrote their Senators, and said the same thing.

So a few weeks ago, on March 2, the Treasury Department put out a press statement, a very lengthy explanation, to the effect that there would be withholding rule revisions on the interest off of Treasury notes and other like instruments, which covered, mind you, what the State of Montana official wrote to me saying they could not comply with by July 1. It takes care of them, too, and they changed the date to January 1.

Now, that leads me to the point of the purpose of this amendment, which is to just simply delay all of the withholding to January 1, not just take care of Treasury Department and the people that handle those Treasury notes and Treasury bonds in the States and the State people that handle those State bonds—just delay it for everybody until January 1 and let us take a real good, long look and let the full discussion of the Senate and the House, too, take place and see whether or not this provision in law should be retained or it should be rejected and repealed.

The people who expect us to react to these queries or complaints that they lodged with us through their letters and postcards are very sincere. Some stated that, "Well, they have been misled; that there has been some false advertising or rumors have been circu-

lated by banking institutions that would somehow mislead them on what was involved with this."

Well, I have long ago learned that, when you are dealing with taxpayers, the biggest mistake you can make is to feel that they are misled. Quite a few of the letters I have received come to me only from individual taxpayers after they have consulted with their accountants. Quite a few of the letters have come from individual accounting firms themselves and they say, "Well, this is what the requirements, as we view this new procedure, will be and we find it rather burdensome and perhaps unnecessary." Now that is a very quiet way of saying that they would like to have this looked at very thoroughly again.

So I certainly repeat their feelings and repeat it in all candor believing that it is a legitimate judgment that it should be looked at very carefully.

The credit unions have provided me with a study they have done which indicates what the costs would be for credit unions throughout the country. They come up with a first payment of about \$26 million for implementing computers or bookkeeping mechanisms that would be necessary to put this into effect. They view that as an ongoing cost each year.

I would point out that the smaller the credit union is, the more it costs them as a percentage of their earnings. They correctly point out that the withholding on dividends and interest will also cost additionally, which they can figure either out of their own pockets or out of the pockets of the credit union members. So, as you add up their figures, which seem to be well documented, you come up with in excess of \$76 million per year.

Mr. President, I ask unanimous consent that their study be made a part of the RECORD at the conclusion of my discussion of this amendment.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. MELCHER. I feel, very simply put, that we have the opportunity to review very thoroughly and very closely, in light of all the complaints that we received about this provision of law, whether or not it was wise to have it. I feel that it is dependent upon us, as a representative body of the people of this country, to take heed of their queries and their protests and their complaints and review it carefully.

The amendment does not seek to delay passage of this bill. It does not seek to create any distress for the chairman of the Finance Committee or those who are proponents of this particular provision. What it seeks is just a fair airing, one that is in more detail in light of new facts that have been gained and garnered over the past several months after it became law and to review whether or not there were sound judgments in making it part of our Tax Code.

I think that is a fair proposal to make. I think it is obvious that with such a provision, so long as it is so vigorously opposed, even though it seems on its face to be very fair—opposed by the chairman of the Finance Committee and also the administration—it is fair to attach it to a bill of some note, of some importance, that might have a chance of wending its way through both this body and the House and then down to the President's desk to be signed into law.

Since it only is a delay for further review and does not do much damage to anybody's point of view on the merits or demerits of this particular withholding provision in our Tax Code—it simply says let us look at it again before it goes into effect and see whether it is worth it, and if it is worth it, it is justified—I would hope we can accept it. I do not in any respect want to abuse anybody's interest in quick passage of the bill. I simply believe it is a method for accomplishing the purpose which we are all here to do, to be fair in the matter of taxes. It does become a very personal point and is very much on the minds of the individual taxpayers. With evidence that it is on their minds, I think it only just and wise that we heed that evidence and allow for time for a thorough consideration of this provision before it goes into effect in 5 months. This amendment would accomplish that.

EXHIBIT 1

CREDIT UNION NATIONAL ASSOCIATION, INC.,

Washington, D.C., March 18, 1983.

HON. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: The Credit Union National Association, Inc. (CUNA) supports repeal of withholding of taxes on interest and dividends in favor of more reasonable, less costly measures to improve taxpayer compliance in this area.

Before presenting our arguments against withholding, we would like to make you aware of what CUNA has been doing to educate credit unions about compliance with its new withholding law. Our interest is in repealing the law, but our obligation is to obey the law; so we proceed on both fronts.

On November 15, 1982, the day IRS issued temporary withholding regulations, CUNA published a "Special Withholding Edition" of our newsletter, devoted entirely to educating credit unions about withholding.

CUNA has conducted six seminars on withholding, one of which Senate Finance Committee staff helped secure appropriate IRS staff to explain the regulations to us. For that we are grateful.

CUNA has published a 153 page compliance manual and over 5,500 manuals have been ordered to date.

A 90-minute compliance video tape program has been distributed to state credit union leagues as part of our educational video network.

Another six national seminars are being conducted in April 1983, with hundreds of compliance seminars being conducted by

credit union leagues and chapters throughout the country.

QUANTITATIVE ARGUMENTS

TABLES 1 AND 2.—COST TO CREDIT UNIONS

Our data suggests that for the first full year of compliance credit unions will have to spend \$76 million in order to comply with the new withholding law and regulations.

TABLES 3 AND 4.—VALUE OF FLOAT TO CREDIT UNIONS

The provision for a 30-day float provided by Congress to compensate financial institutions for the start-up costs of withholding 10% of interest and dividend earnings is woefully inadequate. A credit union in the \$2 million to \$5 million asset category is expected to experience an average cost of \$4,000 to be in compliance with the law during the first year. Use of the float for 30 days (really 19 banking days) will provide the credit union only \$189.00 during that same year.

Totals indicate that the \$76 million first year cost will be reduced by only \$3.8 million through float, and that credit unions will therefore have to absorb a \$72.2 million operating cost increase the first year in order to collect and deliver withheld taxes to the federal government. This cost is over and above current costs associated with 1099 reporting.

TABLE 5.—TOTAL CREDIT UNION DIVIDENDS PAID IN 1982

This table summarizes some of the major quantitative estimates CUNA has made regarding withholding at source as it applies to all 23,000 credit unions.

That information can be used to define the average impact of withholding on our 45 million members, and on our 23,000 credit unions.

Average impact of withholding per credit union

Based on 20,000 CU's

CUNA estimates:

| | |
|---|---------|
| 1st year startup costs (tables 1, 2) \$72.7 million..... | \$3,600 |
| Lost interest at 8 percent (table 6, column 7) \$27 million..... | 1,350 |
| Subtotal..... | 4,950 |
| Dividends withheld (liquidity drain) (table 6, column 4) \$314 million..... | 15,700 |
| Total average impact..... | 20,650 |

TABLE 6.—ESTIMATE OF TREASURY RECEIPTS

If withholding of 10 percent of the interest and dividends earnings of individuals becomes a reality, the Treasury will be able to earn interest on those withheld funds.

Our data in Table 6, adjusted for probable individual exemptions from withholding, suggests that at a 8 percent rate, \$27 million dollars will be earned yearly by the Treasury, based on 1981 credit union dividend levels.

This is \$27 million dollars in foregone interest to credit union savers, and a \$27 million in credit union liquidity loss. This must be added to the actual dollars removed from credit unions through 10 percent withholding; \$529 million (no exemptions) to \$341 million (with anticipated exemptions). Based on the foregoing figures, credit unions and their members are about to assume significant cost increases because a minority of citizens do not pay their fair share of taxes.

TABLE 7.—IMPACT OF START-UP COSTS ON CREDIT UNION INCOME

Table 7 takes a look at the withholding startup costs as a percentage of operating expenses, net income and as a percentage of individual earnings. This information is broken down by asset category and note should be made of the significant cost increases withholding causes, especially for smaller credit unions.

Is it necessary?

Are there other, more reasonable alternatives?

Withholding of taxes on interest and dividends, as a solution to the taxpayer compliance problem, is an expensive and labor intensive operation for the majority of the 20,000 credit unions in this country. Withholding is a matter of concern, inconvenience and complication for all taxpayers—and particularly frustrating to a majority of your constituents who honestly and fully disclose and pay taxes on their interest and dividend income.

Fairness arguments

Point 1

When the people don't pay their fair share of taxes, the honest taxpayer bears the burden. Honest taxpayers are now being told they must shoulder a new government burden because a few do not pay taxes. Rather than focusing on tax evaders, the Congress is requiring taxpayers to relinquish 10 percent of their interest and dividend earnings to the federal government, generally, at the moment any earnings are credited to their accounts. More reasonable approaches to gain tax compliance are available that will raise nearly the same revenue.

Point 2

Much, if not all, of these withheld interest and dividend taxes will be returned because IRS states that 75 percent of the taxpayers overwithhold now and receive tax refunds. Does it make sense to put individuals and financial institutions through this process only to return a substantial portion of it later?

When taxpayers fail to pay their taxes or pay less than they should, the government charges them interest on the taxes that they owe. Yet the new withholding law forces taxpayers with interest and dividend income to make an interest-free loan for several months to the government whether they owe taxes to Uncle Sam or not.

Point 3

Sure, the withholding law exempts certain people from the withholding requirement, but implementing this system will be complicated, costly and confusing to credit unions and members alike. The smaller the credit union, the more expensive it will be to put the law into effect, as a percentage of earnings.

The cost of implementing the withholding program will, of necessity, be passed on to savers and borrowers. This is especially true for credit unions—non-profit, cooperative, member-owned institutions. Figures supplied by the Credit Unions National Associations' Economic and Research Division reveal that the net cost will approach \$76 million in the first year alone.

Point 4

At a time when federal tax policy is trying to encourage people to save more of their money, withholding of taxes on interest and dividends appears to be a puzzling deviation, as savers and investors may be financing some of their own tax cut next July.

On July 1, 1983 paychecks will be larger as taxes on wages are reduced by 10 percent. But, on that same day, 10 percent of the interest earned from savings and stock dividends will begin flowing to the Treasury, and the national savings and investment pool will be depleted by some \$28 billion yearly.

Credit unions, which paid \$5.29 billion in dividends to members in 1981, will see a \$314 million drain in liquidity as a result of withholding. Savings growth in credit unions will thus be slowed by the loss of 10 percent of the dividends.

Point 5

Besides withholding, TEFRA did a great many things to tighten compliance not the least of which was to get the Treasury to begin reporting interest and dividends on billions of U.S. Government obligations. All of the compliance tightening positions in TEFRA should be given a chance to work, and evaluated before withholding should be considered. We are not so far from a high compliance level that abandoning the voluntary compliance system is warranted.

In October 1980, IRS Commissioner Jerome Kurtz testified before a Congressional subcommittee on the "IRS Administration of the Tax Laws; (Income Information Document Matchings)":

"Document matching for information returns is done through the Information Re-

turns Program (IRP). The purpose of this program is to increase the Service's ability to enforce the tax laws equitably and thereby foster a high degree of voluntary compliance. The goal of IRP is to identify income reporting discrepancies or nonfiling of tax returns, and to correct any such discrepancies by collecting any additional tax or refunding any overpayment. IRP is a high priority program which complements the Service's other compliance programs."

"Finally, I would like to discuss several aspects of the draft GAO report on our computer capabilities for document matching. The Service's existing computer system is adequate to accommodate a 100 percent document matching program. We are now beginning a 3-phased plan for replacing and improving our computer capabilities. Our new computer system will have the capability for 100 percent matching even if there is an annual rate of growth in workload of 8 percent. We believe this provides a sufficient margin for both growth under existing requirements and new programs that would increase the number of documents received."

"The draft GAO report did conclude that inefficient design of the information returns processing system and mismatches between job requirements and computer resources are limiting the productivity of the IRS computers. Several IRS study groups have analyzed these problems and made recommendations for future actions. Changes are now being made to implement some of these recommendations but we cannot immediately undertake the total redesign of the system."

This statement leads CUNA to the conclusion that IRS has the ability to do its job with some help, without creating a new federal bureaucratic system.

Make no mistake; credit unions, and all of our members, welcome simple and just tax laws which ensure that all taxpayers pay their fair share. But the withholding law enacted last year will punish the honest majority of savers and their credit unions.

We stand ready to work with the Senate Finance Committee, the Department of Treasury and the IRS in arriving at interest and dividend compliance improvement measures that will more deliberately preserve the goals of a fair, efficient and voluntary tax collection system.

Sincerely,

JAMES C. BARR, CAE.

TABLE 1.—CREDIT UNION WITHHOLDING STARTUP COSTS

| Asset category (dollars in millions) | Average members | Member contact | Training costs | System preparation | Overhead | Total costs per CU |
|--------------------------------------|-----------------|----------------|----------------|--------------------|----------|--------------------|
| | (1) | (2) | (3) | (4) | (5) | (6) |
| 0.0 to 0.05 | 153 | \$100.60 | \$440.00 | \$100.00 | \$64.06 | 704.6 |
| 0.05 to 0.10 | 207 | 136.10 | 440.00 | 100.00 | 67.61 | 743.71 |
| 0.10 to 0.25 | 316 | 207.77 | 440.00 | 500.00 | 114.78 | 1,262.55 |
| 0.25 to 0.50 | 508 | 334.01 | 440.00 | 500.00 | 127.40 | 1,401.41 |
| 0.50 to 1.0 | 809 | 531.92 | 440.00 | 1,500.00 | 370.79 | 2,842.71 |
| 1.0 to 2.0 | 1,340 | 881.05 | 440.00 | 1,500.00 | 423.16 | 3,244.21 |
| 2.0 to 5.0 | 2,392 | 1,572.74 | 440.00 | 1,500.00 | 526.91 | 4,039.65 |
| 5.0 to 10.0 | 4,716 | 3,100.77 | 1,060.00 | 2,500.00 | 999.12 | 7,659.89 |
| 10.0 to 20.0 | 8,278 | 5,442.79 | 1,060.00 | 2,500.00 | 1,350.42 | 10,353.21 |
| 20.0 to 50.0 | 17,172 | 11,290.59 | 1,060.00 | 2,500.00 | 1,227.59 | 17,078.18 |
| 50.0 to 100.0 | 31,614 | 20,786.21 | 1,350.00 | 5,000.00 | 4,070.43 | 31,206.64 |
| 100.0 + | 67,951 | 44,677.78 | 1,740.00 | 5,000.00 | 7,712.67 | 59,130.45 |

TABLE 2.—ESTIMATE OF TOTAL STARTUP COSTS

| Asset category (dollars in millions) | No. of CU's in category | Total cost per CU | Total start up costs |
|--------------------------------------|-------------------------|-------------------|----------------------|
| | (1) | (2) | (3) |
| 0.0 to 0.05 | 1,160 | \$704.66 | \$317.4 |
| 0.05 to 0.10 | 1,590 | 743.71 | 1,182.5 |
| 0.10 to 0.25 | 3,610 | 1,262.55 | 4,557.8 |
| 0.25 to 0.50 | 3,103 | 1,401.41 | 4,348.6 |

TABLE 2.—ESTIMATE OF TOTAL STARTUP COSTS—Continued

| Asset category (dollars in millions) | No. of CU's in category | Total cost per CU | Total start up costs |
|--------------------------------------|-------------------------|-------------------|----------------------|
| | (1) | (2) | (3) |
| 0.50 to 1.0 | 3,377 | 2,842.71 | 9,599.8 |
| 1.0 to 2.0 | 2,992 | 3,244.21 | 9,706.7 |

TABLE 2.—ESTIMATE OF TOTAL STARTUP COSTS—Continued

| Asset category (dollars in millions) | No. of CU's in category | Total cost per CU | Total start up costs |
|--------------------------------------|-------------------------|-------------------|----------------------|
| | (1) | (2) | (3) |
| 2.0 to 5.0 | 2,735 | 4,039.65 | 11,048.4 |
| 5.0 to 10.0 | 1,352 | 7,659.89 | 10,353.2 |

TABLE 2.—ESTIMATE OF TOTAL STARTUP COSTS—
Continued

| Asset category (dollars in millions) | No. of CU's in category | Total cost per CU | Total start up costs |
|--------------------------------------|-------------------------|-------------------|----------------------|
| | (1) | (2) | (3) |
| 10.0 to 20.0..... | 749 | 10,353.21 | 7,754.6 |

TABLE 2.—ESTIMATE OF TOTAL STARTUP COSTS—
Continued

| Asset category (dollars in millions) | No. of CU's in category | Total cost per CU | Total start up costs |
|--------------------------------------|-------------------------|-------------------|----------------------|
| | (1) | (2) | (3) |
| 20.0 to 50.0..... | 514 | 17,078.18 | 8,778.2 |

TABLE 2.—ESTIMATE OF TOTAL STARTUP COSTS—
Continued

| Asset category (dollars in millions) | No. of CU's in category | Total cost per CU | Total start up costs |
|--------------------------------------|-------------------------|-------------------|----------------------|
| | (1) | (2) | (3) |
| 50.0 to 100.0..... | 162 | 31,206.64 | 5,055.5 |
| 100.0+..... | 56 | 59,130.45 | 3,311.3 |
| Total..... | | | 76,517.0 |

TABLE 3.—Estimated Individual Credit Union Earning on Investment of Dividends Withheld

| Asset size (dollars in millions) | Average dividends paid | Average withholding | Annual earnings per CU |
|----------------------------------|------------------------|---------------------|------------------------|
| | (1) | (2) | (3) |
| 0.0 to 0.050..... | \$1,011 | \$101.10 | \$4.03 |
| 0.050 to 0.100..... | 3,283 | 328.30 | 13.08 |
| 0.100 to 0.250..... | 8,648 | 864.80 | 25.88 |
| 0.250 to 0.500..... | 19,963 | 1,996.30 | 19.68 |
| 0.500 to 1.0..... | 38,315 | 3,831.50 | 37.78 |
| 1.0 to 2.0..... | 82,908 | 8,290.80 | 81.74 |
| 2.0 to 5.0..... | 192,417 | 19,241.70 | 189.71 |
| 5.0 to 10.0..... | 458,786 | 45,878.60 | 301.56 |
| 10.0 to 20.0..... | 956,436 | 95,643.60 | 628.67 |
| 20.0 to 50.0..... | 2,226,118 | 222,611.80 | 1,453.23 |
| 50.0 to 100.0..... | 5,215,909 | 521,590.90 | 3,428.42 |
| 100.0+..... | 17,306,557 | 1,730,655.70 | 11,376.07 |

Source: Credit Union National Association, Inc. Economics and Research Division.

TABLE 4.—ESTIMATED TOTAL ANNUAL EARNINGS BY CREDIT UNIONS ON INVESTMENT OF DIVIDENDS WITHHELD

| Asset size (dollars in millions) | No. of CU's in category | Annual earnings per CU | Total earnings for category (in thousands) |
|----------------------------------|-------------------------|------------------------|--|
| | (1) | (2) | (3) |
| 0.0 to 0.05..... | 1,160 | \$4.03 | \$46.7 |
| 0.05 to 0.10..... | 1,590 | 13.08 | 20.80 |
| 0.10 to 0.25..... | 3,610 | 25.88 | 93.43 |
| 0.25 to 0.50..... | 3,103 | 19.68 | 61.07 |
| 0.50 to 1.0..... | 3,377 | 37.78 | 127.58 |
| 1.0 to 2.0..... | 2,992 | 81.74 | 244.57 |
| 2.0 to 5.0..... | 2,735 | 189.71 | 518.96 |
| 5.0 to 10.0..... | 1,352 | 301.56 | 407.71 |
| 10.0 to 20.0..... | 749 | 628.67 | 470.87 |
| 20.0 to 50.0..... | 514 | 1,463.23 | 752.10 |
| 50.0 to 100.0..... | 162 | 3,428.42 | 555.40 |
| 100.0+..... | 56 | 11,376.07 | 637.06 |
| Total..... | | | 3,894.12 |

TABLE 5.—SUMMARY

| | |
|--|------------------|
| Total dividends paid by credit unions in 1981..... | \$5,299 billion. |
| Acceleration of tax collections..... | |
| Total dividends to be withheld at 10 percent as per TEFRA ¹ | 529.9 million. |
| Of CU dividends withheld, dollars already fully reported to IRS (89 percent) ² | 471.1 million. |
| Of CU dividends withheld, portion representing additional compliance obtained (11%) ² assumes 100 percent compliance..... | 58.8 million. |
| Estimated withholding start up costs, less float..... | 72.7 million. |

¹ Assumes no withholding exemptions by credit union members.

² Internal Revenue Service figures, Report of the Committee on Finance on H.R. 4961, July 12, 1982, p. 228.

Assumptions do not take into account application of minimal interest and annual interest rule.

Source: Credit Union National Association, Inc., Economics and Research Division.

TABLE 6.—ESTIMATE OF TREASURY RECEIPTS

| Asset category | Total dividends withheld ¹ (dollars in millions) | Adjusted dividends withheld ² (dollars in millions) | Treasury Earnings Balances | | Treasury Earnings | | Adjusted dividends times cash flow adjustment (dollars in thousands) |
|--------------------|---|--|---|--|--|---|--|
| | | | Total withholding (dollars in millions) | Adjusted withholding (dollars in millions) | Total dividend withheld (dollars in thousands) | Total dividends times cash flow adjustment (dollars in thousands) | |
| | (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| 0.0 to 0.05..... | 0.117 | 0.0 | 0.0 | 0.0 | 9.4 | 0.0 | 0.0 |
| 0.05 to 0.10..... | 0.522 | 0.0 | 0.0 | 0.0 | 41.8 | 0.0 | 0.0 |
| 0.10 to 0.25..... | 3.122 | 1.635 | 1.717 | 0.899 | 249.8 | 137.4 | 71.9 |
| 0.25 to 0.50..... | 6.195 | 3.245 | 3.407 | 1.785 | 495.6 | 272.6 | 142.8 |
| 0.50 to 1.0..... | 12.939 | 6.777 | 7.116 | 3.727 | 1,035.1 | 569.3 | 298.2 |
| 1.0 to 2.0..... | 24,206 | 20,409 | 13,643 | 11,225 | 1,984.5 | 1,091.4 | 898.0 |
| 2.0 to 5.0..... | 52,626 | 43,298 | 28,944 | 23,814 | 4,210.1 | 2,315.5 | 1,905.1 |
| 5.0 to 10.0..... | 62,028 | 51,034 | 52,724 | 43,379 | 4,962.2 | 4,217.9 | 3,470.9 |
| 10.0 to 20.0..... | 71,637 | 58,940 | 60,891 | 50,099 | 5,731.0 | 4,871.3 | 4,007.9 |
| 20.0 to 50.0..... | 114,422 | 94,141 | 97,259 | 80,020 | 9,153.2 | 7,780.7 | 6,401.6 |
| 50.0 to 100.0..... | 84,498 | 69,521 | 71,823 | 59,093 | 6,759.8 | 5,745.8 | 4,727.4 |
| 100.0+..... | 96,917 | 79,739 | 82,379 | 67,778 | 7,753.4 | 6,590.3 | 5,422.2 |
| Total..... | 529,829 | 423,739 | 419,903 | 341,819 | 42,385.9 | 33,592.2 | 27,345.4 |

¹ Average withholding (Table 3, col. (2)) times number of credit unions in category (Table 2, col. (1)).

² The credit union has approximately 46 percent of funds in accounts of less than \$2,000. We assume that credit unions with less than \$1 million in assets who are using a paper based reporting system would choose to exempt these accounts on the basis of annual dividends being less than \$150. We also assume one-third of larger asset sized credit unions also would exempt these accounts. For credit unions with assets of less than \$100,000 the Treasury would receive no money during the year since annual withholding is less than \$500. For credit unions with assets between \$100,000 and \$5 million, the nature of cash flow is such that Treasury would have an average of 55 percent of dividends withheld to earn on throughout the year. For credit unions with assets above \$5 million, the Treasury cash flow would approximate 85 percent of dividends withheld. In addition 3 percent of member deposits will be assumed to qualify for an exemption.

Note: From the data found in Table 6, we can estimate that the earnings available to the Treasury from the early receipt of credit union withholding would total \$27.3 million when adjustments are made to the expected withholding. For credit unions with assets of under \$1 million (12,840 credit unions) Treasury earnings would total \$512,900. (The estimate would be \$1.83 million if Treasury were assumed to receive the unadjusted withholding at the beginning of the year.)

DEFINITIONS/COMPUTATIONS FOR WITHHOLDING TABLES

TABLE 1

- (1) Avg. Members—average number of members per credit union in the asset category (Source: NCUA Annual Report)
- (2) Member Contract—assumes that all members receive a mailing from the credit union; 5% of members request additional information either by letter or telephone; 3% of members file an exemption; and 1% of members require help in filing for exemption.
- (3) Training Costs—costs associated with obtaining the information necessary to comply with the regulations and transmitting the information to the staff who must implement the program. Each credit union is assumed to send at least one person to a league training program. The number of persons who must be trained increases as the asset size of the credit union increases.
- (4) System Preparation—costs associated with preparing the credit unions' account-

ing/data processing system to comply with the new regulations. Costs are relatively low for relatively small asset sized credit unions who are likely to use a hand-posting system. It is assumed that the costs of preparing an in-house system would be similar to charges imposed by service bureaus.

(5) Overhead—assumed to be 10% of other costs for credit unions with assets of less than \$1 million and 15% of other costs for larger asset sized credit unions. Includes printing costs and cost of space, management time, etc.

(6) Total Costs per CU—the sum of (2), (3), (4) and (5)

TABLE 2

- (1) No. of CUs in Category—the number of credit unions in the asset category. (Source: CUNA Economics & Research)
- (2) Total Costs per CU—from Column (6), Table 1
- (3) Total Start Up Costs—product of (1) times (2)

TABLE 2

(1) Avg. Dividends Paid—the dollar dividends paid by each credit union in the asset category in 1981 (Source: NCUA Annual Report)

(2) Average Withholding—assumed to be 10% of average dividends paid with no member exemptions.

(3) Annual Earnings per CU—is based on an effective annual interest rate of 8%. Credit unions are assumed to hold withheld dividends until \$500 is accumulated. Once \$500 is accumulated, the credit union would forward the money to the Treasury within 15 days of the end of the month following its accumulation. Once \$3,000 is accumulated, the eight month rule is assumed to be in operation.

TABLE 4

- (1) No. of CUs in Category—same as Column (1), Table 2
- (2) Annual Earnings per CU—from Column (3), Table 3
- (3) Total Earnings for Category—product of (1) times (2)

TABLE 7.—IMPACT OF STARTUP COSTS ON CREDIT UNION INCOME, ABILITY TO ADD TO RESERVES

[Dollar amounts in millions]

| Asset category | Startup costs | Start up costs as percent GI | Percent operating expenses | Percent operating expenses personnel expenses | Percent net income | Percent to undivided earnings | Credit union— | | | | |
|------------------|---------------|------------------------------|----------------------------|---|--------------------|-------------------------------|---------------|--------------------|------------------------------------|---------------------------------------|---------------------------------|
| | | | | | | | Gross income | Operating expenses | Operating expenses personnel costs | Net income for dividends and reserves | Transfers to undivided earnings |
| 0 to \$0.05 | \$704.66 | 24.29 | 40.43 | 51.17 | 60.75 | 324.73 | \$2,901 | \$1,743 | \$1,377 | \$1,160 | \$217 |
| \$0.05 to \$0.10 | 743.71 | 9.13 | 17.90 | 23.63 | 18.62 | 112.12 | 8,147 | 4,155 | 3,145 | 3,991 | 609 |
| \$0.10 to \$0.25 | 1,262.55 | 7.01 | 13.34 | 19.10 | 12.56 | 93.66 | 18,021 | 9,461 | 6,611 | 10,050 | 1,348 |
| \$0.25 to \$0.50 | 1,401.71 | 3.28 | 7.07 | 10.71 | 6.13 | 43.43 | 42,676 | 19,812 | 13,081 | 22,864 | 3,227 |
| \$0.50 to \$1 | 2,742.71 | 3.34 | 7.57 | 12.00 | 6.00 | 45.29 | 84,954 | 37,544 | 22,686 | 47,410 | 6,277 |
| \$1 to \$2 | 3,244.21 | 1.89 | 4.51 | 7.48 | 3.24 | 29.40 | 171,895 | 71,908 | 43,355 | 99,986 | 11,033 |
| \$2 to \$5 | 4,039.65 | 1.06 | 2.81 | 4.67 | 1.70 | 14.18 | 381,589 | 143,794 | 86,582 | 237,614 | 28,494 |
| \$5 to \$10 | 7,659.89 | .88 | 2.41 | 4.01 | 1.39 | 13.81 | 869,446 | 318,209 | 190,971 | 551,238 | 55,476 |
| \$10 to \$20 | 10,353.21 | .60 | 1.73 | 2.89 | .93 | 11.25 | 1,178,234 | 599,595 | 358,292 | 1,118,636 | 91,993 |
| \$20 to \$50 | 17,078.18 | .46 | 1.36 | 2.29 | .69 | 11.55 | 3,720,769 | 1,260,213 | 744,410 | 2,460,056 | 147,891 |
| \$50 to \$100 | 31,206.64 | .38 | 1.26 | 2.01 | .55 | 10.78 | 8,141,506 | 2,475,278 | 1,504,253 | 5,666,215 | 289,611 |
| \$100 plus | 59,130.45 | .23 | 1.04 | 1.70 | .29 | 6.40 | 25,976,923 | 5,681,128 | 3,458,923 | 20,295,794 | 924,006 |

Source: NCUA annual report; CUNA Economics and Research Division.

Mr. DOLE. I thank the distinguished Senator from Montana for what I consider to be an objective discussion of this matter, one of the few I have heard recently. I commend the Senator from Montana for his thoughtful approach to this whole issue. Again, it is a matter that has to be debated at great length. I am prepared to do that if necessary.

Mr. President, I know the distinguished Senator from West Virginia would like to speak on an unrelated matter. I wonder if I might ask unanimous consent to yield to the Senator from West Virginia for that purpose without losing my right to the floor or recognition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I will be speaking on social security. I will drop back 48 years and give, I think, some interesting comments about the measure passed at that time. I am the only Member of the Congress serving today who was here in 1935. I supported the measure and,

of course, voted for it as a Member of the House of Representatives.

I am very grateful to the Senator from Kansas (Mr. DOLE) for permitting me to step back for almost a half century, not just to be nostalgic, but to give some of the reasons why social security came to passage almost a half century ago.

I am very grateful also to the manager of the bill on the Democratic side, the Senator from Louisiana (Mr. LONG) for the type of consideration being given this important legislation over considerable time here in the Senate.

I have listened, of course, with a process of learning—I am always trying to learn—to the able Senator from Montana (Mr. MELCHER), who has been talking on a specific subject related to the possible inclusion of an amendment relating to withholding on interest and dividends during the consideration of this measure.

The social security program, Mr. President, does have a special significance for me because it was my privilege—yes, it was my responsibility—as a Member of the House of Representatives of the United States to actively

support and to vote for the original legislation 48 years ago this April. I point out the date, August, 14, 1935, when Franklin Roosevelt signed this monumental bill, a breakthrough bill, into law.

I recall very vividly on April 19, 1935, when the House, after a long, arduous, oftentimes very spirited 8-day debate, approved the social security package by a vote of 372 to 33.

The Senate, on June 19, passed the measure by an impressive vote of 77 to 6.

At that signing of the bill on August 14, 1935, there were certain words spoken by the President of this Republic. I quote these words from Franklin Roosevelt. He said:

We can never insure 100 percent of the population against 100 percent of the hazards and vicissitudes of life, but we have tried to frame a law—

Said the then President thinking in terms of the Congress— which will give some measure of protection to the average citizen and his family . . . against poverty-ridden old age.

Mr. President, I believe the program has been extremely successful during

the years. I think it is an example of a Government program that has worked and fulfilled its original promise.

From a simple premise of assuring our citizens that old age would be free of financial anxiety to a complex program of this very hour that provides tens of millions of Americans with monthly retirement checks as well as health care. Approximately 36 million Americans are now receiving, as we know, monthly checks.

Mr. President, I recall for our colleagues a statement I made on April 15, 1935, during the debate which perhaps is pertinent as I speak today:

We have passed through the worst, and we now have it behind us; but there are millions of worthy older people in this country who now and in the future will face a real cause of fear a hundred times greater than the fear of depressed business.

Ingratitude is among the more reprehensible of human vices!

Let us not be ungrateful for our delivery from the fear of poverty, and let us demonstrate our gratitude for this blessing by helping to provide protection to those who are not in position to provide it for themselves.

It is a great blessing to possess riches, but it is a greater blessing to possess, also, a heart that is willing to use riches in behalf of those who are helpless.

Mr. President, in 1935 one-third of all elderly Americans were impoverished. Let us not forget that fact. People do not like to look back and talk about the situation then. There are some parallels even today. Let us think of today.

Today, less than 15 percent have poverty-level incomes. The social security program has proved that America can, at times, be at its best helping others to help themselves. Since the inception of social security, many significant changes have reshaped America and the program. I quote now from President Jefferson, who said:

As new discoveries are made, new truths discovered and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times.

Mr. President, the social security program has been expanded through 13 expansionary laws and seven automatic benefit increases since 1935. In the beginning—I think this is an important fact to state—men dominated the work force. Now, almost half our work force is women. There was a difference then in the work force from the work force now.

In the beginning, there was no Federal minimum wage. It was thought that if we enacted social security, we could partially replace earnings lost through retirement or death.

At the time of the passage of this legislation in 1935, only 5 out of 10 jobs in America were eligible for benefits at age 65. Today 9 out of 10 jobs are included in social security.

In 1940, there were 16 workers supporting each beneficiary. Today, as I speak, there are 3 workers to every 11 who is a recipient.

There has been a lifespan increase of 20 percent over the last 40 years.

All of this leads to a present rather complex, confused, and troubled situation. Congress is reacting to the problems, frankly, and that is understandable, of this system. We need to provide and we will provide a strong answer to the financing concerns of not only the present but the future. I have no doubt that the membership of Congress, regardless of party, regardless of the occupant of the White House, that all of us working on Capitol Hill and downtown can plan for social security—that, in fact, we may clarify many of the situations which are very, very troublesome at this hour.

Mr. President, what we are doing today will go a long way toward correcting the present financing of the program. There is much remaining to do. I know Senator DOLE and Senator LONG, the two managers of this important legislation, are in a position to improve and can improve it, with their expert handling of measures of this kind over the years. I think that Congress will not renege on its basic promise of 48 years ago. Changes, yes, will be made. Provisions will be modified.

Mr. President, I am gratified to have voted for the original legislation. I believe that it has served the country well. I am sure that out of the work on Capitol Hill now, in both bodies, we shall be able to make necessary improvements. I think, however, we have to come to grips with the financing changes which are necessary in the bill that is before us. We cannot pass them by.

The package that will come out, I say to the managers of the bill, will not be a perfect package. The compromises have already been made, in part, and on subsequent votes will, perhaps, be further made. I am not encouraging my colleagues one way or another on a pending amendment or amendments. I am only saying that, in my opinion, it is absolutely necessary for the Congress to pass a measure coping with the problems of social security as it exists today and that the President of the United States be in a position to sign the measure that comes to him from Capitol Hill.

Mr. DOLE. Mr. President, I thank the distinguished senior Senator from West Virginia (Mr. RANDOLPH). I think it is remarkable that he is standing here today, reciting personal experience with reference to the first Social Security Act. It is another indication of the Senator's commitment and dedication.

I advise the Senator that we are going to do our best to keep our commitment, without getting into the merits or demerits of the pending amendment, as the Senator from West Virginia stated. I deeply appreciate the Senator's statement. It should demonstrate to all of us the seriousness of what we are about and what we should do—hopefully before this coming Friday.

I thank the Senator very much for his eloquence.

Mr. RANDOLPH. I thank the distinguished Senator from Kansas.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. I am happy to yield to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, I, too, should like to join in expressing the gratitude of this body and, if we can be surrogates of the people we represent, of the people of the United States for the role the Senator from West Virginia (Mr. RANDOLPH) played in enactment of this legislation and that he plays in its preservation today. Fifty years ago, almost, he helped enact it. Today, he has spoken to the urgency of the legislation before us.

Mr. President, there are not a great many Members of the Senate in the Chamber. Some will be listening on our radio system. I should like to call attention, if I may, to the urgency here, first having said, as I said some weeks ago, I guess, in the jobs bills, that I am committed—it is a commitment from last year—to vote against the repeal of withholding as it is called. I voted against it in committee 1 year ago; I voted against it on the floor. It is a matter of concern to the savings institutions of New York, but the commitment I made I shall keep. But we now have a time on which it can be kept. Whether it will prevail or not, I do not know, but April 15 is settled for that debate to begin.

What I would like to call to the attention of the Senate is a detail, one might say, of the arrangements that have been put in place to do what the Senator from West Virginia has said, which is to preserve the social security System and to try to make clear how precarious they are.

It is not just that so many different groups have had to make concessions which they have not wanted to do but did in the public interest as they judged, but with the understanding that others would make concessions and if any try to withdraw, the whole is risked, but there is a matter of time. Senators know that the authority for interfund borrowing expired on December 31. Prior to that date, the trustees borrowed enough funds to bring the system through July 1. The first actual change in outgo in this system takes place in effect on July 1, July 2, or July 3, when the checks go out. That is when the 37 million checks—36.4; it changes hourly—go out. The provisions of the bill provide for a 6-month delay in the cost-of-living allowances from July 1.

That delay is necessary because the funds will not be there to meet the obligations otherwise.

In terms of the enormous task involved in the Social Security Administration adjusting the retirement benefits of 36 million-plus Americans, the

absolute last minute they can have this statute on the books such that they have the authority to make the changes is May 7.

We are recessing this week. We will come back on April 5. There are 4 short weeks, as I count them, during that 28-29 days in which this legislation has to become statute. If anything lets it slip by today or, at the very most, noon tomorrow, prospects of getting a conference with the House, of getting a final bill—it is a large bill; it is not as long as many, but it is a bill filled with details, not just dealing with social security—and getting it to the President, who now expects to sign the legislation as it has passed the House and comes out of the Finance Committee, that is, nonetheless, fraught with the kinds of delays that are natural to the legislative process—if we delay by an extended debate on any extraneous issue, we are putting in peril this entire enterprise.

I do not want to exaggerate, but I do not think what has been done here can be done a second time. Already the strains on the alliances are showing, and to give up that opportunity to show that we can govern, that what we have created we can preserve, seems to me reckless and not in the public interest. In order that I not urge that we speed along, it seems to me I ought not to talk at too great length myself, but I wanted to make clear that we have a deadline and we can meet it, but we are beginning to fritter away that opportunity.

I hope Senators will understand what could be the consequences. It would be ruinous of our reputation and it would be detrimental to the stability of our people, and their confidence in us would be gone.

Mr. DOLE. Mr. President, I thank the distinguished Senator from New York. I certainly share the views expressed by the Senator.

We have agreed on a date to debate withholding. It is difficult to be restrained in talking about this lobbying campaign by the ABA, particularly when you read yesterday's Washington Post. I hope we can finally determine the full truth of how this campaign originated and how they picked those who were engaged in this campaign. But I understand that the American Bankers Association—

borrowed a technique commonly used by marketing departments and conducted "focus-group" sessions with customers.

They discovered that once people were made aware of the new law they were "afronted" by it. That, the lobbyists admit, is just what they were hoping to discover.

Then they took that latent anger and molded it into an outpouring of public wrath that buried Congress beneath a mountain of mail, gummed up the floor of the Senate for a week, generated a flash of temper from President Reagan and provoked threats of retaliation from Treasury Secretary Donald T. Regan and Senate Finance Committee Chairman Robert J. Dole.

The whole effort also touched off an argument over what the boundaries of fair play are when an interest group sets out to mobi-

lize—critics would say inflame—public opinion.

This is how they did it:

In the focus-group sessions in Chicago, put together by the American Bankers Association diverse people were assembled around a table and probed for their attitudes toward government, taxes, savings and banks. They were paid \$25 apiece for 90 minutes of their time and thoughts. They were not told who paid the.

We want them to tell what come out of the focus groups. What we do not have—and I hope that somebody will now tell us—is what these people were told. We have been saying for days on this floor that this was an underhanded campaign—

Mr. MELCHER. Will the Senator yield?

Mr. DOLE. Later, because I want to keep my thoughts here—that this was an underhanded, heavyhanded campaign by the American Bankers Association. I hope that we will now have from the American Bankers Association, whoever might have conducted this "focus group," where you put people in a room and you use two-way mirrors to get their reaction, what questions they were asked about withholding, what they were told about withholding. I just assume from the ads that I have read from the American Bankers Association they were probably told it was a new tax. That is what the credit unions told everybody: "We are against this withholding tax." People were told by the American Bankers Association that we were going to loot the savings accounts of their depositors, we were going to pick the pockets of their customers, and that their savings were going to disappear.

And now the truth is starting to come out. That is why this Senator believes this deserves a long discussion.

I did not realize that they had really gone quite that far, using a two-way mirror system to probe and to feed people propaganda, and then get the proper answer, decide what to put in their advertisement and then flood this country with ads and the Congress with mail.

Now, I will say, to his credit that the Senator from Montana said very clearly "This is not a new tax." It is not a new tax, but I must say that I begin to wonder just how far the banks may have gone because today I received a letter from a man in Chicago. Of course, I guess that is where all these shenanigans started. But he said, "Attached is a copy of a letter to Congressman SIDNEY YATES which I thought might be of interest to you." This is addressed to Congressman YATES, a good friend of mine on the House side who happens to be a prominent Democrat.

He said:

DEAR CONGRESSMAN YATES: This week I received a card from you acknowledging receipt of a letter from me opposing the withholding of 10 percent of interest and dividend income.

You may have such a letter bearing my name and address but let me assure you that neither my wife nor I wrote or sent it. Does this not lend credence to Senator Dole's contention that the purported massive public opposition to this measure is not truly public but a strong initiative on the part of service interests, such as the banking lobby?

That is only one letter, but I am wondering how many thousands of letters have been mailed to Senators saying that they have been signed by some of our constituents. This was another part of the bankers' heavyhanded campaign to mail in fictitious letters, or take the list of their depositors and flood us with mail and say, "All these people are opposed to withholding."

To me, I think it is disgraceful. Here we are, having just passed the jobs bill—we have not even finished it yet—and the social security bill should have been finished last week, had it not been for the American Bankers Association gearing up the Senate and trying to repeal withholding.

The so-called Easter recess starts on Friday or Thursday of this week, and now we have another effort. I assume the American Bankers Association is geared up again because now they have the old people hostage. Now they want them to wait while they tie up the Senate.

The social security system is about to go bankrupt. We are talking about \$165 billion that we need to infuse into this system in the next several years.

But some seem to be saying, oh, no, we cannot do that. We cannot worry about the senior citizens in America. We first have to take care of the American Bankers Association and their interests. They almost beat the bill to relieve the homeless and the jobless, and now they are after relief for the senior citizens. I wonder to what lengths the American Bankers Association; yes, the Savings and Loan League; yes, the credit unions, will go.

We set a time for debate on withholding, April 15, and we said we will have a full and complete debate. I thought they would be satisfied with that. But it seems to me that there is no way to satisfy the American Bankers Association lobby.

I wonder how long some of the bankers in my State and other States will put up with this kind of campaign. The American Bankers Association position does not reflect the view of the bankers in my State or in the State of Montana. This is a shameful campaign, carried on in an unfair way, by a lobbying group known as the American Bankers Association.

I thought it was rather interesting that Time magazine, on this week's cover, should have highlighted "Tax Cheating—Bad and Getting Worse." That is what we are suggesting is the problem.

Does somebody want to stand up and support tax cheating? It is said, "How are we going to pay for eliminating

withholding? We will take it away from the third year of the tax cut, take it away from the working people instead of those who are paying their taxes."

If we have to debate withholding on social security, we will debate withholding on social security.

I will suggest later that we table this amendment and get on, because I share the view of the Senator from New York. There are a lot of other things to concern us around here rather than a mail campaign that has many Senators quaking in their boots. I believe that once we have the full story of how this campaign was started and generated and how it was sustained, many Senators who now have the pro-bank position will suggest that maybe you cannot really support a campaign of that kind.

A lot of my friends say, "Bob, you can't take on the bankers." The Senator from Kansas is not taking on anyone. The Senator from Kansas is supporting the President of the United States, who in his 1983 budget said we should have better collection of taxes so that the system is fair. It is not a new tax. It is a collection of tax.

There are 20 million Americans who do not report all their interest and dividend income. That is a substantial number. I do not suggest for one moment that it is because they are dishonest. Much of it is inadvertent and honest mistakes. But what is wrong with collecting taxes that are due? I think that is the issue.

There was another story that appeared in the Washington Post this morning by Jane Bryant Quinn captioned "The Truth About Withholding, Minus Tall Tales From Banks," which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TRUTH ABOUT WITHHOLDING, MINUS TALL TALES FROM BANKS

NEW YORK.—You may have been misled by the widespread disinformation campaign that the banking industry is conducting against the new tax withholding system on interest and dividend income.

Big headlines in ads are scaring savers, by saying that "Congress wants a piece of your savings," or that "10 percent of the money you earn in interest is going to disappear."

Those headlines mean only that most Americans owe taxes on their interest income, and the government will be trying harder to collect the legal taxes due. But the ads have frightened many savers, especially the elderly, into thinking that the government is grabbing something extra. Even President Reagan criticized the banking industry last week for the sound and fury of its campaign.

Congress created the new tax-collecting system during its desperate search for revenues last summer, when it became apparent that the budget deficits were getting much worse. An estimated 10 percent of the people who owe taxes on their interest income don't pay—either because they cheat or because they forget. Taxes are also evaded by an estimated 18 percent of the people who earn dividends.

The most efficient way to collect income taxes is to withhold them automatically at the source. That is what's done for the taxes due on wages; they are deducted from every paycheck you get. Automatic tax withholding on pensions and annuities began this year. And starting July 1, there will be automatic withholding on the income you earn from your savings.

Banks, savings and loan associations and credit unions have been trying to repeal this new law. They stacked protest postcards on their counters, and urged their customers to mail them to congressmen and senators. Some of the banks collected signatures and mailed the cards themselves. Some provided stamps. Altogether, they generated more mail on a single issue than most legislators can remember. Cards have been pouring into the Senate Finance Committee at the rate of 30,000 a week.

The banking institutions object to the cost of tax withholding, which will be paid either by their customers (in higher fees) or by their shareholders (in lower profits).

A majority in the Senate and House of Representatives now backs a bill to repeal tax withholding on interest and dividends. But the leadership of both Houses opposes repeal, as does the public official with the biggest vote of all. Reagan announced last week that he would veto the jobs bill if it came to him with a rider repealing interest and dividend withholding. [The Senate finally passed the jobs bill Thursday after the withholding amendment's sponsor was persuaded to withdraw in return for its consideration on the floor April 15.] The government estimates that automatic tax withholding will pick up an extra \$4 billion to \$5 billion in taxes next year.

To straighten out the disinformation you have been getting, here is what's scheduled to happen July 1:

Ten percent of your interest and dividend income will be withheld toward your income taxes due. This is not a new tax. It is simply a new way of collecting the present tax.

The government is not withholding 10 percent of your total savings, as some people believe. It is withholding 10 percent of the interest earned on your savings which, for most taxpayers, is less than the actual tax due.

When taxes are withheld monthly from your savings account, you will have a little less money earning compound interest. The banks have been making a great deal of this, claiming that the government is "looting" your savings. But the cost is small. At 9 percent interest, tax withholding will cost you 50 cents a year on each \$1,000 in savings. And you need not even lose that. Banks are allowed to withhold taxes all at once, at the end of the year, which would leave all your money free to compound all year.

All low-income people and most of the elderly can exempt themselves from tax withholding. You are exempt if you paid no more than \$600 in federal income taxes last year (\$1,000 on a joint return); or if you are 65 or older and paid no more than \$1,500 in federal taxes last year (\$2,500 on a joint return). The Treasury estimates that 87 percent of the elderly will not be subject to tax withholding.

But to get your exemption, you must file a new withholding form (Form W-6) with the companies that pay you dividends and with each banking institution where you keep interest-paying accounts. That won't be hard. When July 1 rolls around, there will be plenty of information about where those forms can be found.

Mr. DOLE. Mr. President, I think that once the people understand that this is not a new tax, they are going to

support what we are trying to do. Does anyone want to stand on this floor and say that you should not pay your taxes; that we are going to make certain you do not pay your taxes; that we have to make up for what you do not pay, so we are going to take it away from the working people?

The Senator from Kansas had a note last Friday from Mortimer Caplin, the IRS Commissioner under President Kennedy. Among other things, he thought we were doing the right thing. However, he said:

Withholding is the backbone of our self-assessment system and represents almost half of what the IRS collected in 1982. Yet it has been under frequent attack throughout our tax history. At the same time, its soundness has been proven by the long experience both in England and in this country dating back to the 19th Century. It is hard to conceive of a sound income tax system that does not have the backing of a reasonable withholding procedure.

Tax withholding on dividends and interest was first introduced in the United States by the Revenue Act of July 1, 1862. It applied at an initial 3 percent rate to interest and dividends paid by all railroads, banks, trust companies, fire, marine, life inland, stock and mutual companies. In 1864, the withholding rate was increased from 3 percent to 5 percent and was extended to include interest and dividends of canal, turnpike and canal navigation companies. Only the salaries of government employees were also subject to withholding during the period, as it evidently was regarded as too difficult to extend withholding to the salaries of outside employees. In short, withholding on dividends and interest was workable, but withholding on salaries of non-governmental employees was not.

I have a very extensive history of what happened from 1862 to 1962, 100 years, when we have had withholding in this country. It is not just in this country. Other countries have tried withholding successfully. In Belgium, they have a withholding rate on interest and dividends of 20 percent; in France, 10 percent; in Germany, 25 percent on corporate bonds and dividends. We do not have the information for Italy. In Japan, it is 20 percent on interest and dividend. We do not have the precise percentage in the United Kingdom.

It seems to this Senator, to the President of the United States, to the Speaker of the House of Representatives, and the chairman of the House Ways and Means Committee that we should take a very careful look at withholding. This Senator believes he has an obligation to do so. I cannot expect my colleagues on the House side to defend withholding if we are not willing to defend withholding on this side.

If there is some reason why it is not defensible, or if the President suggests we are going to drop withholding, that we are getting too much heat from the bankers, or if the Senator from Montana can agree that the bankers will start withholding on June 1, 1984, then maybe we will have something to discuss. But until that happens, I

think all we can do is discuss withholding.

It would be a budget loss. The amendment is subject to a point of order under the Budget Act, because the loss in 1983 is \$1.1 billion, and in 1984 it would be about \$0.3 billion. So there is a point of order to be made under the Budget Act.

I know there has been a big question about who is going to be first. There have been meetings on the Republican side of the aisle today, the Steering Committee, trying to find who is going to offer the first withholding amendment. The Senator from Kansas knows that it is popular politically and that you will get a lot of fan mail if you repeal or delay withholding. But that does not mean it is the right thing to do.

The Senator from Kansas is fairly sensible and reasonable, but I really believe there is going to be revulsion in the Senate when we finally learn how this campaign was put together and how it has been sustained.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. DOLE. I will yield for a question.

Mr. MELCHER. The Senator has asked how the campaign was put together. I wonder if he would mind my stating—before I ask my question—that in the case of one taxpayer, who happens to be the wife of the aide who sits in this chair—he is out for a cup of coffee right now—who is a schoolteacher, she received this form, notice 662-A, to which the Senator from Kansas referred, last week I believe, from the Treasury Department.

This is a form that goes out with every tax refund that is being mailed right now. It says, "Attention, recipients of interest and dividends. New withholding program begins July 1."

So far as that individual taxpayer is concerned—the wife of my aide, who is a schoolteacher—that was the first she heard of it. The first thing she did was buttonhole my aide when he got home that night, and she said to him:

Have you seen this notice? Now do you know what they are going to do to us? They are going to start withholding tax on interest and dividends. Why do you not say something to Senator MELCHER, to see whether he can do something about that, to block it?

I daresay that millions of other taxpayers are going to find out about this withholding to become effective July 1 from the explanation mailed to them either with their refund checks or, as the Senator from Kansas pointed out several days ago, in the 36 million checks which are going to be mailed out to social security recipients on April 1. They are going to learn of it for sure.

Can the Senator tell me does not the reaction of this schoolteacher wife of my aide, just learning of it through the Treasury Department, by receiving this form from the Treasury Department with the refund check point

out that there are a lot of people who are completely unaware of it and whatever this big campaign has been by the banks they do not necessarily get the word out? Is it not apparent that the IRS is doing their duty? They are now getting the word out. Would it not also be fair to say that a great number of taxpayers are going to have the same reaction as that schoolteacher did who objects to it?

Mr. DOLE. Mr. President, if the Senator will permit me to answer the question, I cannot believe the schoolteacher did not know it beforehand if she teaches in this area because it has been rather widely reported and the banking lobby has not missed many. I do not know if they have been into the schools but they have been everywhere else. I am certain if she had an account she has gotten a notice in the bank account. If you walk into the bank you are hit with one of these forms to fill out.

But I would also assume they withhold from her check, if she has withholding on her wages as a schoolteacher, and I do not know whether she is objecting to that also, but that is another matter.

Mr. MELCHER addressed the Chair. Mr. DOLE. I am not going to yield for more questions.

Mr. MELCHER. I think that is the point. I think the point of further withholding is what she is objecting to.

Mr. DOLE. The point the Senator from Kansas makes is why should we withhold from the working people on wages and salaries?

Mr. MELCHER. She is working. These are working people.

Mr. DOLE. I said why should we.

Mr. MELCHER. I am giving the Senator a fair reaction. I am giving him a fair reaction of a taxpayer.

Mr. DOLE. If the Senator wants to broaden the amendment and change withholding on wages and salaries, we might be able to do business. I do not know why he wants to favor the rich and keep zapping the working people.

Mr. MELCHER. This is not the rich.

Mr. DOLE. If we are going to have withholding we should have withholding. If we are going to have special exemptions because the banks are powerful, the savings and loans are powerful, and the credit unions are powerful, we should have the exemptions for the working people, the people out there working with their hands every day.

We have had withholding. Withholding has been around for a long, long time, and I know a lot of working people who would like it if we did not take it out of their checks every 2 weeks. They could put that aside and earn interest on it and do it the next 2 weeks, the next 2 weeks, the next 2 weeks. At the end of the year next April they could pay their taxes.

The banks are arguing that we are not letting people keep money there for investments.

What about the millions and millions of working people who should have the same right?

I wish to say again, just to include in the RECORD a few editorials—here is one from the St. Petersburg Times: "Baloney from Banks," which I thought made a lot of sense. It talks about this campaign and how they give you a little example here.

It has been 40 years since Uncle Sam started taking his piece of every pay check. Had fairness been the guide, that's how long income taxes would have been withheld from bank interest and stock dividends also. However money is earned, it ought to be treated alike.

It takes more than fairness, unfortunately, to make Washington tick; in this case, it took the lengthening shadows of \$200-billion budget deficits. The reforms that Congress passed last year, when fully effective, will mean some \$4-billion a year in new revenue—nearly all of it representing taxes that are presently being evaded by people who "forget" their dividend and interest income when filing their 1040's.

It went on to say:

The bankers, it seems, are not good losers. Sympathy would come more readily for their valid points, such as the extra paperwork they face, if they were candid about their real stake in the issue. Corporations and pension plans are also newly subject to withholding, but few are protesting. Why the banks? The conspicuous difference is that corporations are accustomed to paying out dividends quarterly while the banks are accustomed to retaining and using and interest they credit to their depositors.

Savings deposits, money market funds, time deposits and other interest-bearing accounts pay household depositors some \$220-billion a year, using the industry's own figures. Most of it is credited directly to those accounts, where it remains on deposit, enlarging the banks' own portfolios; raising their lending reserves and increasing their potential profits. At the uniform 10 percent quarterly withholding rate, that's an average of \$11-billion a year less on the banks' books, with a corresponding increase in the government's accounts. Much of that, of course, eventually would be paid by depositors who are honest with the IRS regarding their interest income. But if wage-earners have no choice in the matter of withholding, why should anyone else?

And that is the \$64 question.

I have not seen the banks up here pleading that we should repeal withholding on those who work in their banks. What about the people who work in their banks? What about all the depositors who work for a living and pay their taxes and have taxes withheld on their wages?

So if the banks want to make a uniform, balanced presentation, then we can listen to those arguments.

But there are literally dozens and dozens of editorials. Once the truth comes out, the people will understand that we had this two-way mirror set up and we had people stashed away being paid \$25 by the ABA, and then they probably fed them a lot of propaganda and said, "What do you think about that?" If you only hear one side of the argument you do not have much choice—most of us could con-

vince nearly everyone with one side of the argument. If I tell 10 people in the room that this is a new tax, I assume 10 people might believe it is a new tax. If I tell 10 people that this is going to pick your savings or reduce your savings, I imagine 10 people would believe that.

That is how this campaign was generated. So we owe a debt to Paul Taylor who reported that in yesterday's Post about the bank's psychological ploys to stoke the savings rebellion. They have stoked the rebellion already. They have stoked a rebellion—no doubt about it. The genie is out of the bottle.

Now we must be treated with this issue every time a bill comes up to help someone or carry out the President's program, or to carry out the bipartisan Social Security Commission efforts, which was endorsed by the President, by the Speaker of the House of Representatives, and by a vote of 18 to 1 in the Finance Committee, Democrats and Republicans. We have to lay that aside now so we can debate this for 2 or 3 days. Social Security should have been passed last week. But no, we could not do that. We had to take care of the bank interests. We should have passed the jobs bill early last week. But no, we could not do that. We had to take care of the bank interests because they are the ones rushing into town and sending letters and calling on the telephone and flooding you with mail.

They may eventually win, but not on this bill. If we are going to have a social security bill, it is not going to have this amendment on it.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield for a question.

Mr. CHAFEE. I wish to say to the Senator from Kansas that coming into the middle of this debate after the weekend gives one a horrible feeling that it is a long day's journey into night. We were through this all last week.

Am I not correct in asking the distinguished Senator from Kansas that the Senator from Kansas and the majority leader have promised to those proponents of this legislation that in April the Senator will give these folks who desire a repeal of the withholding on interest and dividends a vehicle and a vote.

Mr. DOLE. Yes. In fact, we decided to take it up on April 15. We thought that was an appropriate date. That is the date for filing deadline for tax returns. We will not vote on April 15 because that is on a Friday. We would not want to delay anyone's travel plans on Friday. But I think within 2 or 3 weeks after that we might get to a vote.

Mr. CHAFEE. So, in effect, they are going to have their day in court sooner or later, as I understand it.

Mr. DOLE. The Senator is correct.

Mr. CHAFEE. I do not understand the reason that the proponents have

brought this legislation up now. We thrashed around, lost a whole week last week, and finally got it set aside while we went to the jobs bill, and now we are on one of the most important pieces of legislation we will consider in this Congress, namely saving of the social security trust fund. I personally believe we have to get on with this. We are running up against deadlines. Not only are we running up against deadlines, but we have a series of other serious amendments that are going to come up.

Am I correct in asking the Senator from Kansas—there are some major amendments that are going to be proposed on the floor dealing with social security; is that not correct?

Mr. DOLE. The Senator is correct.

We still have about a half dozen amendments and the distinguished Senator from Louisiana has a major amendment.

Mr. CHAFEE. I do not know whether we have reached time agreements on those amendments or not.

Mr. DOLE. No. The Senator from Kansas is not willing to give anyone a time agreement for the reason we are now here on this. Had we given a time agreement the Senator from Kansas would be locked into voting on this amendment within 30 minutes or 1 hour or 1 day or 2.

Mr. CHAFEE. So we have a real problem here in getting on with this legislation, getting it passed, and I think I would be correct in saying to the Senator from Kansas that if this social security legislation is not passed within, say, 2 or 3 days, then it has to go to conference, it has got to come back and be passed, and if that does not happen then we will move to the end of the Easter recess, which is 10 days or so away after that.

Meanwhile pressure will be building up from every group that does not want to be in it, those who do not want to postpone the COLAs, those who do not want an increase in taxes, those who do not want the Federal employees included. Am I not correct in suggesting that this very, very delicate and important compromise is liable to become unraveled the longer we wait around and deal with what I might say are extraneous amendments, not going to the substance of the Social Security Act?

Mr. DOLE. There is no doubt about it. This amendment plays right into the hands of the Federal employees who do not want the bill to pass in the first place, do not want to come under the bill. I find this rather strange, the ABA and the Federal employees unions working together. But you come to learn in this area, and I am not unsympathetic to the Federal employees, do not misunderstand me. I am not particularly sympathetic to the ABA.

Mr. CHAFEE. Am I not correct in saying that we have a jobs bill conference report to come back here?

Mr. DOLE. We cannot rush to these things. We have to take care of the banks. We cannot worry about the homeless and the jobless. The banks are the ones with the power, and all the mail in our office comes from them.

Mr. CHAFEE. This legislation helps the crippled and the blind.

Mr. DOLE. I think some in the ABA have a problem, but I am not going to get into that. Yes, it does.

Mr. CHAFEE. I think my real question to the Senator from Kansas is, as I see it: There is a sense of urgency about this matter because we have got to pass it, the conference has to pass it, we have a conference on the jobs bill to wrestle with, and we have a good-sized menu before we get out of here for the Easter recess, if we do get out, and I would presume—well, I think the House is going to go anyway—so the longer we take here the greater it seems to me we endanger the prospects of these two very important bills.

Would the Senator agree with me on that?

Mr. DOLE. The Senator does agree.

The thing that concerns this Senator is we are not going to finish the debate on this amendment in time to take up the one on April 15. We have been tugging and hauling. If we do not finish the bill this week, and we come back on April 6 or 7, we are still on this amendment which, I assume, we will still be on, then we have to debate that for the next 8 or 10 days, and how are we going to accommodate the distinguished Senator from Wisconsin? I would not want him to feel left out of this. I know there is a rush to get in on this. It is a horse, a nice horse to ride, it is popular. Everybody wants to get on it. But we cannot accommodate the Senator from Montana and the Senator from Wisconsin, if we never finish the debate on this, but I am sure the Senator from Wisconsin understands these technical things will happen.

I thank the Senator from Rhode Island.

It seems to me—and I do not quarrel with the Senator's right to offer his amendment. I think he made an objective statement, one of the first I have heard in opposition to withholding on the Senate floor, and so I commend the Senator from Montana for that. He did not call it a new tax. He indicated what he thought it was, what he thought it was not, and I do not quarrel with anything he said except I hope he will let us move on with social security, that he will withdraw his amendment. He understands that there is some concern about it.

Certainly the Senator has the right to be concerned about it, every Senator on this floor has the right to be concerned about it. But I hope he understands our position. There is not a single so-called nongermane amendment—I know they say it is a revenue

bill, so that is not the issue—but there is not a nongermane amendment in it since we tried to limit this bill to social security, unemployment, and medicare, and there has not been a single amendment brought to my attention that would violate the spirit of that. At least I hope we can get through this Chamber of the Senate without offering any amendment that did not affect either unemployment, medicare, prospective payment, or social security.

This is one of those, too, but that again does not mean that the Senator cannot offer it. As I have indicated, this is subject to a point of order under the Budget Act, and as to that we are expecting the Senator from New Mexico to arrive at any moment. I think he is still in Chicago. They have had a bad storm there, but at least he is on his way.

I ask unanimous consent to have printed in the RECORD a column by James J. Kilpatrick which appeared in the Kansas City Star on March 1, 1983. "Bankers Shortsighted on Tax Withholding"; an editorial in Newsday, Long Island, N.Y., "An Unconvincing Case Against Withholding Taxes"; "Interest Withholding Not 'Subversive'" from the State-Journal Register, Springfield; "Those 'Untold Billions,'" from the Washington Post; "Let's Give It a Chance," from the Los Angeles Times; "Poison Pens and a Sensible Tax," from the New York Times; "Bank Smokescreen," from the Charleston Gazette, Charleston, W. Va.; "Alarm Over Withholding," from the Baltimore Sun; "Bankers' Clout," from the Cincinnati Post; and "A Message From the Banks," in the Washington Post.

There are others that we will need in the next debate, and perhaps need these again, too.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BANKERS SHORTSIGHTED ON TAX WITHHOLDING

(By James J. Kilpatrick)

WASHINGTON.—When it was all over at Arculum, back in 779 B.C., and the sun was setting on the battlefield, an aide came up to General Pyrrhus. "Well," said the aide, "we whupped the Romans this time."

Pyrrhus looked at the bloody field. He had lost two-thirds of his army. He looked at his aide and uttered the sentence that made him immortal: "One more such victory," said Pyrrhus, "and we are lost."

It is an old story, but it is a story that American bankers might want to think about. The bankers have mounted a massive lobbying campaign to repeal the tax withholding law that Congress approved last year. The campaign has produced the heaviest mail on Capitol Hill since the 1975 fight over the Panama Canal. Says Carroll Hubbard, who represents the First District of Kentucky, "It's awesome."

But in the process, the bankers have taken on (1) the chairman of the Senate Finance Committee, (2) the chairman of House Ways and Means, (3) the speaker of the House and (4) the president of the United States. At the moment, because they have rounded up more than half of each

chamber in support of their repeal bill, it looks as if the bankers may win. If they attach their bill as a rider to some other legislation the White House sorely wants, such as Social Security, they may even push the president into a corner where he has to sign the measure willy-nilly. Victory! They will have whupped the Romans.

Under the withholding law, scheduled to become effective in July, banks and corporations would be required to treat the payment of interest and dividends in somewhat the same fashion that all employers treat wages and salaries. Periodically, 10 percent would be withheld as income tax and paid over to the Treasury. This is not a new tax in any sense. Subject to certain exemptions, income from dividends and interest is taxable income.

The trouble is, according to Sen. Bob Dole, Republican of Kansas, that about 11 percent of interest payments and 15 percent of dividends never are reported on individual tax returns. The withholding law, he says, "will cut these non-compliance rates in half, and raise almost \$4 billion each year."

I may be in a small minority, but I see nothing wrong with the act. On the contrary, I see much that is right. To listen to the bankers propaganda campaign, you might suppose that the idea is to penalize millions of little old ladies in tennis shoes. Baloney! The act provides a simple mechanism by which old folks in low-income brackets may exempt themselves from the law.

The bankers also are cultivating the impression that the act will cost them "untold billions" in paperwork. This too is baloney. Banks and corporations already are required to compile and report their payments of interest and dividends. In all but the smallest banks, the transfer of withheld taxes can be accomplished in the flicker of a computer's eye.

The repeal campaign has put some odd fellows in bed together. In the House, such conservatives as Kemp of New York, Paul of Texas and Edwards of Oklahoma are co-sponsors with such liberals as Mikulski of Maryland, Simon of Illinois and Conyers of Michigan. In the Senate, Helms of North Carolina and Tsongas of Massachusetts are walking hand in hand for repeal. Both Republicans and Democrats see an opportunity to put themselves on the side of the little old ladies, which politically speaking, is a nice side to be on.

But the act is not aimed at the little old ladies. It is aimed at the fat cats who have large incomes from dividends and interest and cheat on their income tax returns. Once this truth is grasped, the political advantage will shift.

In a speech to the American Bankers Association on Feb. 17, Senator Dole denounced the bankers' advertising campaign as false and irresponsible. He gave them a pointed warning: If the bankers succeed in knocking out the \$4 billion in estimated revenues from withholding, the bankers had better prepare themselves for alternative measures they will find even more distasteful. For Pyrrhic victories, one pays a heavy price.

[From the Newsday, Long Island, N.Y., Jan. 25, 1983]

AN UNCONVINCING CASE AGAINST WITHHOLDING TAXES

The way bankers all across the country are howling about the prospective withholding tax on interest and dividends, it might appear that they and their customers are soon to be subjected to some exotic torture.

But withholding a portion of income for taxes is hardly new, as every wage earner

knows. Federal, state and even some local governments take a bite out of every paycheck. So does the Social Security system. And as taxpayers also understand, if they owe any additional tax beyond what was withheld, it has to be paid by April 15; if the government has withheld more than they owe, they get a refund after filing a return.

So why should interest or dividends be treated any differently?

In its big tax reform legislation last August, Congress wisely decided that they shouldn't be. Beginning July 1, banks, savings and loan associations and corporations will be required to withhold as federal income tax 10 percent of the interest and dividends on accounts yielding more than \$150 a year.

Bankers all around the country, led by the American Bankers Association, are leaning on their senators and representatives to repeal this withholding requirement. The banks are also trying to generate opposition to it among their customers, warning that the new rule will allow the government to "stand over your bank teller so it can reach directly into your bank account." Aside from the financial loss involved, the bankers are saying, the new rule will tarnish the confidential relationship between a bank and its customers.

That reasoning argues not only for the abolition of the new requirement but for the elimination of the entire tax withholding system. After all, if the bankers are right, presumably the government is now standing over every payroll clerk each time a paycheck is issued.

Yet there's no reason to suspect that the relationship between wage earners and their employers has been adversely affected by the payroll withholding system. The bankers have failed to make a convincing case against the new withholding tax and neither the public nor Congress should be swayed by their arguments.

[From the State Journal-Register, Springfield, Feb. 1, 1983]

INTEREST WITHHOLDING NOT "SUBVERSIVE"

The banks in town have done a good job of getting people all wound up about interest withholding.

It's a master stroke. You can't walk into a bank lobby in Springfield without seeing the little petition cards to sign and send to your congressman or senators urging repeal of withholding.

And their customers are obediently filling out the forms so the banks can send them in.

These are the same banks that charge you when you give them your money to use. As far as I'm concerned, when the banks say they're looking out for me, I start checking my pockets.

The interest and dividend withholding idea was part of the tax bill suggested last year by President Reagan and adopted by Congress. The whole package, which included tax increases and efforts to improve compliance, was an attempt to close the federal budget gap, something the banks said they wanted.

The provisions require banks and others to withhold 10 percent of the interest earned in accounts that generate at least \$151 in annual interest.

Realize this: withholding is not a tax increase for you and me.

We have been taxed on our interest earnings for a long time. But what Congress found was that 11 percent of the people failed to report interest income, and 15 percent failed to report dividend income. And

you can bet the non-reporters weren't the ones with just meager savings.

Because it takes the tax money up front, interest withholding is aimed at those who have not paid their fair share. What we keep hearing from the banks, however, is that withholding is something subversive.

Withholding taxes from or savings interest robs us of some of the benefit of compound interest, the banks warn us. Defiled by the government again.

I won't claim to be an average saver—I don't know what the average saver is—but I do have interest-bearing accounts with a money market and with a local savings institution. And I'll tell you what effect withholding would have had on me last year.

About \$1.70 in lost earnings.

Those who have a tidy nest egg and are earning \$10,000 a year in interest on a \$100,000 account may face a more significant loss. But I can't feel particularly sorry for them. And I have better ways to spend my time than petitioning Congress to get an extra \$1.70 a year.

Yet Congress is listening. There already are several bills in Congress this year to repeal the provisions, including one introduced by Springfield's new congressman, Dick Durbin. In fact, withholding is the only subject about which Durbin has felt so strongly that he's introduced his own bill.

Durbin's spokesman says the congressman is for repeal because he believes the withholding provisions run counter to economic recovery. They're a disincentive for saving or investing, Durbin says.

Well, I'm sure not going to pull my money out of an account because I'm not getting an extra \$1.70. What's my alternative? Spend it all and lose all the interest? Put it in a mattress?

I think the real reason we're being asked by the banks to get all upset about this is because the banks don't want to have to deal with it.

They claim the program is onerous and will increase their costs. The provisions of the act, however, allow the banks to invest the funds themselves for a month, keeping the interest, before sending it on to the IRS. Over the long term, that will more than cover the cost of setting up a withholding system.

The banks say they want to protect my right to control my money. I don't think they're concerned about me at all—because I'd rather pay the IRS a little at a time than in one lump sum next April 15.

[From the Washington Post, Feb. 21, 1983]

THOSE "UNTOLD BILLIONS"

What's—so wrong with asking people to pay their taxes? Senate Finance Committee Chairman Robert Dole posed that question the other day to leaders of the American Bankers Association. It's a question that needs a much better response than the campaign of obfuscation and hysteria launched by the bankers in opposition to the new law requiring partial withholding of taxes on interest and dividends.

The bankers know full well that the new law will put no burden on any honest taxpayer. No one is being asked to pay anything he does not already owe. People who are elderly or have modest incomes are exempt. The interest lost from quarterly withholding of taxes would amount to a maximum of 50 cents a year on a deposit of \$1,000. Would that bank service charges were so low.

But protesting bankers also know that it is easy to confuse people about tax law changes. So instead of preparing to put the law into effect, they have bought ads, given speeches alleging that Congress is "looting"

savings, and mailed misleading fliers to their depositors with form letters to congressmen enclosed.

Like most such tactics launched upon an uninformed and frequently elderly public, these have had their effect. The form letters have poured into Congress. A substantial number of senators and representatives—who, alas, are frequently no better informed than their constituents—are said to be considering repealing the withholding provision.

What prompts this disingenuous behavior? Surely no real concern for the convenience of depositors. As a matter of fact, bankers opposed the exemption provisions for elderly and low-income people when the law was being drafted. What they really appear to be worried about is their own convenience—and the prospect that withholding might scare off depositors with an inclination to tax evasion.

Banks already send quarterly information forms to the IRS on all dividends and interest. Accompanying them with a 10 percent fund credit would amount to no more than the electronic equivalent of the flicker of an eyelash. The cost would be minuscule compared with the cost of having the IRS track down and collect from each of the distressingly large number of tax evaders. But the banks would still have you believe that this new chore would cost them and their depositors, as it is regularly said, "untold billions."

But the thing about untold billions is that the usual reason they are untold is that telling them would require using numbers with several zeros immediately to the right of the decimal point. Somehow a number like \$.001 billion has a lot less impact. But speaking of untold billions, you might want to remember that these bankers who now claim to be so concerned about prudent operation are the same ones who have been recklessly investing overseas and who would now like to have government protection from the consequences of their folly. Here the billions involved are more unspeakable than untold—and certainly uncollectable.

You might also remember, as Sen. Dole has done, that banks now pay notoriously low taxes. If Congress unwisely decides to repeal the withholding provision, one very good way to replace the \$22 billion in unpaid taxes that will be lost over the next five years would be to repeal some of the provisions that now favor banks over other taxpayers.

[From the Los Angeles Times, Feb. 27, 1983]

LET'S GIVE IT A CHANCE

The U.S. government does better than most when it comes to collecting taxes owed it, thanks largely to the payroll-withholding tax introduced 40 years ago. But not all income is subject to withholding. Dividend and interest payments, which last year amounted to about \$525 billion, have up to now been exempt. The Internal Revenue Service estimates that evasion of taxes due on these earnings cost the Treasury \$8.2 billion in 1981. In last year's tax bill, Congress moved to round up some of that missing revenue by subjecting interest and dividends to 10% withholding, beginning July 1.

At the same time, Congress provided certain exemptions so as not to impose hardship on small investors. Taxpayers over 65 can avoid withholding if their 1982 income was under \$14,450 for an individual or \$22,214 for a couple. Those under 65 can qualify for exemption if their 1982 income was less than \$8,000 for an individual or \$15,300 for a couple. There will be no taxes withheld on accounts paying dividends or interest below \$150 a year. Finally, em-

ployed persons who face dividend and interest withholding can offset the new deductions by having less withheld from their paychecks.

These exemptions, the Treasury says, will exclude from withholding provisions fully 60% of those who receive interest and dividend payments. They can also be expected to reduce by about half what the Treasury says it would be getting if it could be sure that all taxes due on interest and dividends were paid. Still, \$4 billion in hitherto uncollected taxes due is a worthwhile start.

Lending institutions have been lobbying vigorously to get the withholding provision repealed. They argue that the paperwork costs for banks and corporations could run as high as \$1.5 billion a year, with those costs passed on to investors in the form of service charges and lower yields. The Treasury responds that the real cost of withholding would in fact be only about one-tenth that figure, meaning a highly favorable revenue-to-cost ratio—\$4 billion raised on \$150 million spent—of 25 to 1. Further, the Treasury says, the interest lost by investors on withheld money would be very small.

Equity pretty clearly requires giving the new withholding plan a chance. Payroll tax withholding is a proven means for assuring that taxes due are paid. The same rule ought to be applied to dividend and interest income to narrow the opportunities for tax evasion. If experience shows that the costs of complying with the new law are excessive, then revision or repeal should be considered. Until that can be demonstrated, Congress should stick with the decision that it made last year.

[From the New York Times, Feb. 24, 1983]

POISON PENS AND A SENSIBLE TAX

There's no precedent for the deluge of Congressional mail that the banks have stirred up against the new tax withholding from interest and dividends. There's also no sound reason for it; it should all be forwarded to the dead letter office.

The campaign is financed and orchestrated by the American Bankers Association. It is flooding its thousands of members with propaganda to feed to their millions of depositors. For instance, along with their January statements some customers received printed postcards addressed to their two Senators, ready to sign and send. Anyone needing a stamp was invited to "bring this card to the bank."

Withholding on interest and dividend payments was part of last year's \$99 billion tax bill. Effective July 1, 10 percent will be withheld from each payment. This is not a new tax; interest and dividends are already taxable as ordinary income. Neither is it a gross imposition on the banking system, or an unfair penalty on honest taxpayers, as some insinuate. It is simply an effort to catch the cheaters who now escape paying tax on \$30 billion of legitimately taxable income.

The banks are understandably agitated because the voluminous paperwork falls to them, along with all the grief they will get from grumbling taxpayers. But this burden has its reward. The banks get free use of the withheld funds for a month before they must turn them over to the Treasury.

There are two other anti-withholding arguments that appear to make sense, but neither bears scrutiny. First, it is said that withholding deprives taxpayers of earnings that they would be saving or investing to earn more money. That's true, but the loss is small. An example: the annual compound interest on a \$1,000 savings account paying, say, 9 percent is little more than \$90. In the

course of a year, withholding would take about \$9. If the withheld funds were left on deposit, they would earn less than 50 cents. That's not much of a loss. Moreover, most elderly and low-income taxpayers are exempted.

The second argument is that withholding is unnecessary; the Internal Revenue Service already gets reports on dividends and interest from the corporations and financial institutions that pay them. That's true for securities and bank accounts with the owner's name on them, but not for "bearer" securities registered in no name. In any case, it's impossible for the I.R.S. to match each dividend or interest report with each taxpayer's return. Withholding what's owed currently is surer, swifter and easier than trying to track it down afterward.

The case in favor of withholding is overwhelming. The Government, faced with gaping deficits far into the future, needs more revenue. Withholding will yield revenue that is already owed. Without it, some other tax would be necessary. Senator Dole, the wily chairman of the Finance Committee, suggests it might even be a tax on banks. Now isn't that an interesting thought?

[From the Charleston Gazette, Charleston, W. Va., Feb. 3, 1983]

BANK SMOKE SCREEN

The Nation's financial institutions have initiated a mammoth campaign to influence Congress to repeal, before it ever takes effect July 1, the withholding on interest and dividend income law enacted last year.

Members of the House of Representatives and Senate are being swamped with letters and postcards from irate depositors and investors. Some lawmakers are receiving as many as 1,000 pieces of mail a day requesting rescission of the withholding law, if news reports are correct.

Congress commits untold follies, but surely it will have the sense not to annul, less than a year after passage, legislation that has never been given a chance to prove itself.

Contrary to claims from bankers, it wasn't to hurt small investors and small depositors—to take away from them an opportunity to earn interest—that the withholding plan was adopted. Indeed, depositors making less than \$100 annually in interest won't have the 10 percent withheld from their account, if they choose to apply for an exemption from the plan.

The latter was authorized to make it more difficult for tax scofflaws to evade their civic responsibility. The Internal Revenue Service is convinced that today huge sums—billions of dollars—owed the government aren't paid.

Sponsors of repeal say that the law will penalize the law-abiding and that the federal government currently receives sufficient information to prevent Americans from cheating on their income tax. Sponsors imply that only the investors with small savings or holdings will suffer, since they won't be able to put all their money to work earning compounded interest.

When bankers begin braying about the little depositor are the lion and the lamb living together or is history being stood on its head? History, we may be certain, is being stood on its head. Bankers don't worry about the little depositor nearly so much as they worry about the sums which for the bank are earning considerably more money than they're earning interest for small depositors and which, once the withholding law is effective, will be forked over to the IRS.

The withholding law should be permitted to prove itself. Are vast amounts of taxes on

interest and dividends owed to the federal government not being collected? The withholding law ought to answer that question and ought to remain in force until the question is answered.

[From The Baltimore Sun, Feb. 11, 1983]

ALARM OVER WITHHOLDING

A great alarm has been sounded over the law enacted last year requiring banks and other financial institutions to withhold taxes on interest and dividends owed to the government by their customers. The banks say it will be a nightmare to administer (mostly because of exemptions that protect old and poor people). They say their computers will have to be reprogrammed and that their employees will be forced to use expensive time explaining this whole business to savers. Some individual taxpayers complain that the law is unfair and it will cost them money to have their taxes withheld. Much of the alarm, we suspect, is exaggerated.

Those people who think it is wrong for banks to act as tax collectors need look no further than the millions of employers who withhold taxes for the government. Or, the gas stations that collect taxes on gasoline, or the retail stores that collect sales taxes. That's been going on for decades, and it has proved an efficient method of making sure the taxes are paid.

Some people are afraid they will be deprived of interest earnings by paying the government quarterly rather than at the end of the tax year. The Treasury Department has prepared a chart showing exactly how much a citizen might lose. If he has \$10,000 in a savings account earning 12 percent interest on December 31, 1983, he would lose a little over \$5 in compounded interest by the end of 1984. That's a loss of 50 cents on every thousand. Treasury Secretary Donald Regan says that 85 percent of the elderly will be exempt, and won't even lose the 50 cents. They just have to fill out a simple form.

The banking industry has a different complaint. It is true the banks must program their computers to withhold the 10 percent; they will also have to modify their computers to exempt certain people. But a computer firm in Pikesville says the software is available that will allow banks to perform this function with no great difficulty. That firm, DISC, Inc. is already selling the stuff, and it says banks could pay for it in a couple of months with the earnings they will make on a special provision included in last year's law. The provision allows them to hold on to the withheld taxes for 19 business days, and invest it to pay for their trouble. Employers can't do that.

The issue underlying this law is that of noncompliance with the tax laws. Having studied the question for a decade or more, the IRS says the problem is sufficient to require a change. It estimates that the government, over the next five years, will retrieve up to \$200 billion that would be lost without this measure. And, the more the government retrieves in taxes (not new taxes but taxes already owed), the less it will turn to massive borrowing that crowds out important private investments in the national economy.

[From the Cincinnati (Ohio) Post, Feb. 3, 1983]

BANKER'S CLOUT

A useful and important tax reform, requested by President Reagan and passed by Congress last summer, is in danger of getting torpedoed by a powerful special-interest lobby.

The measure, if it survives, will require banks and corporations on July 1 to start

withholding 10 percent of most interest and dividend payments. It is designed to lift government revenue by discouraging tax evasion.

The Treasury estimates that 15 percent of taxpayers "forget" to declare what they owe on dividends and interest, costing the government an estimated \$3 billion a year.

Claiming that it would be burdened by paperwork, the banking industry fought the bill from the start. Even when it was given free use of the withheld money for 30 days to cover costs, it remained opposed.

The American Bankers Association has urged its 13,100 members to get customers and stockholders to "set up a clamor." Letters are pouring into congressional offices, and 220 representatives and 24 senators have sponsored a repeal bill.

Unless honest citizens who pay their correct taxes let Congress know their views, the bank lobby will win, withholding will be repealed and an opportunity for the selfish to cheat on taxes will continue.

Since 1943 employers have had to withhold taxes from the wages they pay their workers. It is the height of unfairness to treat dividend and interest income more favorably than work income and shield it from taxation.

[From the Washington Post, Feb. 8, 1983]

A MESSAGE FROM THE BANKS

Chances are that the statement you received last month from your bank or savings institution brought with it a special message of concern. The flier suggests that you, the customer, may wish to write your elected representative expressing your opposition to the new requirement that, starting next July, financial institutions withhold part of the taxes owed on interest and dividends.

Perhaps you overlooked this message because it arrived in an envelope stuffed with other communications trumpeting the many new services that your bank can now provide. Thanks to modern electronics, banks will now be pleased to shift your money back and forth among different types of accounts, calculate your accrued interest or account balance at a moment's notice and meet your banking needs day and night through automated tellers.

You might think that all this automation would make it easy for financial institutions to give Uncle Sam a helping hand in collecting the taxes he is owed. After all, employers have long been performing the far more complicated job of withholding taxes on wages paid, and you don't hear either companies or workers complaining. But to hear the banks tell it, this new requirement will impose a crushing burden on their operations and will discourage needed investment.

Your suspicions about these claims will be increased when you realize that, to help cover the cost of introducing withholding, banks will be allowed to retain withheld taxes for 30 days. This amounts to an interest-free loan of billions of taxpayer dollars. As for the impact on savings, most honest investors won't be affected at all.

No withholding is required on accounts earning less than \$150 in interest or on those held by elderly people without substantial taxable income. People with substantial investment income are already supposed to be filing quarterly tax returns so that the new system will simply pay part of their taxes for them. And if you hadn't been paying the taxes you owed on interest and dividends until the end of the year, gradual tax withholding will still reduce your effective annual interest yield by less than five one-hundredths of one percent.

This is not a new tax. It is simply a way for the Treasury to collect taxes more promptly and more completely. It will impose no intolerable inconvenience on either you or your bank, and it will help the economy by reducing the annual budget deficit by several billion dollars.

All of this being so, you may wonder what the bank or savings institution is really saying in its message. Could it be suggesting that the only reason you entrust it with your savings is that you think you can hide that interest you earn from the tax collector? We trust that isn't so. And we hope that if you write your elected representatives it will be to say that you support this way of making sure that everyone pays his fair share of taxes.

Mr. DOLE. It is obvious that one reason for the bankers' rush to vote on withholding now is that many of them may soon be in an embarrassing position. In fact, I think that was reported today in a story in the New York Times, but they are now beginning the process of mailing exemption forms to their customers, as indicated in a recent article in the New York Times. Some bankers may be caught because they have been telling these people about all this complicated redtape, how they are going to get all this complicated redtape, and all these people are going to mail out 8 million of these W-6 forms to all their people with savings accounts, and they are going to find out it is not complicated at all.

In fact, it might be well just to read into the RECORD the comments that appeared in the New York Times on March 17 of this year. It says:

BANK BY MAIL

The nation's banks are waging all-out war against tax withholding on interest and dividend payments. They are stuffing anti-withholding fliers in their customers' monthly statements, along with postcards for them to sign and send to their senators demanding votes for repeal. Legislators are even complaining that the bank mail volume makes it impossible to locate letters about other matters.

The banks argue that withholding will create an administrative nightmare—confusing customers, intimidating the elderly and people with low incomes who qualify for exemption, forcing them to reveal personal information about themselves.

It's instructive, then, to take note of another kind of bank mailing currently going on all over the country—to stockholders of American corporations, even bank corporations. The banks that handle the corporate dividends are mailing shareholders simple forms to file if they qualify for exemption from withholding—as they are required to do by the hated law.

This is all they have to do, this is that complicated form we have been hearing about in all the bankers' ads.

One check-mark and a signature are all they require before being mailed back to the bank.

So you sign your name and make a checkmark. It might take 30 seconds if you work at it. There is nothing complicated about that. The story goes on:

Nothing complicated about that; no secrets revealed. It's almost as if the banks were trying to help make withholding work smoothly, as well they should.

That makes the point.

The W-6 form is what they are mailing out and, of course, it is not complicated. But, you see, the banks are in a bind now because they have been telling people about all this complicated redtape, all this Government redtape, Government intrusion, and all the time they have got people in their banks whose wages have been withheld for the last 40 years, 20 years or 30 years or 5 years, depending on how long they have worked there, and I do not suggest that they are telling all these people that we ought to repeal withholding on wages and salaries. I have not heard from a single banker who wants to repeal withholding on wages and salaries. That is earned income. They just do not want any withholding on unearned income.

Again I want to underscore that it is not a new tax. I notice the distinguished Senator from Wisconsin has a little mailer of his own which goes on to say that we have to repeal this new tax. The Senator from Wisconsin knows it is not a new tax. The bankers know it is not a new tax. But if you write and tell them you are going to have a new tax they will say, "We are opposed to it." But if you write to somebody and say, "Do you think you ought to pay your taxes?" They answer, "Yes, we ought to pay our taxes." But somehow 20 million Americans do not, and fail to report their dividends and interest income. Some of them do not report any at all.

Some of it is because of errors and some is willful evasion. But we are not here to argue that point. We are told we can quarrel about the IRS and quarrel about Treasury figures. We are talking about \$11 billion over the next 3 years from lost revenue. Again, to the Senator from Montana's credit he recognizes that. It is one thing to stand up and say, "Repeal withholding." What do we do about the addition to the deficit?

We are told we ought to bring deficits down, bring interest rates down if we keep the deficits down. I do not want to add \$20 billion to the deficit over the next 5 years, and that is what we do if we repeal withholding unless we replace it with other revenue or some spending cuts. I have yet to hear a single proponent of repeal of withholding stand up and say:

OK, the Senator from Kansas is right. We are going to lose so many billions of dollars, and this is how I suggest we get it.

We get it through new taxes. We get it through new spending. We take away the tax cuts for the working people in the third year of the tax cut. We defer indexing.

It seems to me, once we understand what the options are, unless we are going to have it both ways, as some would have it, then I think we have to be very careful in what we do.

The Senator from Kansas has talked about the W-6 form, the so-called complicated redtape that the banks and the S&L's advertise. The credit unions, I must say to their credit, make only one mistake in their little

postcard by calling it a tax. They know it is not a tax. But, beyond that, they have been fairly circumspect in their lobbying efforts as has, I might say, the savings and loans league.

But even if the banks did not fill in advance the name and address and the account number, which they do when they mail it out, you would have to fill out the name, address, city, State, ZIP code, and account number, and make one check and sign your name. And it is a permanent exemption. You just say:

My tax liability for last year was \$600 or less.

If that is the case, you are exempt.

I am 65 or older, and my tax liability for last year was \$1,500 or less.

You are exempt.

My spouse and I filed a joint income return for last year, and our tax liability was \$1,000 or less.

You are exempt.

I or my spouse or both are 65 or older, and we filed a joint income tax return last year, and our tax liability was \$2,500 or less.

You are exempt.

I was (we were) not required to file an income tax return last year.

That is all you have to check. If you fit in any of those categories, you make one check. You do not even say which one, so you do not reveal anything about yourself. You say that in one of those five instances you are exempt. You make the checkmark. That is all there is to it.

Let me say that the President of the United States is not known to be looking for more ways to interfere with the lives of the American people. I think we have had a lot of good regulatory reforms. This change was in the President's budget for 1983. The Senator from Kansas and others talked to the President directly about withholding interest and dividend income. We knew how it would create a firestorm, but never in our wildest dreams did we believe they would cook up something in a closed room and pay people \$25 to do sort of market testing on what to say to stoke a rebellion of their depositors. And they have been successful. They have been successful.

Every office in this Congress is filled with postcards. Some may not have been mailed by the people whose names appear thereon, as is evidenced by the letter I have from the gentleman from Chicago. But somehow we have a lot of mail to answer. We estimated in our office that it is going to cost the taxpayers \$300,000 just to answer all the postcards that have been sent in by banks, S&L's, and credit unions. In addition, you have to put on more personnel.

Someone said, "Don't answer your mail." If you do not, people will write back and say, "Why don't you answer your mail? If you say the banks are wrong, what is your reply?"

So we are in the process, in my office, of writing two-page letters, with

enclosures, to everyone who has written us about withholding. Right now it is about 500,000 letters. We are up to 20,000. We have answered 20,000. They are coming in, the mail has leveled off, but the rate I think is still about 2,000 a week a week ago, but it is beginning to drop off.

I know the Senator from Montana has no intention of withdrawing the amendment. I will, at the appropriate time, or the majority leader will at the appropriate time, offer to table the amendment so that we can get on with social security. I make a plea to the American Bankers Association. I know of no one in the Senate unwilling to sit down with representatives of the American Bankers Association, but I know of no one in the American Bankers Association who even wants to talk about withholding.

I hope some of the bankers across the country will take a look at some of the ads and some of the campaigns that they have been paying for; I assume they have been paying for, somebody has been paying for them. I do not know how many millions of dollars it is, when you add the cost of postage. And most banks pay the postage. Most postcards and all the mail we have received was paid for by banks and in some cases run through their meters. So I do not imagine anybody who mailed in any card is out any expense.

But when you run ads that say, "Ten percent of your money is going to disappear," which is an outright misstatement, I can understand why you might excite the fears and emotions of somebody who is 65 or 35 or 25 years of age.

I would just remind my colleagues that this is the President's budget for fiscal year 1983. This is where withholding came from. It was not plucked out of the sky.

It has been recommended by President Franklin D. Roosevelt, by President Kennedy, by President Nixon, by President Ford, by President Carter, and by President Reagan. You may not like any of them, but I have to believe that, overall, they were trying to do what they could to make certain that people who owed taxes paid their taxes. It was not in any President's interest to take on the banks of America or to take on the savings and loans, nor was it in President Reagan's interest to do that and that was not the purpose of suggesting withholding.

We are told by the IRS Commissioner that there is still \$100 billion out there in taxes not being collected, and much of it in the private sector. Yes, some is in drugs and some is in prostitution and some in gambling, but the large part of it is in the private sector.

If we had that \$100 billion right now, we would not have the deficit we have and interest rates would be a lot lower. But we do not collect all of our taxes, and we never will.

I would again refer to the Time Magazine story today. On the cover of

Time Magazine, it says, "Tax Cheating, Bad and Getting Worse." As the article points out, it is getting worse. And why is it getting worse? Because so many people do it and they are not caught, so other people do it. I do not know where it is going to stop.

The compliance rate for people out there working for a living is 99 percent—99 percent. The compliance rate for interest and dividends is around 86 percent. Now, why should this not be 99 percent? It is not 99 percent.

Somebody was quoting a study. It was not a study based on compliance on interest and dividend income. It was only a study. If you met three conditions, the rate was 97.6 percent. I will recite that for the RECORD in a moment.

I do not particularly enjoy railing at the banks. I would like to pass the social security bill. The Senator from Kansas spent a year on the Social Security Commission along with the Senator from New York. We have had hearings in our committee. It has passed the committee by a vote of 18 to 1. The chairman of the House Ways and Means Committee and the chairman of the subcommittee, Congressman PICKLE, did an outstanding job, along with Congressman CONABLE and others, of getting the bill passed through the House, with the Speaker's assistance. And we had a lot of very touchy issues in social security. We have some left. The Senator from Louisiana wants to delay bringing in Federal employees a year, which is another way of not bringing in Federal employees at all. That is going to be a hotly contested amendment.

I do not know why we have to spend 2 or 3 hours or 2 or 3 days debating withholding again. As the Senator from Rhode Island just pointed out, we just finished that debate last week. I do not really believe it is in the interest of the bankers of this country to hold up every piece of legislation, to hold legislation hostage, to hold the next piece of legislation hostage until we just cave in to the bankers.

The Senator from Kansas has no intention of doing that. The Senator from Kansas may lose, but if I thought I was mistaken or if I thought this was a new tax or if I thought we were penalizing senior citizens or the handicapped or low-income Americans, then I would be on the side of the Senator from Montana.

But this may be an irritation to the banks. They do not like it. They do not have to like it. They have a right to oppose it.

But I wondered what had happened. We passed this last August. We did not hear a word in September, October, November, or December. It was not until this massive campaign of deception was unleashed, in January, that it really started to hit us in February.

This study, the IRS study, reports a high compliance rate of 97.3 percent where information returns were matched against selected individual

tax returns. That is the story we get from a lot of people. "Why don't you just match that 1099 against the taxpayers, then you don't lose any money at all?"

Believe me, if we could figure out any way to do that, the Senator from Kansas would drop this whole thing like a hot potato. But I have not been convinced, and the IRS says it is not feasible. The 97.3 percent study that has been quoted on this floor cannot be extrapolated to all interest and dividend payments because the study excludes—here is what the study excludes—the estimated 5 million to 6 million individuals who do not file individual tax returns, taxpayers who fail to supply correct identification numbers to financial institutions, and taxpayers who fail to supply correct identification numbers to the IRS.

We have a 97.3 percent compliance, excluding all these things.

This is why the Treasury and the Joint Committee on Taxation estimate that the local compliance rates of interest and dividends can only be substantially improved by the withholding system. Indeed, the joint committee estimates of revenue losses from withholding would be \$11 billion in fiscal 1984 through 1986. They take into account the improved compliance which result from the major improvements in information and reporting passed in 1982.

I would assume the amendment of the Senator from Montana does not mean we will have withholding next January. Have the bankers said, "OK, just get this amendment and we will try to help the Government collect taxes."

Mr. MELCHER. Will the Senator yield?

Mr. DOLE. Yes.

Mr. MELCHER. I think I have made it clear that it is the bankers and taxpayers in Montana who are talking to me. I would not prejudge the action of the Senate or the House, the final action of the Congress, on this proposition. I simply believe that it is really getting around to the point where people are beginning to wonder whether this is the imposition of another layer of bureaucracy or whether it is really worth it. I think the question is here in the Senate and I hope the amendment carries so that we will have time between now and the end of this session of Congress to properly debate it, the same as happened in the House.

Mr. DOLE. I might say I am waiting for the majority leader to arrive.

I would say that few of the Members of Congress who were concerned with the proposal to withhold tax on dividends, interest, and patronage refunds, contained in the Revenue Act, and this is going back to 1962, realize that their predecessors in Congress 100 years before were debating similar legislation.

Early in the Civil War, the Revenue Act of July 1, 1862, was enacted. This act for the first time in the history of the Federal Government applied the principle of tapping revenue at the source, which had first been used by the British in 1803.

The law imposed a tax of 3 percent on salaries and other income over \$600 and under \$10,000, and 5 percent on income over \$10,000. The 3 percent tax was also levied on certain corporation dividends and interest. Applying the withholding system for the first time, the bill required that the 3 percent tax on salaries received by all persons in the civil, military, and naval services of the United States—including Senators, Representatives, and Delegates in Congress—after August 1, 1862, was to be withheld by all paymasters and other Government disbursing officers at the time of paying the salaries.

The disbursing officer was also required to "make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties."

That is pretty much about the 1976 form. Maybe that is where Don Regan thought of that.

The withholding system was also applied to the tax on interest and dividends paid by all railroads, banks, trust companies, and fire, marine, life, inland, stock, and mutual insurance companies. These companies were required to withhold the tax of 3 percent on all money paid out as interest and dividends, and pay it to the Government. A \$500 penalty was provided for failure to render the return and pay taxes withheld when due.

That was 1862 when we first enacted withholding.

The act of June 30, 1864, enacted because of the increased necessity for war revenue, increased the 3 percent tax on income up to \$5,000, and on interest and dividends paid by banks, railroads, insurance companies, and so forth, to 5 percent. Deduction of tax at the source was also extended to include a 5-percent tax on the interest and dividends of any canal, turnpike, canal navigation, or slack-water company. Paymasters were required to withhold 5 percent on salaries of Government employees over \$600.

Company engaged in slack-water navigation would dam or impede a stream by erection of dams or locks to produce stretches of deeper water for navigation, in case anybody has a deep interest in that.

The withholding of tax on salaries of Government employees, and on interest and dividends continued until the end of 1871, as the Revenue Act of 1864 expired by limitation in 1872.

This brief and very limited application of the stoppage-at-source tax principle is of great significance in the development of the present tax system, which relies heavily on tax

withholding as a means of revenue collection.

The Revenue Act of July 1, 1862, has been called the basis of the present internal revenue system, both as regards objects taxed and organizations for collecting the taxes. It is interesting to note that this act also provided the first use of tax withholding in this country, and proved the value of this method of tax collection.

I am reciting this so that we know this is not something that just happened or just been talked about. It was around long before the President put it in his 1983 budget.

WITHHOLDING AGAIN USED IN 1894

The act of 1894, based almost entirely on Civil War legislation with a few important exceptions, also contained provisions for withholding. Again, tax was collected at source on certain corporation dividends and on the salaries of Government employees. Students of the tax system have noted that an extension of the withholding system at this time would have been a powerful check against evasion.

THE 1913 INCOME TAX LAW

The 1913 Income Tax Law, enacted October 3, 1913, saw the most extensive application up to that time in this country of the collection-at-source method. The principle of stoppage at source, used so successfully in England, was applied wherever possible, to secure maximum revenue and to prevent evasion.

The normal tax on individuals was to be collected at the source as far as possible. A corporation, employer, or other source of income was required to deduct the tax and pay it to the Government, provided the income was regular, definite, and amounted to \$3,000 or more. Interest, rent, salary, or any other form of fixed annual income was covered by withholding.

I can debate this in greater detail if it would become necessary, but I would hope that now that we have an agreement to debate this fully we might get on with the business at hand. When the majority leader comes to the floor I am suggesting that we can move to table the amendment.

I yield to the Senator from Utah.

Mr. GARN. I thank the Senator from Kansas.

Mr. President, I rise in opposition to this amendment. It is not because I do not agree with the substance; I do. But I think that the patience of the Senate is worn rather thin when we continue to go over and over on amendments that are not germane to the Senate.

Last week I supported Senator KASTEN. I voted against cloture on the bill, on the jobs bill. I voted for cloture on the Kasten amendment.

I am in favor of repeal. I disagree with the Finance Committee chairman. I am in favor of repeal of withholding, totally. I will so vote when that opportunity comes up.

The reason I rise in opposition on the floor is the procedure. It is not

that the distinguished Senator from Montana is violating any procedures. He is totally within his rights to do as he is doing. But the reason I voted against the Senator from Kansas and with the Senator from Wisconsin is because we had no guarantee as to when we could fully debate this issue and come to a decision. But we got that guarantee. There is a bill that will come up on April 15. The Kasten amendment is already attached to that bill. The distinguished majority leader will facilitate that being brought up on that date. And if a cloture petition is necessary, he will make certain that the Senator from Wisconsin is able to file that cloture petition.

Those of us who are opposed to withholding will have our day in court. We will have our opportunity to say why we think it is wrong, why it should be repealed, and we shall find out who wins on the floor of the Senate—whether it is the Senator from Kansas or the Senator from Wisconsin. Again, I shall support the Senator from Wisconsin.

But, after delaying the jobs bill for 3 or 4 days last week, now to do it again, I think, is wrong. It would be different if we did not have that guarantee of this being debated on the 15th of April. Then I would be supporting the Senator from Montana. But we were able to get a cooperative agreement where we could do that.

Mr. President, I want to make it very clear on the issue: I am opposed to withholding. I shall vote for repeal when that opportunity arises. But I am opposed to once again bringing it up as a nongermane amendment on social security. We have an agreement. We ought to abide by it. We ought to be willing to debate it on April 15.

I thank the Chairman.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Utah. I regret that he will support repeal. I want to assure him that it is not a contest between the Senator from Kansas and the Senator from Wisconsin. If it is a contest at all, it is a contest between the President's budget recommendation for 1983 and those who oppose it.

The Senator from Kansas feels strongly that withholding is the right way to collect tax on interest and dividend income. I do believe, as the Senator from Utah pointed out, that this would be a proper debate, had we not had an agreement, to put the repeal amendment on the reciprocity bill. There is no doubt in my mind that sooner or later, there is going to be a vote on the repeal of withholding in the Senate and in the House. I assume if the repeal of withholding gets a majority in Congress, the President will veto it and it will come back and we shall vote on whether to override the veto.

That is probably the procedure we are going to have to follow. Nevertheless it seems to me there ought to be a

full debate. Those who favor withholding, including the President of the United States, ought to have some options, either to amend or modify the simple repeal amendment or in some other way pick up the revenue or cut spending.

I do not really know what will be gained by holding up the social security bill. The critics of withholding should have had enough of trying to deceive the American people. They have been effective.

I assume there is a lot of grassroots misunderstanding. The Senator from Kansas had a lot of mail from his State indicating, "You have gone too far on this one. I do not care whether President Reagan is for it, you are for it, or TIP O'NEILL, you have gone too far." Then they want to tell me about this new tax on their interest income.

Some go so far as to say it is unconstitutional to collect taxes on interest income. Those are some of the people who have not paid their taxes on their interest income or on their dividend income.

I do not know what the answer is. If we just keep taxing the middle class, just keep taxing the workers, and do not bother anybody else, if we just keep taking it away from the workers to pay for all the extravagances and excesses in Government spending then we have reached a sorry state of tax policy.

This Senator believes if we are going to have fairness, we ought to have it up and down the line.

Mr. MELCHER. Would the Senator yield briefly?

Mr. DOLE. I just want to have printed in the RECORD a letter from the American Council of Life Insurance in which they reiterate their support for the withholding provision in the Tax Equity and Fiscal Responsibility Act. I ask unanimous consent that that be done, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL OF LIFE INSURANCE,
Washington, D.C., March 14, 1983

HON. ROBERT DOLE,
Chairman, Committee on Finance, U.S.
Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to reiterate the support of the American Council of Life Insurance for the withholding provisions of the Tax Equity and Fiscal Responsibility Act of 1982.

The 97th Congress adopted these withholding provisions to ensure the collection of a substantial amount of taxes that might not otherwise be collected. Adequate safeguards were provided for small investors and our older citizens. The provisions dealing with withholding on interest and dividends are a key part of TEFRA and the revenues resulting from TEFRA are needed to help address the substantial budget deficits.

Earlier this week the ACLI Board of Directors reaffirmed its support for TEFRA and urged that any efforts to repeal significant portions of that law be defeated.

Sincerely,

RICHARD S. SCHWEIKER,
President.

Mr. DOLE. I have a letter from Common Cause. I shall read just a portion of that letter and ask that it be made a part of the RECORD.

The first two months of the 98th Congress have witnessed the introduction of hundreds of bills to create new tax preferences and expand existing ones. Certainly such proposals are not unusual in the opening weeks of a session. However, they symbolize a regrettable retreat from the example set in last year's tax Act, which eliminated several tax preferences and restricted a number of others. Even worse are the powerful special interest attacks on one of the 1982 Act's most important provisions, which would improve taxpayer compliance through withholding on interest and dividend income. Common Cause strongly urges you to protect this feature of the Act, and to continue the work begun last year to reduce inequitable tax preferences.

That is the general thrust. I think it is worth noting.

The letter continues:

Common Cause is especially concerned with current efforts to repeal withholding on interest and dividend income. According to the Joint Committee on Taxation, withholding will raise nearly \$20 billion over the next five years and increase taxpayer compliance on interest and dividend income—compliance that is now less than 90 percent, compared to 99 percent for wage income.

Withholding is justified. It treats interest and dividend income in the same manner as wage income by withholding taxes at the source, as income is paid, rather than collecting them at the end of the year. It also promotes equity among income groups because those who receive substantial interest and dividend income are disproportionately upper-income taxpayers.

I might also state we now have end-of-the-year withholding on interest and dividend income.

It goes on to say, "Unfortunately"—and I think it is unfortunate—

Unfortunately, financial institutions are trying to frighten Americans into opposing this equitable instrument of compliance. Unwilling to help the government collect taxes—a responsibility most employers and retailers have shouldered for decades—financial institutions have mounted a massive campaign against withholding. Using such deceptive slogans as "ten percent of the money you earn in interest is going to disappear * * *."

I shall just put this ad in the RECORD, although it will not show up in the RECORD the way it did in all the newspapers around the country. You can read "DIS," and you can read "APP," but you cannot read "EAR."

That is going to scare anybody, to say 10 percent of their money is going to disappear. I imagine a lot of people would reach for their pens to write their Congressmen a letter. Common Cause continues:

They have implied that withholding will deprive depositors of substantial income beyond what they already owe the government, and may even drive them to financial ruin. That, of course, is not true.

It is not Senator DOLE suggesting it is not true. This is an independent, outside group saying it is not true. And it is not true.

The letter continues:

The Treasury has estimated that the actual cost of withholding to taxpayers—the loss of compounded interest—will be one-half of one percent of the interest they would otherwise have earned, or about 50 cents on a \$1,000 account.

I ask unanimous consent that the entire letter be printed in the RECORD, and the advertisement I mentioned.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMON CAUSE.

Washington, D.C., March 9, 1983.

DEAR SENATOR: The first two months of the 98th Congress have witnessed the introduction of hundreds of bills to create new tax preferences and expand existing ones. Certainly such proposals are not unusual in the opening weeks of a session. However, they symbolize a regrettable retreat from the example set in last year's tax Act, which eliminated several tax preferences and restricted a number of others. Even worse are the powerful special interest attacks on one of the 1982 Act's most important provisions, which would improve taxpayer compliance through withholding on interest and dividend income. Common Cause strongly urges you to protect this feature of the Act, and to continue the work begun last year to reduce inequitable tax preferences.

It is no longer possible to pretend that tax preferences are a costless way of achieving government objectives. They reduce revenues and cause much of the inequity in the tax system. Therefore, Congress must carefully scrutinize all new tax breaks and eliminate many unjustified existing ones. Those deemed absolutely necessary must be recognized as a form of government spending, with resulting revenue losses reviewed periodically and recovered elsewhere if growing deficits are to be contained.

Common Cause supports changes in the federal tax system that would broaden the tax base and greatly reduce the number of tax preferences. Last year's tax Act—the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA)—made important progress in this direction. While it did not solve all of the tax system's problems, it did restrict several of the most inequitable tax preferences. In doing so, the Act has slowed the steady erosion of the tax base and accretion of deficits that previous tax measures—particularly the 1981 tax bill—had exacerbated. In addition, several important features of the Act have encouraged greater compliance, especially among those taxpayers who have escaped paying their fair share through the use of tax shelters or receipt of non-wage income. Together, these provisions constituted an important first step in rebuilding a tax system too often perceived as benefiting the wealthy and influential at the expense of the average taxpayer.

Unfortunately, there is a danger that Congress will ignore the change of direction that TEFRA held out for the public. Already, legislation has been introduced to establish new tax breaks for fraternity houses, firearms purchases, retirement income, domestic automobile purchases, gambling income, fire alarms, stock purchases, and cigarettes. Legislation has also been introduced that would expand an existing tax break by shortening the holding period for long-term capital gains. These tax breaks are directly antithetical to the philosophy embodied in TEFRA: that we should help to reduce deficits by improving tax compliance and restricting tax preferences. Congress should not retreat from that philosophy.

Common Cause is especially concerned with current efforts to repeal withholding on interest and dividend income. According to the Joint Committee on Taxation, withholding will raise nearly \$20 billion over the next five years and increase taxpayer compliance on interest and dividend income—compliance that is now less than 90 percent, compared to 99 percent for wage income. Without the additional compliance that withholding will bring, honest taxpayers will have to face higher taxes or fewer services in order to reduce government deficits. And, without improving compliance with our tax laws, there is danger that taxpayers will continue to lose faith in a tax system that relies fundamentally on voluntary cooperation.

Withholding is justified. It treats interest and dividend income in the same manner as wage income by withholding taxes at the source, as income is paid, rather than collecting them at the end of the year. It also promotes equity among income groups because those who receive substantial interest and dividend income are disproportionately upper-income taxpayers.

Unfortunately, financial institutions are trying to frighten Americans into opposing this equitable instrument of compliance. Unwilling to help the government collect taxes—a responsibility most employers and retailers have shouldered for decades—financial institutions have mounted a massive campaign against withholding. Using such deceptive slogans as “ten percent of the money you earn in interest is going to disappear,” they have implied that withholding will deprive depositors of substantial income beyond what they already owe the government, and may even drive them to financial ruin. That, of course, is not true. The Treasury has estimated that the actual cost of withholding to taxpayers—the loss of compounded interest—will be one-half of one percent of the interest they would otherwise have earned, or about 50 cents on a \$1,000 account.

Withholding is neither dangerous nor ruinous. The improved compliance it brings will reduce federal deficits and introduce more fairness into the tax system. Congress should not bow down to the pressure of special interest scare tactics. Instead, it should expose the misinformation behind the repeal campaign and defend last year's legislative achievements.

The American public is looking to Congress to rebuild our nation's deteriorating tax system and to reduce our huge deficit in ways that are reasonable and fair. TEFRA neither eliminated the inequities of the tax system, nor solved the deficit crisis; but it did make an important step in the right direction. Common Cause urges you to continue in that direction by further restricting unfair tax preferences, and preserving the requirement for withholding on interest and dividends.

Sincerely,

FRED WERTHEIMER,
President.

WARNING: 10 PERCENT OF THE MONEY YOU EARN IN INTEREST IS GOING TO DISAPPEAR

Recently, Congress quietly passed a withholding law that will cost American savers and investors the use of 10 percent of their interest and dividends.

In simple terms, effective July 1st, 1983, this new law requires banks and other financial institutions to deduct 10 percent of the interest or dividends you earn on your savings and investments. That money then goes to the Internal Revenue Service in much the same way as payroll deductions are now handled.

The sponsors of this law have told us it was designed to catch a small minority of Americans who evade taxes on their interest and dividends. But the truth is the law penalizes the great majority of America's savers and investors who pay their taxes faithfully. What's more, the federal government is now receiving all the necessary information to curtail tax cheating.

Though the law does include exemptions for some low income and elderly Americans, if they go through the red tape of filing an application, most savers and investors will forfeit some of the money they could earn in compounded interest.

We urge you to join our efforts by writing letters to your representative in Congress and to the two senators from this state. Tell them you want the 10-percent withholding tax repealed, because it would impose an unfair penalty on savers like yourself.

For assistance in contacting your representative and senators please ask any of our bankers. If we all act now, Congress will get a clear message from the voters back home, and they will work to repeal this needless law.

Mr. DOLE, Mr. President, that is another indication that once the people have been alerted and once there has been an opportunity—that is all we ask, an opportunity to stand up and debate the issue of withholding.

Talk about frightening those out in our States. I think they have frightened a number of Members of Congress who voted for the withholding and the tax bill last year into rushing to repeal withholding.

The Senator from Kansas is willing to support the President on this issue, because I think the President is right. I say to my friends in the American Bankers Association, in the banks across the country, the S&L's, and the credit unions, if there is any willingness to discuss this issue, then we ought to discuss it. The Senator from Kansas does not detect any willingness to discuss the issue.

When you put millions of dollars into a deceptive campaign, you want to see it work. That investment did not come out of the bankers' salaries, I bet. It probably came from their depositors.

They have a right to oppose it, but they ought to tell the truth. We had ads in the Topeka Capital that cost \$4,000 to run, showing Uncle Sam dripping with diamonds, saying, “This time they have gone too far.” Then they want to talk about the withholding tax. It is not a withholding tax, it is withholding of taxes on interest and dividend income that you owe.

The Senator from Kansas does not underestimate the power of the American Banking Association. They have it. They know how to use it. But I am willing to warn others on this floor, if we succumb to the efforts of this powerful lobby, just get ready for the next one because, if the banks can send in a million pieces of mail or a half million pieces of mail to one Senator, I bet there is somebody out there who has even more money than the bankers. I cannot think of anybody offhand, but somebody out there probably has more money and a bigger

lobby than the bankers of this country.

I do not want to get into the effective tax rates banks pay, but it is not very much. The 20 largest banks paid an effective tax rate of about 2 percent. Some had negative tax rates. Giant, billion dollar credit unions paid no tax on their worldwide operations.

If you looked at the chart in the New York Times a few days ago, it showed all these companies and the taxes they paid. Most companies paid 20 percent, 25 percent, 40 percent. Most individuals paid 20 to 25 percent. What do the banks pay, the 10 largest banks? Two percent. So they have a lot of money to spend for lobbying activities, and they spent a lot on this activity. But if they do it and get away with it, as they are trying to do, then I think we must get ready for the next mass mailing.

Others who disagree with me on the merits of this issue join me in criticizing this lobbying blitz.

Senator GARN favors repeal of withholding, but as chairman of the Banking Committee he issued a statement last week saying he did not agree with the massive campaign the American Bankers Association was undertaking.

I think the distinguished Senator from West Virginia, the minority leader, indicated he was not totally pleased with this massive mail campaign, although he, too, favors repeal of withholding.

Now, in the Washington News is a comment that I think deserves notice, but the Senator from Kansas, whenever the majority leader arrives, is willing to yield to him.

Mr. MELCHER. Will the Senator yield briefly?

Mr. DOLE. I want to put this little bit in the Record. I would not want to forget it.

The credit unions have a little magazine called Washington News. CUNA Supply printed 8 million statement stuffers, 4 million response cards addressed to Senator ROBERT DOLE and Representative DANIEL ROSTENKOWSKI, and 2.8 million response cards that CU members can send to their own Members of Congress, so we are in the privileged class. I get 8 million statement stuffers and I get 4 million response cards. That adds up to 12 million. I am not certain how somebody can answer that mail. But if we do 2,000 or 4,000 a day—I have 4 years left on this term—we might be able to start answering some of that mail—8 million. And the credit unions are tax exempt. They do not pay any taxes. Even though we have credit unions of almost a billion dollars in assets, with worldwide operations, they pay zero taxes. It bears noting that even the commercial bankers pay slightly more tax than the credit unions. So they can afford to have 8 million stuffers, whatever they are, and 4 million response cards.

Now, it seems to this Senator that we ought to answer this question: If the banks and the others are so concerned about their depositors losing 50 cents, or less, on \$1,000 accounts as they have indicated they were in all their ads, I again ask the bankers and the S&L's and others, "If that is the case, why can't somebody walk into their bank and buy a money market fund for \$500?" They cannot, of course; they have to have at least \$2,500.

The reason is simple. If you do not have \$2,500, you leave your money in passbook savings and that pays 5.5 percent. By contrast, the money market funds pay 8 to 9 percent. The bankers are making a lot of money because they keep the money market certificate high, which keeps out most working people who must keep their savings in passbook accounts. The banks make high profits because they loan out that passbook money at 8 or 9 or 10 or 11 or 12 percent.

I believe that if the banks really want to help, I would be willing to delay this for 6 months. In fact, if the motion to table fails, we have a bargain that we think you will want to be aware of. It would be my hope that the motion to table the repeal amendment passes, but, if not, then the Senator from Kansas would hope to offer a second degree amendment. We would go along with that delay. We would delay the implementation of withholding and we would amend section 308A of the Tax Equity and Fiscal Responsibility Act of 1982:

by striking out June 30 and inserting in lieu thereof December 31; *Provided, however,* the foregoing delay shall take effect only if the average prime interest rate charged by the Nation's 10 largest banks is 6 percent or less on June 30, 1983, and that delay shall remain in effect only as long as that prime rate remains below 6 percent.

It would seem to me, if you really want to help the American people and the economy, that you may even want to accept this amendment. Then we can really talk about what banks can do for the American people.

We have been told for a long time that there is no reason for the prime rate to be 11 or 12 percent and a lot of people can buy homes and a lot of people can buy cars if the banks would lower their interest rates.

The inflation rate is 4 percent, and the interest rates are still 12, 13, 14, and 15 percent. Someone is making a lot of money at the expense of a lot of American taxpayers. If we are so concerned, as I know the banks are, then I think we ought to couple with this delay a real incentive for the banks to eliminate withholding. The banks advertise all these incentives for savings. This would be a real incentive.

So if the motion to table fails, as I hope it will not, then I would hope, if I can be recognized, that we might offer a second-degree amendment that would really help the bankers and the American people, because I do not

think we just want to help one special interest group with a multimillion-dollar media campaign and multimillion-dollar political action committees.

I would like to find out some day how much money the 14,000 commercial banks have spent on this campaign. I bet it is staggering. Incidentally, none of those expenses are deductible. I doubt it could ever be computed how many millions of dollars were spent by the banks at the direction of the American Bankers Association on this campaign.

I am certain the Senator from Montana wants to lower interest rates. I think every Senator wants to lower interest rates. Those who want to delay withholding certainly want to lower interest rates. The Senator from Kansas is even willing to delay withholding until we get the prime rate down to 6 percent. We might even make it 7 and really give them an edge. But if we could do this, then we really have made a contribution to the banks and the S&L's and credit unions and, above all, the taxpayers and the people out here paying those high interest payments, people who cannot buy a home. People are being driven out of business, and there are record numbers of bankruptcies, because of high interest rates.

That is another item I should like to discuss more fully when the starting debate starts on April 15.

But while I am waiting for the majority leader—

Mr. MELCHER. Will the Senator yield briefly while he is waiting for the majority leader?

Mr. DOLE. We hear all these things about costs, the banks saying this is too costly, even though they privately tell you that cost is not even a problem because they get what we call a float. They get to hang on to the withheld money long enough to recover their costs. They earn interest on the money they hold. We hear all these exaggerated claims about \$2 billion of \$1½ billion or \$3 billion. They would make you think that this is going to cost more than will be collected through the withholding process.

I should like to include in the RECORD a letter I received from Treasury Secretary Regan dated March 15 in which he says:

I am concerned about certain exaggerated estimates of the costs financial institutions may incur to institute withholding on interest and dividends.

Now they are talking in the neighborhood of, I think, \$3 billion. We are talking about thousands and thousands of banks.

The total cost just to put this withholding system into place where it is going to remain, hopefully, for a long time and collect \$20 billion over the next 5 years and billions and billions and billions over the next decade, the next 20 to 30 years, the total startup cost, according to the Treasury Department, is going to be only \$600 million to \$700 million, which is about a

third or less than the industry estimates, and these costs can be offset by the extended float allowed on withheld amounts and by the income tax deductions available for such costs—at least for those financial institutions—other than the big banks and credit unions—that actually pay any Federal income tax.

Secretary Regan continues:

Since we have so little data, we cannot be certain that the total startup costs are within that range. Nonetheless, it does appear certain that startup costs are only a fraction of the claimed \$3 billion.

Someone said, "All you have to do is hire more IRS agents."

As I understand it, we average about a 2-percent audit, and to recover this much money through the audit process, you would have to audit perhaps as many as 20 percent of all tax returns—1 out of 5. That increased audit activity would cost the Federal Government about \$3 billion.

Then, there is talk about IRS harassment. If you are auditing every fifth tax return, we would be flooded with real letters, from real people, about real harassment from the IRS, and we are trying to avoid that. Withholding is the least intrusive means we have.

Mr. President, I ask unanimous consent that this letter from the Secretary of the Treasury be printed in its entirety in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, March 15, 1983.

Hon. Robert Dole,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: I am concerned about certain exaggerated estimates of the costs financial institutions may incur to institute withholding on interest and dividends, while precise estimates of the costs that will be incurred are not available, some of the figures that have been discussed can be clearly shown to be exaggerations.

Estimates of the total startup costs of \$3 billion are greatly overstated. Such estimates are accounting cost allocations rather than estimates of genuine incremental costs that would be incurred even without the new withholding law. True incremental costs will be significantly below cost estimates that include all allocated costs.

A few banks, ranging from small to very large institutions, have informally and confidentially supplied the Treasury Department with their estimates of the administrative startup costs of withholding. We have far too little data to constitute a useful sample, but for those banks on which we have figures, true incremental startup costs appear to average less than \$200 per account. If this small number of banks is representative of all payors of interest and dividends (including banks, savings and loan institutions, mutual savings banks, and credit unions), then total startup costs would be approximately \$600-\$700 million. These costs can be offset by the extended float allowed on withheld amounts and by the income tax deductions available for such costs. Since we have so little data, we cannot be certain that total startup costs are within this range. Nonetheless, it does appear cer-

tain that startup costs are only a fraction of the claimed \$3 billion.

If enough resources were allocated to the Internal Revenue Service to provide the same improvement in compliance and to collect the same additional revenues as will be collected under withholding, the costs to the Government would be well above the estimated \$600-\$700 million in costs to financial institutions to institute withholding. Small increases in IRS enforcement efforts may recoup relatively high revenues per extra dollar of IRS costs. The enormous increase in IRS audit activity that would be needed to raise \$3 billion (an increase in audits by well more than 200 percent) would, however, inevitably result in much lower additional revenues per dollar of IRS costs. Indeed, the incremental IRS costs required to raise the almost \$3 billion a year in revenues gained from withholding would be well above \$1 billion, perhaps as much as \$2 billion. Further, this additional effort would involve such a dramatic increase in IRS staffing that it would take several years for the IRS to add and train the needed agents.

It must be remembered that attempts to reduce noncompliance through greater IRS efforts involve significant cost to the IRS. These arise from the burden more than two million additional audits will impose on taxpayers' time and resources. Inevitably these audits will inconvenience many taxpayers who have correctly paid their taxes.

In contrast, withholding on interest and dividends only requires those taxpayers who correctly pay their taxes on interest and dividend income to pay some of those taxes during interest and dividend income to pay some of those taxes during the year rather than at the time that they file their returns. Requiring those who receive interest and dividends to pay a portion of their taxes as promptly as wage earners pay is not, in my view, unfair.

I recognize that banks must incur some costs to institute a system of withholding on interest and dividends. As I stated above, those costs have been frequently exaggerated. Nonetheless, there is legitimate concern that we not impose an undue burden on the banking system. If, at some later time, it is reliably demonstrated that the true incremental costs that most banks must incur exceeds the value to the banks from the extended float on the withheld amounts that has been allowed, then I would support allowing the extended float for a longer period.

Sincerely,

DONALD T. REGAN.

Mr. MELCHER. Mr. President, will the Senator yield for a question, a procedural question?

Mr. DOLE. Yes, I yield only for a question, not for the purpose of any amendments.

Mr. MELCHER. In view of the fact that the Senator is waiting for the majority leader, I wonder if he would object to my responding to some of these points for 5 minutes. Would that be objectionable, before there is further procedure?

Mr. DOLE. I have no objection to the Senator from Montana responding, if there is a unanimous-consent agreement that there will not be any amendment or modification of the pending amendment and that the Senator from Kansas will not lose his right to the floor.

I want to conduct a debate with the Senator. I commend the Senator for

his objectivity. But I do not want to disturb what I consider to be the appropriate way to approach this, and that is a motion to table. If that fails, the Senator from Kansas would like to retain the right to offer an amendment.

Mr. MELCHER. Certainly.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Montana.

Mr. MELCHER. I thank the Senator.

Mr. President, first of all, I point out that the provision in the 1982 bill for this withholding of taxes on interest and dividends passed by a vote of 49 to 48, a very tight vote, and absentees indicated that had they been present and voting, they would have voted against it, which would have defeated it, and it would have been removed from the bill.

The prospect of what we are going to do on April 15, when the Kasten amendment for repeal is brought in the Senate, is rather dim—what the final outcome of that would be if the Senate would adopt it as a part of an extraneous bill and send it to the House. It is not clear that the House would agree to it at all or, for that matter, that the House even would take it up. As a matter of fact, its future on April 15 is very obscure, no matter what the Senate would do at that time.

The purpose of this amendment is simply to allow a longer period of time than April 15 to see what really happens and to give both the Senate and the House some change of action on this before it is locked in, perhaps forever—not necessarily—but locked into the procedures of withholding these taxes. Once they are withheld, there is a tendency to leave them alone.

It is bad enough trying to repeal something we did just last summer, without contemplating what might happen after the whole procedure got in motion.

It is clear that there would be \$1.1 billion lost in fiscal 1983 from revenues if my amendment were to be adopted and accepted by the House and became part of the law. In other words, a delay of 6 months is going to lose, for fiscal 1983, \$1.1 billion in revenue; but during this time, we will have the chance to decide whether this was wise and whether there are better ways of gaining revenue that is needed.

I am advised by the Joint Committee on Taxation, which states that today the Treasury Department agrees with the \$1.1 billion estimate for fiscal 1983 in revenue loss, that in fiscal 1984 the figure would be \$300 million.

It is not my contemplation and it is not my purpose in offering the amendment that we lose revenue. It is merely my purpose in offering the amendment that the Senate and the House have sufficient time to discuss this very thoroughly and consider it and

see whether we want to reconsider it, possibly repeal it, or modify the provision.

The third point I should like to make is with respect to the question of the large banks and what their purpose has been on this amendment. I simply do not know. I believe that most of the large banks, what people refer to as large banks—such as Bank of America, Chase-Manhattan, and Citibank of New York—are in favor of retaining this withholding provision. They are not for repeal, so far as I know. It is my understanding that they are against repeal. So I do not believe we are hearing from them with fictitious or false advertising or any influence on Members of the Senate or the public at large, saying, "Let's repeal it." I do not think that is their position. I think their position is that we should retain it.

Fourth, the point has been made about W-6 forms. This is the form that a person who wants to be exempt from this withholding would fill out and file with their institution. We have inquired in Montana whether they are available at the banks, savings and loans, and credit unions—those three groups—and we are advised that, as of last Friday, they are not available.

So it points out the fact that this is a process that takes a lot of paperwork and a lot of time and a lot of delay. I think my amendment has some merit just for their sake in getting out the W-6 form. Who is "they"? The Treasury Department, in sending out the W-6 forms. If we do not reach them in the next 30 days, maybe the time will be a little short for sending them out by July 1.

Fifth, the point has been made by the Senator from Kansas, very eloquently, that he is supporting the President in this endeavor to block any delay of reconsideration. I will read into the Record a portion of the Republican platform of 1980:

We also oppose Carter proposal to impose withholding on dividend and interest income. They would serve as a disincentive to save and invest and create needless paperwork burdens for government, business, industry, and the private citizen. They would literally rob the saver of the benefits of interest compounding and automatic dividend reinvestment programs.

I have received a lot of letters, and evidently they are from Republicans who are following the Republican platform, because some of these letters almost repeat what this platform statement says. I seldom receive a letter saying, "I am a Republican" or "I am a Democrat," but I have to determine that a lot of people writing me are Republicans. They are saying exactly what the Republican platform said in 1980.

Also, I point out that the Senator from Kansas, the chairman of the Finance Committee, very profoundly stated, in a consideration of last year's tax bill:

I would like to note at the outset that these proposals generally do not substitute a mandatory withholding system * * *

He is speaking about the withholding system on the interest and dividends from savings and investments.

He said:

I would like to note at the outset that these proposals generally do not substitute a mandatory withholding system for a working information reporting system and does not do so in particular with respect to interest and dividend payments. I believe that such proposals may be premature until we have seriously tried to improve our information reporting system.

It is a fine system, and it was true. I think it is obvious that our reporting system has not been addressed adequately.

Mr. DOLE. Mr. President, will the Senator yield? I did not get whose statement that was.

Mr. MELCHER. It was the statement of the Senator from Kansas.

Mr. DOLE. That was in reference to the compliance bill we introduced. The Senator is correct—that did not include interest and dividend withholding. We included some compliance measures. It was a separate measure that that the President included in his budget.

Mr. MELCHER. It was on the taxpayer compliance improvement of 1982. The Senator is correct. It was said in March 1982, a few months before we adopted this provision in the tax bill. The Senator is correct.

It is not really my intention to hold up the social security bill. I should just like to have a vote on this. It is not an earth-shaking amendment. It is a delay as to when the withholding will take place on interest and dividends of individual taxpayers. It tracks what the Treasury Department has already announced, the delay they are going to have on the reporting of interest payment from Treasury notes and Treasury bonds and from some other bonds that are handled by States and for that matter other groups that sell bonds.

So it is not meant at all to hold up this bill but is merely an opportunity to make sure there is time for a proper review by Congress of the question.

I trust that the Senate will accept my proposal or at least consider my proposal for delay as a fair method of representing taxpayers.

The first group of taxpayers that I am thinking about are those who already paid all their taxes and are having the taxes withheld from their wages or from their salaries and who know they pay them all and many of whom already pay more through the withholding process.

As to 75 percent of those people, I am told, there is already over withholding. In other words, more is withheld from the taxes than are due and they have to file for a refund.

That is exactly to the point of the taxpayer of this particular person to whom I referred earlier who is the wife of my aide, who is sitting right

with me, and who is a schoolteacher who learned that there would be a withholding program when she received her notice from the Treasury Department with a refund check.

The notice was a 662A which explains that recipients of interest and dividends will be faced with a new withholding program which begins on July 1.

That happens to be the first time that she was aware of the actual proposal that is now law and will go into effect July 1, and she says to my aide, her husband:

Can't you get Senator MELCHER to do something about that because I have already paid more than I should and this will be something more that was added to it that will be withheld and I will just have to refile for that much more?

That is one group.

The second group that are particularly concerned, judging from the comments I received and the letters I received, appear to be the elderly. I will read this short letter which is typical. It says:

Would you please work to repeal the 10 percent withholding provision of the "Tax Equity and Fiscal Responsibility Act of 1982"?

The net result of this provision is to cheat the small investor out of his money for up to 1½ years at a time, while waiting for a tax refund. And believe me, I don't like being cheated.

My wife and I scrimp and save each month so we can put money aside for retirement. We need to be able to compound our interest so that when we do retire there is enough to live off of.

My wife and I fully realize that by the time we retire, the Social Security system will be bankrupt, and we will get little or nothing back that we put in. I've read that Congress doesn't trust Social Security for its retirement program and frankly I don't either. Anyone with a high school education can look at the numbers and figure that out for himself.

So please—allow us—the little guys to keep one opportunity to save for ourselves and provide for ourselves.

Please repeal the 10 percent withholding provision of the "Tax Equity and Fiscal Responsibility Act of 1982."

Of course, he appears to be elderly. I am not sure. They say they are saving for their retirement. But, nevertheless, they are thinking about earning from interest and what it would mean if some of their taxes are withheld. They could file and get them back, this is true, and I am not trying to apply that they are not going to get their full credit for their money. They certainly are.

These points lead me to believe that the amendment is sound, fair, and equitable to all and above all fair to the taxpayers who are writing these types of letters so that we can be sure that we have given them adequate consideration.

I hope the Senate can agree to the amendment. I realize the constraints of time, and I hope that we can have a resolution of this problem very quickly.

Mr. DOLE. Mr. President, I think we will be ready to vote in a few moments.

I shall read an editorial that appeared in the Minneapolis Star and Tribune on March 16 by Jim Klobuchar, apparently an outstanding columnist. At least, he is on the right side.

Before I do that, I wish to thank the Senator for reading that letter about the social security system going bankrupt. That is why we are trying to convince the Senator not to hold it up. It is about to go bankrupt and we want that couple to get their social security check.

Mr. MELCHER. Mr. President, if the Senator will yield, I think I made it abundantly clear that I have no desire to hold up the bill.

Mr. DOLE. That is what Senator KASTEN said.

Mr. MELCHER. I think it is a good point to adopt this amendment so we know exactly where we are and go on with the remainder of the bill knowing we have plenty of time considering this matter.

Mr. DOLE. I appreciate that. I know the Senator does not want to hold it up too long.

This column from Jim Klobuchar says:

The money wizards around town have been telling me for days that the federal government is about to stomp out the last ember of liberty and decency by putting a tax withholding system on the money we make from investments.

They are furious because I'm having trouble absorbing the purity of their intentions and logic.

Two days ago I was ostracized from a steam room where we have gathered as peers for years. Two of the others were bankers and one was a broker. We have been pals and confidantes, brothers in the struggle against sloth and overweight.

They shunned me unanimously when the talk got around to withholding on interest and dividends.

They began politely by calling me ignorant. As a variation they called me barbaric. From there it got personal.

They accused me of giving comfort to those who would rip out the fabric of the American savings ethic and they asked, parenthetically, if I also was ready to support incest and rabies.

All of them, Republicans, accused me of being hypnotized by Ronald Reagan.

Stricken mute, I groped for the door.

Meditation seemed to be the only sensible escape. What was there in this simple principle of tax collection—one we have lived with for more than 40 years without genocide—that could create such conversational carnage?

I telephone Ditta Maly, a paralegal secretary of long acquaintance at one of the local law firms.

"Ditta," I said, "as I understand it, all that's involved here is extending the income tax withholding principle to savings and investments. The banks and the savings and loans and brokerages would withhold 10 percent of what the investor earns in interest and dividends. The government believes, with some evidence, that there are people who actually chisel on those earnings. So the government figures it can take in \$4 or

\$5 billion more a year in taxes that aren't being paid now, and also make use of the money sooner, which is what it already does on income taxes."

She said this more or less squared with the facts, yes.

"So why are so many people sounding as though they thought they're about to be disemboweled?"

"If you want to be unpopular," she said, "tell the people you think this dividend withholding is OK. From all the calls we've gotten from our tax clients, a lot of them are feeling that they're being deprived of one of their rights."

But their right to what?

A certain amount of creative amnesia in the filing of income tax reports is not exactly unheard of in this country.

Still, most citizens try to report accurately.

One of their hovering suspicions and worries is that the next guy might not. Worse, he might be getting away with it.

The income tax withholding eased one of those suspicions and made the income tax substantially more democratic.

What's different about dividends and interest?

The banking industry is arguing that it's a bleeding shame because, in the language of one of the form letters it has put in the hands of thousands of its customers, "it's unfair to those of us who have always paid our taxes on interest."

How is it unfair?

If we're talking about poorer people and older people, anybody can file an exception. It's a piece of work, sure. But so is paying an extra tax share for the \$5 billion or so being chiseled or slopped away unintentionally by investment earners.

If we're talking about using that interest money now, instead of turning over some of it to the government before the deadline, how much of an oppression is that for the average investor?

For most of us, it is pretty small change.

But there is literature coming out of the money houses that makes it sound as though this is actually a new tax.

They also are citing horror stories about thousands more hours in paper work and giant new computers, but if you compare the government's collection predicaments and budget goals with those of any corporation you deal with, you have to give the government the same allowances.

The gas and phone companies collect from you every month. Every company is automated. The newspaper does the same thing. Some collect before you receive.

It's the way the world spins now, and the way bills are paid.

So I called one of the chummiest of local banking presidents, Dick Hillyer of Summit in Richfield.

"You guys pay an average of 2.7 percent income tax," I said. "Only the paper and wood products companies and the crude oil producers pay less, according to the congressional people. Tell me what's so unforgivable about asking the investment industry to help the government bring dividend tax collections into the 20th century."

"I personally don't object to it all that much," he said. "I think there are better ways to get those dividend reports to the government without making us send 1099s to you, and all the rest. I think a lot of banks feel that because of the extra service, they may have to pass on some of those charges to the customers."

This is not a virginal concept.

"Will it be a huge imposition on the banks and brokerages?"

"Well, they scream and yell. You can't blame them. We all have our own interests. But they'll survive."

Which is more than you can say of the jobs bill unless some of the congressional lions rediscover their backbones.

The point of it is after you talked to the banker, the banker really did not have that much objection, and I think that is essentially the case.

Mr. President, I have a lot of other things I would like to say but, hopefully, will not have the opportunity to say on this bill.

● Mr. HATCH. Everyone knows that I am very much in favor of repealing the withholding of dividends and interest language. However, since Senator KASTEN has worked out a time certain and a reasonable bill upon which to debate this matter, I believe the Senator from Montana should withdraw this amendment. All he will accomplish is to extend this debate into the filibuster mode and cause millions of people, who are afraid of the bankruptcy of social security, to become unnecessarily concerned.

I would recommend to my President, and those who advise him, to allow the repeal of this provision because, sooner or later, we are going to repeal it. However, this is not the bill upon which to debate the matter.●

Mr. BAKER. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the distinguished majority leader.

Mr. BAKER. Mr. President, we really should get on with this bill if we can. I indicated to the Senator from Kansas and the Senator from Louisiana, the managers of the bill, that I still entertain the hope that we can finish this measure tonight. But to do so we will have to move with more dispatch than we have so far. In order to facilitate that and move things along, I move to table the Melcher amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the amendment of the Senator from Montana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Maryland (Mr. MATHIAS) are absent due to a death in the family.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

The PRESIDING OFFICER. Are there Senators who have not voted who desire to vote?

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—37

| | | |
|-------------|------------|-----------|
| Andrews | Hart | Moynihan |
| Baker | Hatch | Murkowski |
| Bingaman | Hatfield | Roth |
| Chafee | Hecht | Rudman |
| Danforth | Heinz | Specter |
| Dodd | Jackson | Stennis |
| Dole | Kassebaum | Stevens |
| Domenici | Kennedy | Thurmond |
| Durenberger | Lautenberg | Tower |
| Garn | Laxalt | Weicker |
| Goldwater | Leahy | Wilson |
| Gorton | Lugar | |
| Grassley | Metzenbaum | |

NAYS—58

| | | |
|-----------|------------|----------|
| Abdnor | Exon | Nickles |
| Armstrong | Ford | Nunn |
| Baucus | Glenn | Pell |
| Bentsen | Hawkins | Percy |
| Biden | Heflin | Pressler |
| Boren | Helms | Proxmire |
| Boschwitz | Hollings | Pryor |
| Bradley | Huddleston | Quayle |
| Bumpers | Humphrey | Randolph |
| Burdick | Inouye | Riegle |
| Byrd | Jepsen | Sarbanes |
| Chiles | Johnston | Sasser |
| Cochran | Kasten | Simpson |
| Cohen | Levin | Symms |
| D'Amato | Long | Trible |
| DeConcini | Matsunaga | Tsongas |
| Denton | Mattlingly | Warner |
| Dixon | McClure | Zorinsky |
| Eagleton | Melcher | |
| East | Mitchell | |

NOT VOTING—5

| | | |
|----------|----------|--------|
| Cranston | Packwood | Wallop |
| Mathias | Stafford | |

So the motion to lay on the table Mr. MELCHER's amendment (UP No. 103), as modified, was rejected.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I think while most Senators are here, we ought to just take a minute to understand where we are not going if this amendment is not eventually disposed of. That is, we are not going to finish any social security legislation this week. Maybe that is not important because we are coming back April 6. But it was the understanding of this Senator that we agreed to debate withholding on April 15, a free-standing debate where everyone would have the chance to debate, offer motions and modifications, and we could then dispose of that issue.

But here we are again, with the jobs bill having been held hostage for several days, and now it is the social security package. I would just suggest that I will stay here as long as it takes to defeat this amendment. If you are not concerned about social security, if there is not any real urgency—we have only worked for a year or year and a half to put this package together—then I think we ought to keep playing the bankers' game.

UP AMENDMENT NO. 104

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 104.

In lieu of the language proposed to be inserted by unprinted amendment 103 insert the following:

"Delay Implementation of Withholding on Interest and Dividend Income."

Sec. . Section 308A of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out 'June 30' and inserting in lieu thereof 'December 31;' provided however, the foregoing delay shall take effect only if the average prime interest rate charged by the Nation's ten largest banks is 6 percent or less on June 30, 1983, and that delay shall remain in effect only as long as that average prime rate remains below 6 percent."

SEC. . MINIMUM FOR MONEY MARKET DEPOSIT ACCOUNTS.

Section 204(c)(1) of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503(c)(1)) is amended by adding at the end thereof the following: "The Committee shall not establish or maintain a minimum balance requirement higher than \$300 for deposit accounts authorized by this subsection."

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, if we are going to help the people of this country, here is the way to do it. You can help your bankers in the process, and the depositors as well. For all those people out there who want to invest in a money market fund but cannot do it because they do not have \$2,500, this amendment will lower that to \$300. The amendment will allow individuals to take their money out of passbooks savings, the 5.5 percent that bankers never talk about in their ads, and put it into the money market funds at 8 or 9 percent.

I cannot think of anyone on this floor who would not want to do that for their constituents. This is part of the second-degree amendment. I cannot think of any of us who want the high interest rates to stay up there, particularly those running for high office, even the U.S. Senate.

This amendment presents a deal that should be hard to resist. We will delay withholding, as the Senator from Montana wishes, if the prime rate decline to 6 percent. That ought to be a real incentive for the banks to reduce interest rates in loans. We know they are not holding up the rates artificially, at least they tell us they are not holding up the rates artificially.

I think we ought to debate this amendment, unless my colleagues are prepared to adopt it now.

SEVERAL SENATORS. Vote, vote.
Mr. DOLE. Would the Senator be willing to accept the amendment?

Mr. MELCHER. Mr. President, I can only answer the question by saying that I personally think it is impossible to get the rates down that fast, but I would like to hope so.

Mr. DOLE. Well, let us try. We tried everything else.

Mr. MELCHER. I think this sort of belief a statement that we want to get on with the bill. Let us get the vote over with.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.
SEVERAL SENATORS. Vote, vote.

The PRESIDING OFFICER. Is there debate? If not, the question is on agreeing to the amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.
Mr. MURKOWSKI (when his name was called). Present.

Mr. D'AMATO (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from Oregon (Mr. PACKWOOD) are absent due to a death in the family.

Mr. BYRD. I announce that the Senator from Florida (Mr. CHILES) and the Senator from California (Mr. CRANSTON) are necessarily absent.

The PRESIDING OFFICER (Mr. PRESSLER). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 35, nays 57—as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—35

| | | |
|-------------|------------|------------|
| Abdnor | Gorton | McClure |
| Andrews | Grassley | Metzenbaum |
| Baker | Hart | Moynihan |
| Boschwitz | Hatch | Pressler |
| Chafee | Hatfield | Roth |
| Cohen | Hecht | Rudman |
| Danforth | Heinz | Specter |
| Dodd | Kassebaum | Thurmond |
| Dole | Kennedy | Tower |
| Domenici | Lautenberg | Welcker |
| Durenberger | Laxalt | Wilson |
| Garn | Lugar | |

NAYS—57

| | | |
|-----------|------------|----------|
| Armstrong | Goldwater | Nickles |
| Baucus | Hawkins | Nunn |
| Bentsen | Heflin | Pell |
| Biden | Helms | Percy |
| Bingaman | Hollings | Proxmire |
| Boren | Huddleston | Pryor |
| Bradley | Humphrey | Quayle |
| Bumpers | Inouye | Randolph |
| Burdick | Jackson | Riegle |
| Byrd | Jepson | Sarbanes |
| Cochran | Johnston | Sasser |
| DeConcini | Kasten | Simpson |
| Denton | Leahy | Stennis |
| Dixon | Levin | Stevens |
| Eagleton | Long | Symms |
| East | Matsunaga | Trible |
| Exon | Mattingly | Tsongas |
| Ford | Melcher | Warner |
| Glenn | Mitchell | Zorinsky |

ANSWERED "PRESENT"—2

| | |
|---------|-----------|
| D'Amato | Murkowski |
|---------|-----------|

NOT VOTING—6

| | | |
|----------|----------|----------|
| Chiles | Mathias | Stafford |
| Cranston | Packwood | Wallop |

So the amendment (UP No. 104) was rejected.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. PRESSLER). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, may we have order?

I think we are making progress. I do not know how much, yet. I want to see

how high my colleagues think the interest rates ought to be. We have an amendment for 7 percent, one for 8 percent. I want to know how high people want the interest rates to be. Maybe prime is just right. I thought it was high. But we will have a chance to see. We have really got the issue focused now between the bankers and the people, and that is sort of where we have been trying to get it for several weeks. We may not get the social security bill passed as quickly as I had hoped, but that maybe all right if enough of my colleagues believe we have to protect the bankers and their interest rates.

Mr. President, I would like to discuss this for 30 or 40 minutes and give people a chance to refresh themselves and then maybe offer another amendment or two on this.

I say, very seriously, I just do not believe that this amendment to delay interest and dividend withholding belongs on the social security bill. Some others may disagree with me, but I do not propose to let it become a part of the social security bill unless we can properly amend it to make certain that we are helping the banks and their customers at the same time. I also would point out that the amendment is still subject to a point of order under the Budget Act. I think as we get nearer the deadline for the social security package Members will understand this is a very important piece of legislation which should not be hindered by an additional 6-month delay on withholding. We have already agreed to a debate on the withholding issue with the distinguished Senator from Wisconsin, which I thought was done in good faith, and that that would end the matter for a few weeks and give us a chance to pass the social security legislation before the Easter recess.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I do not want to unduly detain anybody, but I would like to pass the social security bill. There are 152 million Americans waiting for us to pass the social security bill.

The PRESIDING OFFICER. The Senate will be in order. Those holding conversations will please retire to the cloakrooms. The Senator from Kansas is trying to be heard. Staff who are conversing will please retire to the cloakrooms.

Mr. DOLE. We can play the games on withholding for the next several days, if that is what the Members want.

There are a lot of things in this bill on which the Senator from Kansas is trying to accommodate a number of his colleagues, on both sides of the aisle, but withholding is not one of them. It does not belong on the social security bill.

If anyone is going to insist on putting it on the social security bill, the Senator from Kansas has to protect his rights and protect the social security provisions and try to defeat it somehow. If it cannot be done tonight, we will try tomorrow. If it cannot be done tomorrow, maybe Wednesday. If it cannot be done Wednesday, maybe Thursday. Maybe sooner or later the Senator from Montana will be successful, but I must oppose his efforts.

We still have a number of social security amendments—by the Senator from Florida, the Senator from Colorado, the Senator from Louisiana, and the other Senator from Montana. We thought we had five or six amendments on which there would be rollcall votes. But until we set this matter aside, we cannot proceed on the social security bill.

Mr. President, I do not want to bore people with recounting the reasons why we should not be doing this on this legislation, but I would not want any of my colleagues to leave the floor of the Senate thinking that we must inevitably take care of the bankers in this legislation.

Mr. GARN. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. The Senator from Utah, who is the chairman of the Banking Committee and who supports repeal of withholding, stood on this floor about an hour ago and said he did not think it belonged on this bill. I thank the Senator for his support. We have an agreement to debate withholding on April 15, and he stated he would support me at this time, even though he does not agree with my views on withholding.

If we are not acting in good faith, if any of my colleagues thinks we have reneged on the April 15 agreement, that would be one thing. But I can assure my colleagues I am prepared to uphold that agreement. I must say however, that I am going to do all I can to frustrate the withholding amendment on this bill; and if it is necessary to put off social security, I will do the best I can to do that.

I yield to the Senator from Utah.

Mr. GARN. Mr. President, I want to repeat what I said before we came to that vote. We totally disagree on that issue. I am in favor of repeal. I have always opposed withholding at source. It is another example of Government asking the private sector to do its work for them. I will vote for repeal when we get that opportunity. When we get to April 15, I will vote with Senator KASTEN, and I will vote with him procedurally, and I will do everything I can to repeal withholding. I supported him last week, not only the substance but also on the procedural votes, on cloture. I voted with the Senator on his cloture motion.

We had a unanimous-consent agreement worked out by the leadership. I have been here only 8 years, and that is a relatively brief period of time, but I think we have seen the Senate at its

worst demagoguery tonight, because what I have seen is political positioning against an avalanche of mail. To hell with the Senate or any routine procedure for social security. We have to be on record for a 6-month delay; and when it is going to lose, we see a bunch of people running down there to get on the side of the angels. It is absolutely disgusting, in light of the agreement to debate this issue separately.

Nobody can be more against withholding than I, because I am chairman of the Banking Committee. A lot of those letters think it is JAKE GARN'S fault and not BOB DOLE'S.

Mr. DOLE. I do not think I deserve all the credit.

[Laughter.]

Mr. GARN. I say it is a revenue issue, not a banking issue. But I have received a lot of heat.

This is not the right place nor the right time to play political demagoguery. We have our opportunity. I said before to the Senator from Kansas that if we did not have an agreement, I would have noted with the Senator from Montana tonight. If we had not worked that out, I would do every procedural thing I could to repeal withholding. What is the matter with that?

I used to read about how the Senate worked. Now, on every issue that comes up, we have Senators wanting to get in the press to report what they are doing. I hope the press will report tonight what is going on and let the American people know there is an agreement to discuss this issue, up or down, on April 15, and that some of us will do everything we can to see that the Senator from Wisconsin prevails and that we repeal—not just a 6-month delay, but repeal. But here we have to play with it now on social security and delay that. I do not understand; I really do not. I have frustration and irritation with the political game which goes on on this floor.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GARN. I will be happy to yield. The Senator from Kansas has the floor.

I do not understand. It is the easiest political issue in the world to go home and explain: I voted to table that because we have a unanimous-consent agreement to debate it on April 15.

If we have not got the guts to explain to our constituents that we have an agreement and we will have an opportunity to try to defeat the procedural motions of the Senator from Kansas at that time—but, no, on March 21, we have to delay the Senate so that we can get press. Let the press report over and over and over that there was an agreement, by unanimous consent, to bring this up on the reciprocity bill, prejudicing nobody's rights. In fact, it put us in a better position to try to debate it and defeat it at that time. But we have to play games with it tonight.

I have not changed my mind. There is no Senator in this body more opposed to the substance of getting rid of it than I. But I am not going to be part of the demagoguery games for press purposes, when we can do it on April 15, 3 weeks away.

So I will continue to support the Senator from Kansas on procedural issues until we get to that date, and I am going to leave it. I am going to go back to the Senator from Wisconsin when it can be done in a proper, orderly manner.

Let us be statesmen. Let us go back to being a deliberative body, instead of parading for the press in here.

Mr. DOLE. I thank the Senator from Utah. I do not want to get all the credit for this. I know there is enough to go around. I do not see anybody else claiming it. I do hope, however, that the administration will come in more actively in supporting the President's 1983 budget.

I must say that I do not quarrel with the right of the Senator from Montana to offer the amendment. I have several amendments I am going to offer to his amendment. I would rather it not be on this issue, that we get on with social security. But if it is the will of the Senate not to pass social security before the Easter recess, I am willing to accommodate that wish. We can all go home right now. We will not miss many votes on this package.

I am committed to pass the social security bill as nearly as we can in the form recommended. It is not a perfect package, but I do not think it is helped any by this amendment.

I yield to the Senator from Arizona without losing my right to the floor.

Mr. GOLDWATER. Mr. President, I just want to comment that I stand with the Senator from Utah (Mr. GARN) on this. I oppose withholding as strongly as he does.

However, I suggest to the Senator from Kansas that he is probably losing this fight himself. I am getting damned sick and tired of hearing about the American Bankers Association.

I am a stockholder of a bank. My brother is a director of a bank. I have not had any mail from any banks. I do not even get checks from them any more.

[Laughter.]

I think the Senator should realize that the American people do not like this, and they do not care where you put the amendment, whether it is the 15th of next month or now, or wherever you want to jam it. Sooner or later, the American people are going to convince this Congress and the President that they do not like the withholding tax, or whatever you want to call it.

I suggest to my friend that maybe he should sit down and counsel with himself in the quiet of some room or, if the moon is up, maybe out under

the moon, and maybe decide that his tactic is not working.

Mr. DOLE. I say to my friend from Arizona that I do not question his integrity or logic when he is debating issues, and I do not appreciate his questioning mine, but that is a right he has.

I will say, as long as I have breath to say it, that I am going to fight to retain withholding on interest and dividends because it is a good provision. You do not have to agree with me, but, if not, you should agree that we should not have withholding on wages, either, and that repeal of both will make the tax laws fairer. If you are going to talk about earned income and earned income, you can.

I am going to spend my time on the Senate floor to preserve this provision.

If you have not had any mail from your banks, you have missed a great treat, because some of our offices are literally covered with mail.

I will be happy to send some over to the Senator from Arizona if he wants some mail. The Senator from Kansas has lots of mail.

I do my best to accommodate Senators in this Chamber, and I do my best to accommodate the President. If the President calls me and says, "Senator, forget about withholding," I would not be offended. It is not a personal matter with me.

I just repeat again that this is a part of the President's 1983 budget. I think it has already been made a part of the RECORD. We could all get personal about these things, and I hope that we do not succumb to that, but it is not very easy to try to retain this provision, in the face of this campaign of preprinted post cards. But I do not believe any of us were elected just to respond to the this sort of mail.

I know the Senator from Arizona would not do that. When I supported him in 1964, it was for that reason. You have to stand up sometimes even though it may not be the popular thing to do.

However, I would emphasize again that withholding was included in the President's budget of 1983. It was not dreamed up by the Finance Committee chairman, and it is not going to be frittered away by the Finance Committee chairman.

The Senator from Kansas may lose on this issue, but I will continue to criticize the American Bankers Association for a deceptive campaign, and they know it is deceptive.

If you read the Washington Post yesterday, you know it is deceptive.

The Senator from Arizona would not condone that kind of tactic, and no one in this Chamber would.

It is a deceptive, shameful campaign by the American Bankers Association. That does not mean it is being carried on by all the banks in our States. I think that, despite the association's ads, some of my bankers are beginning to understand that we are not picking anyone's pocket, that we are not loot-

ing their savings, that this is not a new tax, that peoples' savings are not going to disappear.

I would say that when the Senator from Kansas and the Senator from Iowa, Senator GRASSLEY, put together a tax compliance bill last year, we did not include withholding. In fact, the Senator from Montana referred to a statement I made at that time about an hour ago. We knew that if we included withholding on interest and dividends we would create a firestorm.

What we tried to do is what everyone else is now suggesting that we should do. We tried to put in enough other compliance measures to collect the revenue. But the IRS, the Treasury, and the revenue estimates from the Joint Tax Committee staff told us that our compliance bill would not collect the taxes we were trying to collect.

But withholding was in the President's budget at that time. I recall him telling Treasury Secretary Don Regan that we would have a hard time enacting withholding. But we had a tough decision in 1982. The Senator from Arizona did not support it, but it was a tough decision. We had galloping deficits, we had galloping interest rates, we had a sick stock market, and the President said we had to do something to get the economy moving again. So we enacted \$100 billion in taxes recommended by the President, not the chairman of the Finance Committee, and we got to that revenue number for the most part not by adding new taxes, but by collecting taxes already in the law from people who have not been complying with the tax laws.

I am not going to defend people who do not pay their taxes. I do not care whether they be bankers, lawyers, Senators, or anyone else.

If that is being stubborn, then I guess I will just have to be stubborn. What is at stake here is a social security bill. We agreed in good faith to debate withholding on April 15. I have not reneged on that promise, and I do not intend to. That does not mean I have to cave in because someone else jumps up with an amendment 3 days after that agreement and says, "I want to delay withholding 6 months."

I remind the Senator from Arizona and others it was the Senator from Kansas who, because the ABA complained about the effective date of January 1, 1983, made the motion to delay withholding for 6 months. My record with bankers, S&L's, and credit unions is probably as good as anyone's in this Chamber.

However, that is not the point here. The point is we have at stake here about \$20 billion in revenue over the next 5 years. We must make the choice. Do you want to charge it to the deficit? This Senator does not. Do you want to collect taxes from someone else who is paying his taxes now, do away with the third year, do away with indexing, raise taxes on business to pick up the deficit? This Senator

does not. Do you want to cut spending \$20 billion the next 5 years? I would like to cut spending in some places, but not just to take care of those who are not paying their taxes. To me, that is not very efficient spending reductions.

So we will have to debate it awhile. It is not because the Senator from Kansas has anything personal at stake, but I would hope if you have a conviction and if you have a responsibility, you have a right to carry out that responsibility. That is what this Senator intends to do.

The Senator from Arizona may be correct that there is a majority who would like to get rid of withholding. We could all write back and say, "Well, this was a bad thing to do."

But I have not yet been convinced that, if it is so bad to have withholding on unearned income, why it is so good to have withholding on wages and salaries? Can no one tell me why, if it is so good to take it out of the worker's check, it is not right to withhold on everyone else's check? Why should it not be taken out of interest and dividend income?

And I may say those who pay out dividends are not complaining. The corporations are not complaining. They are simply complying with the law.

It is the savings institutions and the banks who have led the charge, and maybe we should give in. I guess that is the way you get ahead around here; just cave in and say, "Well, I cannot stand the heat. My colleagues are upset. They want to get rid of withholding. It is causing a lot of pain and a lot of grief."

But I just suggest I must be convinced of two things: First of all, if we had this delay and the bankers said, "OK, we want 6 more months to make it work," then I would say we should talk about that. If I were convinced the banks had made only an honest effort to repeal this, then I would say, "OK, we did the best we could."

But I believe, and I can see it in my own mail, that the tide is starting to turn. Many have listened to one side only. We have been covered up with hundreds and thousands of postcards from people who did not understand the law at all. We have cards saying this is a new tax. It is not a new tax. The Senator from Montana does not claim it is a new tax, to his credit. We have cards saying, "You are taking away my savings and I am frightened; I am 65 years of age," or "You should not collect taxes on interest."

That is not even the issue. IRS collects taxes on interest and dividends income with certain exceptions.

I do not know what the answer is. The answer as far as this Senator is concerned is not just to cave in. The answer is to debate it, to keep the agreement we made last week to bring it up on April 15, and then try to have it out.

It is going to be a freestanding debate. The Senator from Kansas has his rights and every other Senator has his or her rights, but there are Senators in this Chamber who strongly support withholding—not just one Senator. I would guess there are probably 38 to 40 Senators who feel pretty strongly about withholding.

We do have veto provided by the Constitution but we cannot just govern by veto. If we have to start everyone adopting the popular thing around here, I think we should repeal all the taxes. A lot of people do not like income tax at all. Why have it? Just have a voluntary system. Mail in what you want at the end of the year and we will see how it comes out.

Let us not pick on the working people. Most of them, like me, do not care who owns stock in banks. They do not own any stock in banks, or intend to own stock in banks. I do not own any banks. I am not a director in any bank. I do not have much interest income from the banks. I do not care if they withhold on that interest.

So I would just say I have a feeling this debate is starting to heat up, and I would hope that we could stick with the issue.

We came here prepared to dispose of the social security package last week. It should have been done, but no, we could not do that because we all had to cringe because of the bankers, and we delayed the jobs bill.

Maybe that is all right. Maybe the jobs bill is not that important. Now we are faced with social security, and maybe that is not that important. But if somebody has a better idea on how to handle the social security package and we still have got five or six amendments which are going to be debated, then the Senator from Kansas will welcome the idea. But I do not intend, just because one Senator criticizes me, to walk off the floor. I do not want to displease anybody in this body. I do not want to displease any Senator in this body, but I do want to make my point, and once the point is made, some may change their view. Let us take a look at this Kiplinger Tax Letter. That is a fairly respectable letter; it is something I did not talk about earlier that might be of interest. I kind of believe if we ever have an issue, and it is very important, I would rather have somebody up fighting for what he thought was right than yielding to pressure.

This is what the Kiplinger Tax Letter said on February 25:

First, withholding. It is not a new tax . . . or an extra tax, as some opponents have said. Nor does it make 10 percent of savings disappear.

That is what they are saying in the bank ads. I do not know whether you have ever seen the bank ads, "Are your savings going to disappear?" That is not my answer, that is Kiplinger's answer. "Small savers are exempt."

It goes on:

The amount of tax that is withheld does not disappear.

It is used to reduce what you owe when you ante up in April . . . or you can trim your estimated tax and payroll withholding during the year.

Your savings account needn't be reduced by the 10% tax. Your bank can tap your checking account for it or you can deposit that much more.

Withholding is aimed at tax cheaters . . . to make them pay something instead of having their share picked up by hiking taxes on honest folks.

I do not even agree with that last statement. I think a lot of it is inadvertent. Most taxpayers are honest, but we are told by IRS that there are 20 million Americans who do not report all their interest and dividend income, and I have to believe most of it is inadvertent and not dishonest.

What do we say? Do not worry about it, we will get it from the workers? We will get it from somebody else? It just seems to me if there is a principle involved here, it is tax fairness.

I have heard a lot of speeches on tax fairness. A lot of people have introduced a flat-rate tax proposal, to make everybody pay, with no exemptions or no deductions or a few exemptions or no deductions. That is tax fairness, and withholding is one way to make sure everyone pays their fair share.

So, Mr. President, I hope there will be some resolution of this, something that will satisfy those who want to leave to fight another day on this issue.

I can tell the Senator from Arizona or anybody else that I do not get any great pleasure in coming over here every day and fighting withholding. There are a lot of other things in our committee we ought to be addressing, including health care for the unemployed, medicare, trade, a lot of issues that affect a lot of States that we cannot get to because every day we have to come over and fight withholding. So from a personal standpoint, the easiest thing to do would be to say, "Get rid of it and let the President worry about it."

So, Mr. President, I would like to yield to the distinguished Senator from Idaho for a motion without losing my right to the floor.

Mr. MELCHER. Mr. President, reserving the right to object—

Mr. LONG. Reserving the right to object, Mr. President, has the Senator been given consent to yield without losing his right to the floor?

The PRESIDING OFFICER. The Senate has not been given such consent. Is there objection?

Mr. LONG. I object.

Mr. DOLE. Mr. President, I do not know what the motion was, but it was in some way to end the impasse and get on with the social security bill.

But if that is not going to be permitted, then I think we will either offer additional amendments—

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. DOLE. The Senator will yield for a question without losing his right to the floor.

Mr. MELCHER. Yes. If the Senator will yield for a question, and I thank the Senator for so doing, this would properly be described not as a debate, but it would most properly fit into the category of a filibuster; is that correct?

Mr. DOLE. Not yet. But I think it could be properly classified at some point. I do not make any bones about it. If this amendment has to be on the bill to get social security, then it is a filibuster. I am making the choice we have to make particularly since we have agreed to debate it later on. I may have to yield on that someday. I am not suggesting I can hold the floor that long, and I am certain a lot of people are eager to get up here and help me, but they are a little slow about it, but it will come.

I think the more we discuss this issue, the more people understand this has been a multimillion-dollar campaign. You can defend the banks all you want to, but you cannot defend them on this issue, and the Senator from Kansas has defended the banks, and I think my record is as good as that of anyone else with the banks. But I do not have to stand here and accept a deception or have my integrity questioned by the banks or their ads or some of those who contact you who have no idea what even some of the bankers think—and I cannot believe bankers if they understood all that was going on—I hope they all read that Washington Post story—I cannot believe that they would enter into a campaign like this one, as though you were getting ready to market tomatoes or gasoline or automobiles; put people in a room where you can look through a one-way mirror and see what their reactions are. The only thing we do not know is what questions were asked and what information they were given.

I will bet that I know what information was given. I will bet they told the people that this is a new tax, and the response from the participants was, "I don't want a new tax." This Senator does not want a new tax either. I will bet the bankers told them they were going to take money out of their savings accounts, maybe even that the Government was going to loot those accounts, and were told, in turn, "We wouldn't want that" and I would not want it either. We do not know what the bank lobbyists told the participants, although they had this marketing seance and they paid each \$25. They questioned them a while, and then probably concluded, "we can really rev this thing up. We can really frighten the people and, in turn, frighten the U.S. Congress."

It has been very effective. I just read a while ago where the credit unions themselves are going to send me 12 million pieces of mail, 8 million stuff-

ers and 4 million response cards all coming to me. That is flattery. I will have the best mailing list in America. We do not have all of them yet, but they are coming in. That seemed to be a little bit of overkill. The credit unions have been tame by bank standards, and so have been the savings and loan institutions.

I do not know what motion the Senator from Idaho had in mind, but I cannot do it because I was on the wrong side. So that takes care of that.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor in order for me to establish a time for the Senate to convene tomorrow?

Mr. DOLE. I yield.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, if the Senate recesses at this point, I guess the pending business will be this amendment; is that correct?

The PRESIDING OFFICER. The pending question will be the amendment of the Senator from Montana.

UP AMENDMENT NO. 105

(Subsequently numbered amendment No. 532.)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 105: In lieu of the language proposed to be inserted by unprinted amendment 103 insert the following:

DELAY IMPLEMENTATION OF WITHHOLDING ON INTEREST AND DIVIDEND INCOME

SEC. . Section 308A of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out 'June 30' and inserting in lieu thereof 'December 31'; provided however, the foregoing delay shall take effect only if the average prime interest rate charged by the Nation's ten largest banks is 8 percent or less on June 30, 1983, and that delay shall remain in effect only as long as that average prime rate remains below 8 percent."

SEC. . MINIMUM FOR MONEY MARKET DEPOSIT ACCOUNTS.

Section 204(c)(1) of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503(c)(1)) is amended by adding at the end thereof the following: "The Committee shall not establish or maintain a minimum balance requirement higher than \$500 for deposit accounts authorized by this subsection."

MOTION TO RECONSIDER THE VOTE TO TABLE UP AMENDMENT NO. 103 ENTERED

Mr. McCLURE. Mr. President, I enter a motion to reconsider the vote by which the motion to table unprinted amendment No. 103 was rejected.

The PRESIDING OFFICER. The motion has been entered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me explain the amendment. The Senator from Kansas offered a similar amendment earlier—maybe the interest rate appeared too low, maybe everybody does not believe that we can get it down to 6 percent, so we raised it to 8 percent. If that happens then, of course, you delay withholding, as the Senator from Montana wishes to do, for a 6-month period.

Apparently Members here do not want small savers, working people to buy money market funds, so we raised it from \$300 to \$500. The minimum now is \$2,500. I hope that, with this change, again we can focus on the real issue.

Now, if we are concerned about delay and if we are concerned about depositors, let us make it clear. You cannot put your \$500 savings in a money market insured account. It has to be at least \$2,500. Why can you not put less in a money market account? Because that means that much of the money will come out of the passbook savings which pay only 5.5 percent. This would make it possible for people with only \$500, which would be most Americans, to go in and get a money market fund rate of interest, to receive 9 percent rather than their passbook savings rate of 5.5 percent.

It is a serious amendment. If, in fact, you are concerned about the delay of withholding, as the Senator from Montana is, then I believe this would tie it to that and would make it feasible.

So, Mr. President, I hope that at the appropriate time we might act favorably on the amendment.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I would like to make clear for the record that there are many of us who were here when the agreement was made with Mr. KASTEN that his amendment would be considered in connection with a trade bill at a future date.

Mr. President, I was here at the time that unanimous-consent agreement was made. I made it clear at that time that I personally would object to including in that unanimous-consent agreement a stipulation that would preclude any Senator from offering either the Kasten amendment or anything that has to do with withholding on the social security bill.

I did not have in mind at that time offering such an amendment, Mr. President. I was aware of one Senator, not Mr. MELCHER, but another Senator who was thinking about offering such an amendment, basically the Kasten amendment, on the social security bill. And with that Senator being absent from the Chamber, I thought it was my duty to protect his rights. So far as I know, he has not chosen to offer such an amendment.

I think it should be clear, Mr. President, that if there was some agree-

ment with Mr. KASTEN or with some of his supporters that they would not offer or not vote for a withholding amendment on some other measure other than the trade bill that Mr. KASTEN had an agreement about, that did not apply to many of us. I know it did not apply to the Senator from Louisiana, and I am not aware of anybody who agreed to be foreclosed from offering an amendment dealing with withholding on some other revenue measure.

It was my view all the time that Mr. KASTEN, in complete good faith and complete sincerity, made a noble fight for the position that he believed in. He carried on that fight with a great deal of adverse publicity from a daily newspaper here in Washington, D.C., and with some perhaps unfair presentation against him in other areas of the media to suggest that he was not within his rights or he was doing something improper by offering that amendment on the jobs bill.

Mr. President, I would have had some difficulty supporting Mr. KASTEN if a point of order was made that his amendment was legislation on an appropriations bill, because the Senator from Louisiana likes to uphold the Chair when he thinks the Chair is right. Generally speaking, he knows the Chair is ruling after getting the advice of the Parliamentarian and so, in most cases, the Chair is right. Certainly, in most cases, the Chair is completely sincere in his ruling, and the Senator from Louisiana feels an obligation to support the Chair when he believes the Chair is right. I may have deviated from that on occasion, but very seldom.

I had advised Mr. KASTEN that, in my judgment, the jobs bill was not a good bill on which to offer the amendment, because I would not be able to vote with him on a point of order of germaneness if that point of order was made on that bill. The Senator from Wisconsin, for reasons best known to him—and I think I understand what some of those reasons were—elected not to offer the amendment on some other bill, but instead to offer it on the jobs bill. He made a noble fight and I applaud him for the effort he made.

Mr. President, the fact that the Senator from Wisconsin offered his amendment on what I believe to be the wrong bill should not preclude those who strongly believe in repealing withholding on interest and dividends from offering their amendments on some other measure. It is clear to the Senator from Louisiana that if they are going to get any action, they are not going to get there on some minor money bill. They are going to have to have something that is headed for the President's desk and they are going to have to offer it on something that has a lot of steam underway.

I oftentimes make a comparison when you offer something as a rider to

a bill, a comparison to a rider on a horse. For an amendment that has the opposition of the chairman of the Finance Committee, has the opposition of the President, has the opposition of the Speaker of the House, has the opposition of the chairman of the Ways and Means Committee, in order to get that type of revenue amendment to the President's desk and have any chance to be written into law, that rider has to be on a big, strong horse. It cannot be on a very weak horse because, otherwise, it is not going to go anywhere.

Mr. KASTEN was persuaded to agree to debate his amendment and offer it on a trade bill, a bill that is favored by the administration, but a bill that has not even passed the House of Representatives. The bill would be subject to a constitutional objection in both Houses in that revenue bills must originate in the House of Representatives. In the judgment of this Senator, if that is all the Senator has an agreement on, it does not have a strong enough force to carry his rider anywhere, even as far as the House of Representatives; and certainly not past the House of Representatives. The Senator from Louisiana has felt all along that if this matter was to be acted on favorably, it would have to be added to a very significant measure, something that was headed for the White House.

Now I can appreciate the position of the chairman of the committee. He feels strongly about the matter. I have no doubt that he is just as sincere as everybody else who has taken part in this matter. I realize that he is making a noble fight for his position as the good Lord gives him the light to see it.

But, Mr. President, I do not think the chairman of the committee, or any single Senator charged with a parallel responsibility, over a period of time can stand in the way of major measures that he has the responsibility of passing through this body and sending over to the other House for the House of Representatives' judgment, and on down to the President.

I have been accused of filibustering some measures when I was managing on occasion. From my point of view, it was not a filibuster. It was a very informative, well-considered debate—because over a period of time I got my way about the matter and if you do, it is not a filibuster. If by delaying the matter and prolonging it, whoever is the manager of the bill proceeds to have his way about the matter, that is not a filibuster. That is very effective debate in the best tradition of the Senate.

So, in a way, one might say it is the other guy, it is the fellow who was just sitting there and listening, who was doing the filibustering. Because if you win, it is apparent on the face of it that the speaker convinced the audience to see it his way.

But I do think, Mr. President, that the record should be clear that there

are a lot of us here, and I think perhaps a majority—we will see whether it is a majority, but certainly a lot of us—who have taken the position that we will vote to repeal the withholding provision. Having done so, we believe it our duty to vote to do so at every opportunity.

To make that stick you cannot vote to do it on this bill but not to do it on that bill. You cannot afford to take the attitude: "Well, you see, we tried this time, but we led off on the left foot and we should have led off on the right foot. So we cannot vote for it this time. We have to wait to start off on the other foot." If you do that, there will be somebody who thought you started out on the right foot to begin with.

You simply have to be consistent in taking the view that this matter ought to be changed and that the amendment should be offered on a significant bill, not just one bill, but just keep offering it on significant bills up until you finally get it on something that is going to the House of Representatives. If the House of Representatives, for some reason, escapes a vote over there, then offer it on something else headed that way.

I do not believe, Mr. President, that those of us who happen to agree that it was a mistake to enact withholding and that the matter should be repealed ought to be held up to opprobrium and scorn for doing what we think is right. I am not sure anybody wants us to do that. We are voting as we think we should on this occasion.

I would hope that in due course we would have the opportunity to vote on the amendment.

I do not challenge the right of the chairman of the committee to do what he is doing. He has every right to debate the matter at length, to offer amendments, and to resist, in every way he knows how to resist, an effort by those who would like to change something that he thinks is very good law and thinks should remain in the law.

But I do think that he and all of us in due course will, and I think should, agree that this is a matter which has sufficient support in both Houses. The majority of the U.S. Senate thinks this provision ought to be repealed. A majority of the House of Representatives thinks it ought to be repealed. In the name of democracy, why can we not vote on that measure? Why should we not be permitted to have a vote?

This Senator knows how to delay matters. He has done it many, many times, and I am sure that I will do it again between now and the time the good Lord calls me. I think it is in the best tradition of the Senate that one who feels strongly against the view of the majority should make himself heard, should fight for what he believes in. So I applaud the Senator from Kansas for the fight he is making. But I do think, on behalf of the rest of us, if we in the majority

have told people we are going to vote to repeal this—and I have answered those 58,000 letters telling them that I will vote to repeal that provision—if we are sincere ourselves, then it seems to this Senator that we have no business being weak in our resolve, that we should steadfastly support the position to which we have committed ourselves until such time as we have a vote on it, until such time as we send it to the House of Representatives to see what the House will do on the matter.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I do not quarrel with my distinguished friend from Louisiana, but even though there might be a majority on this position, a majority here and a majority in the House, as I indicated earlier the President could still veto any measure which passed, and it would require a two-thirds vote to override that veto.

I cannot speak for the President on the social security package, though I know he wants this very badly. I may speak long enough to find out from the President, to find out if he intends to veto the social security package if this amendment is on it. We might as well find out so everybody knows what the ground rules are. If that is what we want to do, then I think that is the choice we have to make.

I can recall—and I do not want to get into a quarrel with the Senator from Louisiana or the Senator from Arizona or anyone else—I remember on the windfall profit tax, they wanted to tax royalties, and the Senator had 70-some votes, but he would not stop talking. I supported the Senator from Louisiana. Do not give me that line about a majority. The point is when you think you have a majority. That took several days, as I recall. I supported the Senator from Louisiana and the Senator from Missouri stood there with 20-some votes when it was over. That was a clear majority on the windfall profit tax vote. I tucked that in my mind for the day when someone would say, "I have a majority against it, why not everybody give up?"

Mr. LONG. May I say to the Senator, if I had known I had 70 votes, I would not have been talking so long.

Mr. DOLE. Well, the Senator had a pretty good whip check. I think he was off by one.

I do not quarrel with the Senator from Louisiana. Some issues depend on who has the responsibility of leadership. The Senator from Kansas has that responsibility in this Congress. If I did not have the responsibility, if I were not in the majority, maybe I would not be supporting withholding. I have been guilty of a lot of game playing over the years, and I have been on both sides of the withholding issue—I voted with the Senator from Louisiana for withholding in 1976, I

put out a strong statement in 1980 that it was a bad idea, I am now finding out it may not be a very good idea as I hear my colleagues discuss it and discuss me in the process—the point is it is the law since 1942 for wages and since 1982 for interest and dividends.

I might also say that it is in the law in Japan, where 20 percent is withheld on interest and dividends; in the law in Germany at 25 percent on dividends; 35 percent in the United Kingdom on interest; in the law in France at 10 percent on corporate bonds; in the law in Belgium where it is 20 percent on interest and dividends, and in the law in Italy where it is 30 percent on interest and dividends.

This is not an idea that has sprung up overnight in this country. In fact, I believe it has been in the law, off and on, for well over 100 years.

I will be happy to yield to the Senator from North Carolina for a question.

Mr. HELMS. I do not have a question, Mr. President, but I wonder if the Senator will yield with the understanding that he would not lose his right to the floor.

Mr. DOLE. I will be happy to yield but not for the purpose of any amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. I thank the Senator, from Kansas, and I thank the Chair.

Mr. President, I do not agree on this issue with the distinguished Senator from Kansas, but unless I misread this Senate, he need have no concern about many Senators not admiring the fight he has made. I know from some small experience it takes a little bit of guts to stand up against a difficult proposition. As a matter of fact, I had a confrontation with "Rudolph the Rednosed Reindeer" last December, and now the Senator from Kansas is apparently going to have one with the "Easter Bunny."

But, Mr. President, I do admire the Senator even though I do not agree with him on this particular issue, though I may later on with the persuasive powers which he has.

I do want to refer to a comment made earlier that it was demagoguery, as I heard the comment, to vote in favor of repeal or delay in the implementation of the withholding on dividends and interest.

It is not demagoguery. I would say furthermore that when the unanimous-consent agreement was offered and agreed to, I specifically asked the leadership if that would exclude this matter being considered on the social security bill. The answer of the majority leader, of course, was it would not. I even asked if anybody would be offended if the repeal were to be considered, and the answer to that was in the negative.

I will say that in my judgment, Mr. President, the offer that the distinguished Senator from Wisconsin ac-

cepted and agreed to was scarcely any offer at all because the reciprocity bill on its face is unconstitutional. It is never going anywhere. A vote on that would be absolutely meaningless.

I did not mean to digress so far, Mr. President. I simply wanted to pay my respects to the distinguished Senator from Kansas and to assure him that insofar as I know, certainly speaking for myself, I have only the highest admiration for him for fighting the fight that he feels should be fought. I thank the Senator for yielding.

Mr. DOLE. Mr. President, I thank my colleague from North Carolina. I hope the record shows that even last Christmas the Senator from Kansas was not one of those who was seeking to limit any Senator's rights because this Senator happened to be on the other side of an issue. In fact, as I recall the debate, I think I said, "Well, this has gone far enough." Many were critical because they wanted to go home for Christmas. The gas tax probably secondary in many cases. I hope I did not step over that line.

Mr. HELMS. The Senators did not. The Senator is always honorable.

Mr. DOLE. Again the bankers have done an effective job. They have lots of money. They do not pay much in taxes, so they have a lot of money to spend on things they mail out. This is a little speech they sent out marked "Speech Copy." Just in case you could not write one yourself, they provided one. On this issue, I do not need anybody to provide anything, but on most things, it is a question of whether we can read or not.

I might say I agree with the Senator from Arizona; if the staff ever left the floor, the Senate would probably adjourn in May of every year, but somebody always finds something for us to say or an amendment to offer.

This little speech is entitled "The Government Wants a Piece of Our Savings." The title itself would not indicate anything wrong with this law. It just says they want a piece of our savings.

Then the copy says:

There's something I'd like to talk with you about that's part of the tax legislation passed this year. This part of the new tax law did not receive a lot of attention, but I believe it's a consumer volcano that is about to erupt.

It was not about to erupt when this speech was drafted, but put a few million dollars along with the speech and you can get anything to erupt.

A part of the new law due to go into effect in July of next year requires to make a mandatory interest-free loan to the government.

That is a little overstatement. I imagine the working people of this country feel a little concern about that. They have been making interest-free loans to the Government for the past 40 years. And other taxpayers who pay estimated tax will likewise be skeptical. Again, the point I make is why should we withhold on the work-

ing people of this country, but not on those who receive unearned income?

The speech goes on:

This will happen—and you will have no choice in the matter—because the government will be requiring all institutions that make interest and dividend payments to their individual customers to withhold for federal taxes ten percent of the interest and dividends you have earned.

That is a little misleading, because many taxpayers are exempt—

This means the Government will have free use of your money. It means you and I and the other Americans who earn interest on dividends will lose a lot of money.

What about all the wage earners? They lose a lot of money all year, because we are withholding it on a weekly basis, every 2 weeks, every month:

Savers and investors will lose an estimated \$1.5 billion in reinvestment and compounding on their earnings.

On July 1, 1983, the government will cut taxes by 10 percent. On the same day, the government will reach into your savings account to withhold 10 percent of your interest earnings.

The obvious ploy there is to indicate that you did not get a tax cut; we are going to take it all back because you are going to pay taxes on your interest. Most people pay taxes on their interest and I assume most people pay taxes in any event.

Then they go on to talk about the Government's purpose in this law. Then they say:

But let's look at the facts. According to the Treasury Department, Taxpayers are already paying taxes on 95 percent of their interest and dividend income that is subject to reporting.

That is not accurate. They know that is not accurate. That study was based on three conditions that have to be met. I shall come back to that.

When you consider that approximately 75 percent of individual tax returns submitted end up with refunds, it is pretty obvious that instead of real income to the Treasury, there will be a surge of unreal new money in 1983, most of which will have to be returned to the taxpayers the following year.

Then they went on to talk about disincentives to savings. I think that was probably fairly accurate. They did point out that there were exemptions. I must say the bankers thought we added too many exemptions. That is one objection they had. Maybe we did. Maybe it made it difficult for the banks. Maybe they had to put two computer buttons on instead of one.

While I am thinking about it, not all the big banks are for withholding. Citicorp and Citibank is a strong opponent of withholding and it is a fairly substantial bank. The make a lot of loans to foreign countries. They have urged other banks not to seek a resolution of this issue.

The procedure for getting an exemption brings up a major privacy concern.

Then they go on to make it appear that you are going to have to reveal a lot of facts about yourself and your

income when you want an exemption certificate. That is a flatout mistake. All you have to do is fill out boxes to say you fit in one of five categories. You do not have to say how old you are, anything, just check the box. Just put your name, your State, your account number, and you sign. That is all you have to do.

How would you like your bank teller who may be your neighbor or a member of your church, to see how much tax you pay?

That is deception. Where is the W-6 form? That is flatout deception. It goes on to say: "Isn't this a personal matter?"

Here they are planting the seeds of distrust and doubt, saying, "Oh, you can't trust the Government. They are going to make you pay."

All you have to do is check one box. You do not have to check that your tax liability was \$600 or less, that you are 65 or older, that your spouse, along with you, filed a joint return, if your tax liability was \$1,000 or less. You do not have to say, "My spouse and I are both 65, we filed a joint return last year." You do not have to check any of those. You just check a box. The box says, "To claim an exemption on the account above, check here." There is no mention of specifics. Your neighbor is not going to know anything.

Then, on the next page, the speech says:

This means banks and other institutions will be required to file more reporting forms and the IRS will be required to improve its recordkeeping. These approaches are much more effective than withholding, which penalizes millions of taxpayers.

And besides costing savers and investors \$1.5 billion in lost reinvestment and compounding, advance withholding will cost the Treasury millions of tax dollars it could be earning on taxes payable on those earnings.

That is not true, either. There is no expense at all because we have a float built into the law, which says to banks, whether they are big, small, or medium-sized banks, you are going to recover enough from the float to pay your expenses.

Then they say the Government will be literally picking the taxpayers' pockets. This will give the Government permission to what? To loot your savings account, they say.

That is the American Bankers Association speech. They sent it out to people all around the country. According to them, we are going to be picking their pockets and we have permission to loot their savings account.

If you listened to that speech and you were 65 or 45 or 25, you would be mad. You would be outraged. You would be very willing to fill out a few cards and send them to your Congressmen, particularly when the banks pay the postage. All you have to do is sign your name. In some cases, you do not have to sign your name.

Mr. METZENBAUM. Will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield to the Senator from Ohio.

Mr. METZENBAUM. The Senator from Ohio is perplexed as to how the banks have been able to send in so many thousands of pieces of mail or cause them to be sent in. Obviously, they had been printed up. I have before me the Tax Code, which provides that provisions of paragraph 1 shall not be construed as allowing the deduction of any amount paid or incurred in connection with any attempt to influence the general public or segments thereof with respect to legislative matters, elections, or referenda.

My question is, how have the banks been able to figure out a way in which they can deduct from their expenses all of the costs which they have incurred in connection with this lobbying campaign when the code specifically spells out that that is not permissible?

What steps, if any, will be taken by the IRS to cause the banks to pay out of their own funds these dollars? As I see it at the moment, it appears that the taxpayers are actually subsidizing this lobbying campaign to influence the results of this vote that is on the floor of the Senate at the moment. I wonder if the distinguished Senator from Kansas, chairman of the Finance Committee, can explain how the banks are able to do this at the taxpayers' expense?

Mr. DOLE. Mr. President, I appreciate the question. We have been wondering about that ourselves. I must say in fairness to the banks, I do not believe many banks are going to try to deduct this as a business expense. In fact, some of the ads I have seen clearly state that this is not deductible.

I must say, again alluding to the Washington Post story of yesterday, it says here:

Perhaps as many as 80 million such "statement stuffers" went out; no one has an exact count. The returns were dramatic. The Senate mail room reports that its first-class mail volume has ballooned from 5 million pieces in the first two months of 1982 to 9.5 million in January and February this year, with the withholding issue accounting for virtually all of the increase.

In other words, in most of those, the bankers paid the postage. They ran them through their meters. I am not certain how we are going to determine how much the taxpayers paid for all this misinformation from the American Bankers Association.

But I assume it is a substantial amount. We are investigating that, I might say to the Senator from Ohio.

Mr. METZENBAUM. It seems to this Senator that maybe we could help balance the budget if we could get the bankers not to deduct all the expenses they incurred in connection with this lobbying effort on their part.

Mr. DOLE. I certainly share the concern expressed by the Senator from Ohio, but I have seen, I must say, many cases where it is explicitly stated but, as the Senator knows, the section he referred to prohibits the deduction of grassroots lobbying costs. And we have been told this is a grassroots

campaign. They should not be deducted. I am not certain what the Senator from Kansas can do about it, but I hope to—

Mr. METZENBAUM. Certainly the Senator from Kansas is in a position to prod the IRS to make some necessary inquiries to see that this lobbying campaign is not deducted and that the banks, savings and loans comply with the language of the law, which is obviously very specific, and I would hope the Senator would do so.

Mr. DOLE. I appreciate that, and I think I am prepared to take whatever appropriate action I can to make sure the law is complied with; that is all, no more, no less. I would guess that many banks are in total compliance and some may not be, but I appreciate the question, and it is a matter that I hope to discuss with the Senator after the debate.

I would just like to conclude and then I will yield to the majority leader.

I was going to wrap up on this little prepared speech that the bankers sent out all across the country. I might just say again that some bankers, after they read the speech, refused to use it. The point is it was distributed all across the country. In addition to saying we had authorized looting—that is what the bankers said, looting of savings and picking pockets—they wanted to issue a challenge to:

Ask your Congressmen and Senators to commit themselves on this issue. Let them know that this issue is important enough to sway your vote.

And on and on. I do not really quarrel with that, but they talk about this grassroots movement to get this repealed. And they conclude:

The Government wants a piece of our savings. Instead, let's give Congress a piece of our mind.

Well, again "a piece of the savings" is a misrepresentation. All the Congress wants, all the Government wants, all the people ought to demand—in fact, if I were a taxpayer, I would demand it—is that the Congress not give in on this issue. If I were paying my fair share of taxes, I would not want my neighbor, or my neighbor's neighbor, or someone in the next town, or somebody in the Senate, or some physician, or some banker, or some worker, or whatever not to pay their fair share.

We have spent a lot of time in this Chamber talking about unfair taxation, and raising taxes, and spending the taxpayers' dollars foolishly, but I cannot believe we can justify telling the American taxpayers, the people who pay their fair share of taxes, that we do not really believe in fairness and we do not believe that we should withhold taxes on unearned income, only on earned income.

I hope that we can continue to debate this issue. I know that it is going to be frustrating, and again I do not want to get at odds with any

Member of this Senate; the Senator from Kansas plans to be here awhile. I understand that you cannot make these things personal, so the Senator from Kansas is willing to debate it fairly but debating it fairly means giving us the same opportunity the bankers have had the last 60 days without any opposition and giving us the opportunity to inform the American people. I have to believe that people in my State trust me for the most part, and I really believe that those who have written letters that were less than friendly, if they really focused on the issue and if they are paying their taxes—and most of them are—will say: "Well, we made a mistake." In fact, I will bring letters to read on the floor tomorrow, or the next day, or the next day where people who have the facts apologized for sending the postcard. There are a lot of those people out there. They are good people. They are like anybody else, however; if you tell them something long enough, they will believe it. If we take money out of their savings, they ought to come back and talk to us.

We ought to set the RECORD straight and we have to have both sides of the argument. I know it is difficult to take on a powerful lobbying group, and I am certain others have done a better job than this Senator in other issues at other times, and I know this time will pass. But until it passes, the Senator from Kansas is going to make every effort he can to make certain that the law is not repealed or delayed unless we can assure the depositors across this country that the banks are going to cooperate in lowering interest rates and permitting people who do not have \$2,500 to buy money market funds and some other basic changes.

We may not succeed in that. I am almost convinced that the bankers may be too powerful for any change at all.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, first let me say that I congratulate the Senator from Kansas. I not only agree with him, but I admire him for the courageous stand he is taking. I think he is correct, and I think time will prove that he is correct.

MEDICARE: STUDY ON IMPACT OF PROSPECTIVE PAYMENT METHOD

● Mr. LONG. Mr. President, my good friend and colleague, the Senator from California (Mr. CRANSTON), has asked me to ask the distinguished chairman of the Finance Committee (Mr. DOLE) a question regarding section 303(a)(2)(C) of S. 1 as reported. That provision requires the Secretary of Health and Human Services to conduct and report to the Congress on studies related to the advisability of making changes in the diagnosis-related group prospective payment method in certain situations.

The Senator from California's question pertains to the scope of the study and report to the Congress—required by clause (iii) of section 303(a)(2)(C)—on "the application of severity of illness, intensity of care, or other modifications to the diagnosis-related groups, and the advisability and feasibility of providing for such modifications." The concern here is whether these DRG modifications would take account of the proportion of severely ill patients that hospitals serve, the proportion of high-intensity care that they provide, and the proportion of cases in which they provide complex care. More specifically, the question is whether the Secretary is intended to study and report on whether hospitals—typically large urban hospitals—that treat disproportionately large numbers of severely ill patients, and provide complex or highly intensive care in a disproportionately large number of cases receive equitable levels of payment under the new system and, if they do not, what changes in the payment methodology should be made to insure that they do.

Mr. DOLE. Mr. President, I assure my good friends, the distinguished Senators from Tennessee (Mr. LONG) and from California (Mr. CRANSTON), that this study provision definitely is intended to require an evaluation of the impact of the new prospective payment system on tertiary care institutions providing complex care and having a high case-mix intensity. The study is also intended to focus on what, if any, remedies would be appropriate to insure that they receive equitable treatment under the new prospective payment system.

Mr. LONG. Mr. President, on behalf of the Senator from California and myself, I thank the very able chairman for that very helpful clarification. ●

● Mr. DOLE. Mr. President, the Senator from Kansas has been questioned by the Senator from Georgia (Mr. MATTINGLY) and others about the effect of the Finance Committee provision clarifying the effect of dictum in the Supreme Court's decision in Rowan on the issue of the taxation of fringe benefits. I would like to assure each of my fellow colleagues that this provision which limits the scope of the Rowan case is not intended to change the law on the issue of the taxation of fringe benefits either for income tax or social security tax purposes.

Some employers have argued by analogy that the Internal Revenue Service regulations under IRC section 61—defining gross income—or Internal Revenue Service regulations under IRC section 3401—defining wages for purposes of income tax withholding—exclude certain employer-provided benefits from inclusion in the social security wage base of employees. When the Supreme Court decided Rowan Companies, Inc., against United States, which held that the value of meals and lodging which are

excludible from the gross income of an employee are also excludible from the social security wage base of the employee, it also stated that the definition of wages for social security tax purposes and the definition of wages for income tax withholding purposes should be interpreted in regulations in the same manner. This dictum has been interpreted by some employers as supporting their exclusion of employer-provided benefits from the social security wage base of employees.

The provision in the Finance Committee bill states that:

Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this chapter.

This provision does not require that employer-provided benefits be included in the social security wage base of employees and no inferences can be drawn that this provision expands the authority of Treasury to include employer-provided benefits in the wage base of employees.

When the committee included this provision it was only reversing the dictum in Rowan by providing that the determination of whether or not amounts are includible in the social security wage base is to be made without regard to whether such amounts are treated as wages for income tax withholding purposes. There was no discussion of the fringe benefit issue and no intent to express an opinion on whether or not any employer-provided benefits should be included in an employee's gross income or social security wage base. The provision merely decouples the definition of wages for income tax withholding purposes and the definition of wages for social security tax purposes. No inferences should be drawn from this provision concerning the issue of including or excluding employer-provided benefits from the social security wage base of employees.

Congress has enacted a moratorium prohibiting the issuance of regulations on the inclusion of fringe benefits in gross income of employees. This moratorium expires on December 31, 1983. Hopefully, we will address this issue before the moratorium expires and settle the issue once and for all. The provision in the Finance Committee bill on the Rowan case does not imply any opinion on whether or not fringe benefits are includible in an employee's gross income or social security wage base. These issues are still open for Congress to address. ●

banks and other financial institutions can still have their own way in Washington—has no place in the bill pending before the Senate.

We should not accept an amendment designed to prevent the collection of taxes that are already owed on interest and dividends—even if the financial institutions find it inconvenient.

This morning I have strongly urged the leadership of the Senate to take whatever steps may be needed to free the economic security bill from this blatant attempt at legislative hostage taking. The Social Security and unemployment insurance lifeline that extends to millions of Americans across the breadth and width of our land cannot be permitted to be severed by the obstructionist tactics of a Washington lobby and its Congressional friends. As I said last week, it would be far better if the bankers spent less time lobbying and more time lowering interest rates.

Mr. DOLE. Mr. President, I do not think anyone would quarrel with lower interest rates. That leads me to the pending amendment. It requires the banks to lower their prime interest rate to 8-percent interest, to qualify for a 6-month delay in withholding. In addition to qualify for the new money market accounts you would not have to have \$2,500, but you could get into the money market accounts with \$500. That merely puts the focus where it belongs, on people, rather than bankers.

I would hope if we could dispose of the Meicher amendment either with adoption of the second-degree amendment or with some other parliamentary procedure, that we could finish the social security bill today. That may be somewhat optimistic. The Senator from Kansas has no idea how we are going to dispose of the Melcher amendment.

As I looked over the amendments on social security, there are only about four or five that would require rollcall votes and there is a strong desire by the President of the United States, by the House leadership which already passed the social security bill, and by the Senate leadership, at least on this side, to try to pass the social security bill and go to conference and pass the conference report by Thursday evening.

In order to do that, we have a lot of work to do.

Mr. President, I would think within the next few minutes there would be some move made to resolve the impasse. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, if we want to move on to social security and do just as the Senator requested, with prompt consideration of my amendment and other amendments without

too many rollcalls, we can do that just any time we vote on this issue.

This is not a game we are playing here, to offer an amendment that does not get voted upon. I guess I could vote to table the chairman's amendment, but I hesitate to do that to the chairman of the Finance Committee. I just hate to do that. We could suggest that that amendment be voted upon with a voice vote and be dispensed with. We could suggest that, instead of making a point of order against my amendment, we vote on a motion to waive the budget rules concerning the amendment, pass it, and get on.

Are we to be lambasted here, those of us who feel very seriously, very objectively, and very sincerely that this is a provision that ought to be passed by the Congress and ought to be signed into law by the President so that the Senate can reconsider what, in my judgment, and probably in the judgment of other Senators, was very poor tax policy in the Tax Act of 1982, last summer?

If the House does not like my amendment, they are going to knock it off. But the House must like it or the Senator from Kansas would not be carrying on a filibuster against his own bill. If the President does not like it, he has a chance to veto the bill, but I do not think he is going to veto this bill. That is a good reason for having this very serious provision in this particular bill, because this is one that the President is probably going to sign.

These people who write in to us should not be glibly described as if they do not know what they are talking about, that they are just responding to what a banker told them to do or suggested they do. I never take the letters of my constituents lightly. I take their letters seriously.

We receive letters that say:

This is the first time I have ever written to a Member of Congress, but I want to write to you about this because we think this is too much. We are already paying all of our taxes and here is another withholding tax on savings. The IRS is going to remove a portion of the interest due to us as a 10-percent tax. They are going to use it for up to a year.

Here is a typical letter on that very point:

I have never written an elected official in the past but at this point I feel compelled to express my opinion. I feel that the 10 percent withholding tax on our savings should be repealed because it imposes an unnecessary and unfair burden on savers. The current laws requiring the reporting of interest income are burdensome enough to one's savings institution but they alone should be adequate to assure that interest income is being reported to the Treasury Department.

I know our Government is facing a tremendous problem in financing its operations and withholding from savings accounts seems like a relatively painless way to insure that the inflow of tax revenue is smooth and uninterrupted. However, the approach taken by this new withholding law in effect punishes those who are helping to finance new jobs and capital construction by reducing the amount of return they can receive,

having 10 percent of their savings removed and given to the Government.

It goes on to say that they object to it and hope that something will be done.

That is a letter "writ by hand." That does not seem to me to be something generated at the request of a bank, or the request of a savings and loan, or, for that matter, a credit union. For those of us who take this position that something should be done about it, I do not think it serves any good purpose simply to say: "Well, this has been caused by the bankers lobby." Personally, I have never found a bankers lobby that had influence with very many Senators to hold up a process here for consideration of something that they dearly want.

I have observed, over my time in Washington, both in the House and the Senate, that when people really zero in on a point that they think they are being abused on, they do get the attention of Congress, both the House and the Senate. In this instance, I know it has captured my attention. It has captured, I think, the attention of the vast majority of the Senate. It is because these people write to us, or call us, or buttonhole us, or get us on the telephone and say this is just too much.

I am particularly sympathetic to the elderly who write in and say they depend upon their savings, the interest from their savings, for part of their monthly bills. But I would have to say that I am also very sympathetic to the ordinary wage earner who has withholding out of his paycheck and knows that he is paying all that is due. I am advised by the Treasury Department that 75 percent of those taxpayers pay more than is due and at the end of the year get a refund. So I think it is apparent to that group, when they know that on withholding they are paying a little bit more than they should, it is particularly objectionable to them when they find out that there is going to be money withheld on their savings accounts from the interest that is due them. I can well understand their frustration. They are saying: "If you are after cheaters, why do you not zero in on them?"

As a matter of fact, in discussion with members of the Committee on Finance during the past couple of days, it has been brought to my attention that, even though this provision was locked into the 1982 tax law very quickly, without hearings, some of the members of the Committee on Finance, after the fact of its getting into the bill, went to the Treasury Department and said: "Tell us where you believe there are taxpayers escaping paying their just taxes, their lawful taxes on interest from savings and dividends." They were told that it was impossible or their questions almost disregarded, shoved aside, and the Treasury Department said: "We really

can't identify all of those and this procedure will help it."

When they were asked why the 1099 form, that form that every savings institution, or every insurance company, or other such institution must send out to all of the recipients of interest income, or dividend income, was not matched up with the 1040 form, it was very brusquely explained to them that it was not possible.

I think it is perfectly logical to respond to the constituents who are taxpayers and who are saying that this particular provision in law should be either repealed or delayed, either repealed or modified so that it is really zeroing in on those people who escape paying their taxes, rather than burdening everybody. As this constituent letter that I read stated, while it may seem a relatively painless way of securing more revenue that is needed for the Government, why must it become a burden on all, and particularly take away some of the interest income or dividend income from those who use it during the course of the year to pay their bills?

Yes, Mr. President, we can get on with this social security bill any time. We can certainly show some progress around here by getting this amendment in shape to pass and get on with the rest of the amendments; send this bill over to the House and, if the House is so inclined to agree with the amendment, fine. Then we send it to the President and, we hope, and I am confident that, on balance, he is going to sign it.

The question of taxation is a matter between the taxpayers and Congress primarily. I think this was a bad move last summer, this particular provision. That is my judgment. I would have to say that, based on the letters I have received, it is the judgment of the majority of my constituents that it was a bad move. But I think what is extremely important in this issue and should not be ignored, or forgotten, or shoved aside is that taxpayers are very concerned about the methods of paying taxes that involve them directly.

I am going to repeat that, Mr. President. Taxpayers are resigned to having to pay taxes. Who wants them? Nobody wants them. But they are resigned to paying them. They know that Congress must pass tax laws that will raise a sufficient amount of revenue. But taxpayers feel strongly about the method of collection of taxes from them and resent undue, unneeded hardship imposed on them.

I said yesterday in offering the amendment that, while I realize that passage of this amendment would mean \$1.1 billion less in this fiscal year for the Treasury, my best judgment is that it is still a very reasonable amendment because we can now have time to review better ways of collecting the revenue and, if it is the judgment of the majority of the Senate after revenue that this is still

the best way, we shall go along with that.

I doubt that that will be the case and we shall find a better way. But it is this particular method of collection that is being objected to by taxpayers.

It is a method that imposes on them an unnecessary withholding if they already pay all the taxes due. The IRS says that is 97 percent-plus of all taxpayers. They are not fools, these people who write to us. They do not take pen in hand or pencil in hand and write these letters with the idea that they are somehow being duped or being conned by one of the savings institutions. They are writing to us because they are taxpayers and they think this matter is important.

What they are really saying is that the method of collection of sufficient revenue has not been properly examined and this one must be a very costly method of collecting revenue.

Why would they say that? First, they know there is some cost to the savings institution where they draw their interest from their savings account. They know that. They understand that. And they know who is going to pay that. They are going to pay it. They are going to get less in interest because that savings institution has some cost in collecting the tax; and they know they are going to get less in interest if their practice is to let their interest income accrue to the principal rather than withdrawing it upon payment. If they do withdraw their interest income for living expenses many resent having the 10-percent tax withheld.

If the interest accrues and allowed to compound, as many of them do, at least a portion of it, they know that the early collection of taxes will take some of the money due them on that compounded principal which would generate more interest payments for them.

But they also believe that this is just added paperwork and that, after all, the form 1099, which reports all the interest income, should be adequate; that if something else needs to be done to close the gap for those who are not paying the taxes they should pay on interest income, then there should be other methods of collecting that, without involving them. It is in their judgment a poor method of collecting taxes, because they are already paying their full taxes.

So, first of all, although my amendment would decrease revenue for this fiscal year by \$1.1 billion, which is 0.6 percent of what is projected as a budget deficit, less than 1 percent, I strongly feel that we must find a better way and collect the money and make up the revenue that would be lost. I think that is what our constituents are writing to us about.

That is far removed from just a simple attaching a banking label to any Senator who dares offer an amendment to either repeal it or to delay the implementation of it, in

order to look at the method again and reconsider it. Labeling that attempt as just something that represents the banking lobby is not doing justice to the issue involved.

Mr. President, I do want to make progress. I see the chairman of the Budget Committee on the floor now, and I should like to expedite proceedings. The chairman of the Budget Committee desires to make a point of order against my amendment as being outside the budget waiver on the bill. To expedite that, I move, under section 904(b), to waive the relevant section contained in titles III and IV of the Budget Act.

The PRESIDING OFFICER. The motion is debatable.

Mr. MELCHER. Mr. President, while the chairman of the Budget Committee is getting ready to discuss this matter, I point out that, for all the reasons we have been citing for the consideration of this amendment to delay interest withholding and recognizing that it would deplete revenue by \$1.1 billion for the remainder of this fiscal year and possibly close to \$300 million for the first quarter of the succeeding fiscal year, I believe it is still obvious that there is a strong feeling throughout the country that this matter should be reviewed, thoroughly thought out, and possibly modified to make it a better method for the collection of taxes.

Mr. DOLE. Mr. President, I am sorry that I had to leave the Chamber briefly.

Again I say to the Senator from Montana that he is debating the issue, and I commend him for it. He has indicated many times what I consider to be accurate statements concerning whether you like withholding or not. He has fairly said many times that it is a collection procedure, not a tax; and that debate, or course, is helpful.

Before the Senator from New Mexico speaks, I just want to say that the unemployment implications in this bill are significant. Without going through all the States, if we do not take action this week, it is going to affect about 28,000 people in Alabama, 6,000 in Alaska, 209,000 in California, 14,000 in Colorado, 46,000 in Florida, 48,000 in Massachusetts, 92,000 in Michigan, 89,000 in Illinois, 57,000 in Indiana, 131,000 in New York, 78,000 in Ohio, 99,000 in Pennsylvania, 58,000 in Texas, 38,000 in Wisconsin, and 31,000 in Washington.

So I think it is fair to say that this social security bill does contain an urgently needed extension of the Federal supplemental compensation program that is due to expire at the end of this month. The problem is that we are not scheduled at this time to be in session next week and will not be here at the end of the month.

The FSC program provides extra benefits to the long-term unemployed who have exhausted their right to benefits under the regular State un-

employment program (normally 26 weeks) and the Federal-State extended benefit program (13 weeks). Although there are slight differences between the House and Senate bills, both of them would provide \$2 billion or more in unemployment relief to the jobless over the next 6 months.

As the Senator from Louisiana said, if you lose, it is a filibuster. If you win, it is informed debate. So I hope we are in a period of informed debate; that eventually right will prevail; that we will not deny unemployment benefits to the jobless while we try to take care of a special interest group, particularly since we have already set a debate, starting April 15, a freestanding debate, with everybody having a chance to modify and otherwise offer amendments, and to debate this whole question of withholding. I certainly would expect the distinguished Senator from Montana to be an active participant.

Someone suggested that we have not had hearings, but I am reminded by staff that we did have hearings, a year ago today. We had hearings on the income tax compliance gap, in the Senate Finance Committee, and we had a discussion of withholding and alternatives to withholding. The Dole-Grassley bill did not contain withholding, but did contain what we thought were tightening procedures, it would require more reporting, and its provisions were enacted as part of the 1982 act. But we were told by IRS at the hearing, very honestly, that it was not enough, and that withholding was also needed.

I read from a statement of Mr. Chapon, Assistant Treasury Secretary for Tax Policy. This is what he said in reference to our bill:

While improving and extending the information reporting network is clearly desirable, particularly to the extent that U.S. Government and corporate bearer obligations would become subject to reporting, we believe that the tax gap has grown too large for us to continue to take limited incremental steps toward improved taxpayer compliance in the interest and dividend area. For that reason, as you know, Mr. Chairman, the administration has proposed withholding on dividends and interest at source, and we hope the committee will give serious consideration to the desirability and feasibility of instituting withholding with respect to interest and dividends.

Mr. President, there have been a lot of quotations from letters, and I did not bring all the favorable letters—but I did pick up a sample of letters that have been written since the people have begun to understand what the real issue is.

That has been the point that the Senator from Kansas has been trying to make for the past several days. Until the people know what the issue is, how do they know what the answer is? Some may know in advance, but most people would like to have the issue defined.

Here is a letter from New York, from Robert A. Jacobs. He said:

I write you as a student and practitioner of the tax law, concerned with the integrity of our tax system; I am particularly concerned that the recent attack being mounted by our banking community and its grass root constituents on the withholding tax on interest and dividends will weaken our tax system.

At dinner last evening my mother-in-law informed me "that on July 1 they were going to enact a tax on old people who had savings accounts with the banks." When I assured her that there was no new tax that would be levied on her small savings, that she could apply for an exemption that would relieve her from withholding and, in all events, any monies withheld would be credited to her tax liability, she responded by saying "Oh, that's what Hilda is concerned about; she doesn't pay tax on her interest and never has been caught."

I do not know who Hilda is. But that is only one letter. Maybe Hilda will be identified later, particularly if we have withholding.

Here is another one.

I want to apologize for a letter I mailed to you the other day with an article cut out of the paper. After reading more information on it I have come to the conclusion that the small investor will not be hit nearly so hard as the high-income people. It seems like they can find some loopholes to get out of paying their share.

Another letter says:

Thanks for the explanation on withholding. Now that I understand it, please disregard my earlier letter.

Another letter:

On February 1, I wrote you protesting the enactment of the tax on withholding by Congress. However, since reading more about it and the minimal effect it will have for us, we wish to reverse our previous position and support you in upholding the act.

There are a lot of letters. Here is another:

My thanks to the President, you, and Secretary Regan for standing up to the massive lobbying campaign by the bank and savings and loan industries and in their efforts to force Congress to repeal the recently enacted law which requires them to withhold a small amount of interest and dividends earned on investments. There is no doubt about it. Now I doubt even among the most money grabbing bankers if you could find anyone who would endorse that proposal but fair is fair.

So I just suggest that we can all bring a lot of letters to the Chamber, and I would not want to bring all the other letters to the Chamber. If I did, I would not be able to see my colleagues. But I can bring all the favorable letters to the Chamber. The others we can weigh and give you the weight on a daily basis as to how many pounds are coming in.

But another letter from Wichita, Kans.:

As one who pays a considerable amount in the 10 percent withholding on dividends, I urge you to stand firm and see that this deduction is kept on the books. It is a considerable inconvenience to me to pay this withholding and I lose a good deal of interest, but if this is the way to catch tax evaders who fail to report this type of income, I support it.

And so forth.

Another letter says:

I am still applauding your remarks to the members of the American Bankers Association about the interest and dividend withholding provisions,

And so forth.

I cannot remember what I said, but someone else does.

I have a letter from Wilbur J. Cohen, former Secretary of HEW in the Johnson administration, and Arthur S. Flemming, former Secretary of HEW in the Eisenhower administration that says:

As members and officials in organizations representing senior citizen groups we wish to inform you that we wholeheartedly support your efforts to retain withholding of interest and dividends as provided by existing law. We do not think this is a burden on low income elderly persons or is an unfair requirement for higher income persons. We do not believe that the programs which serve the need of the low-income elderly should be cut back when enforcement of existing tax laws would yield \$20 billion in income over the next 5 years. We believe much of the tax on the withholding law is erroneous and unwarranted.

Then a letter from a prominent CPA firm, Seidman & Seidman:

Americans believe that they have a higher degree of tax morality than other peoples of this world which presumably was instilled in us by an higher authority. The fact of the matter is that the great FDR through the system of withholding tax on wages and salaries instilled tax compliance in us.

Absent withholding taxes on wages and salaries the underground economy would swell to unmanageable proportions.

It is sophistry to say that there is little if any underreporting of interest and dividends when government statistics prove that at least 25 billion dollars of this income is not reported for tax purposes.

And he goes to support withholding.

The Senator from Kansas would not say that if the people who have sent in bank postcards against withholding had all the facts they would all come to a different conclusion, but it is pretty hard to persuade this Senator that you can make a valid judgment or objective judgment if you have only heard one side. The only side that most Americans have heard on this is the lobbyist side, those who want to repeal withholding, those who tell you it is a new tax, those who tell you it is going to take away your savings, and believe me, if a report came over the radio that Congress passed a new tax, I assume it would get your attention.

So, Mr. President, I just believe that we should get on with this. Again we can have this debate. It is already scheduled for April 15. We can debate it in a full, free, fair debate. Everyone will be on equal terms. So we can pass the social security bill now. In addition to the urgency for the unemployment provisions there are about 36 million or 37 million social security beneficiaries who want us to pass this package. There are about 116 million people who pay into the system, many of whom want us to pass this package.

It would just seem to me, after working for a year or more on social security and having it passed in the House

of Representatives in a timely fashion, that the Senate says, "Well, we cannot do it because we have to deal with the special interest amendment."

We have time for the special interests, and I believe the elderly are a special interest, and I believe the unemployed are special interests. I hope that today we can turn our attention to these special interest groups and try to pass the social security bill by midnight tonight.

Mr. DOMENICI. Mr. President, if the distinguished Senator from Montana had not moved to waive the Budget Act, I would have raised the point of order against the pending amendment. If I had raised the point of order the distinguished Senator could have moved to waive. So we are right back in the same posture of voting on a waiver of the Budget Act under section 311.

If the distinguished Senator from Montana had inquired, his amendment clearly violates section 311 of the Budget Act. For that reason he has moved to waive it.

This amendment violates section 311 because it reduces revenues in the fiscal year 1983, and we are already below the floor set in the budget resolution now in effect. There is no room at all under the budget resolution for a tax reduction, and that is exactly what the amendment does. It reduces revenues by \$1.1 billion in fiscal year 1983.

We are talking here about a principle, and I will discuss that in a little more detail. In addition, it is obvious to me that this amendment is merely an interim step toward repeal of the entire withholding and I think that revenue losses will be much larger. With repeal of withholding we would lose about \$20 billion in revenues over the next 5 years.

I understand that argument could be made against section 311. I know that the budget resolution that we now have on the books is out of date. I know that fiscal year revenues must be revised very soon to take into account that the economy has not performed quite as well as we thought.

But, Mr. President, as far as policy changes are concerned I do not think there is much chance that our new budget proposal for fiscal years 1983 and 1984 will make room for a tax cut. Quite to the contrary. We are almost certainly going to provide for some tax increases. The President asked for a few billion dollars. On the other end of the spectrum, of course, the House of Representatives is asking for \$30 billion. I do not think that is very practical when we are just beginning to see the full blessings of the recovery, but I will challenge anyone to say that the new policy is going to provide for significant tax reductions and, therefore, this procedure that we are talking about is not very relevant.

(Mr. PRESSLER assumed the chair.)

Mr. LONG. Mr. President, will the Senator yield for a question at this point?

Mr. DOMENICI. I would be pleased to yield.

Mr. LONG. Is it not true this very bill here right now is here because of a budget waiver recommended by the Senator's committee, and does not that waiver include a waiver of \$2,070,000,000 in spending for unemployment purposes over the Budget Act?

Mr. DOMENICI. The Senator is correct.

Mr. LONG. If we are talking about being wrong, the way the Budget Act was waived we are already wrong. We have a bill here which is already \$2 billion over the Budget Act to begin with, and the Senator recommended that waiver.

Mr. DOMENICI. That is correct. I recommended that waiver and it is obvious to this Senator that there is a tremendous distinction between waiving the Budget Act when you have unemployed people in our country who are not going to get their unemployment benefits and we have to do something to make sure that they do. That is a clear emergency.

There is nobody who can tell us that this social security bill itself is not an emergency, coupled with the unemployment compensation that we wanted to extend, but which costs money for which we waived the 1983 budget targets. Nobody can say that is not an emergency. There is no emergency on the Senator from Montana's amendment. Quite to the contrary, the U.S. Senate clearly plans to contemplate it, debate it, and vote on it. Everybody has their procedures. The Budget Committee has its procedures for April 15. It clearly seems to the Senator from New Mexico that as a matter of principle this is precisely what the Budget Act had in mind.

We can take a clear look and say "Do we want every time something like this comes along, that has plenty of time and does not belong on this bill, do we want to waive the Budget Act?"

As I indicated, I would have made a point of order. I did not make one on the basic bill. Quite to the contrary. Consulting with the leadership we provided a mechanism to say we do not want to use the Budget Act in this case because this is an emergency and that worked. Nobody challenged it. We did not shove that down anyone's throat. Anybody could have gotten up and objected to it and forced a vote, and said "We don't want to waive the Budget Act."

We have a different situation here, very different from the standpoint of policy and from the standpoint of procedure. We can vote on withholding another time; we cannot vote on unemployment compensation 2 or 3 weeks from now. It will be too late. I just note that in a small State like New Mexico we are talking about 5,000

people running out of unemployment compensation if we do not pass this bill. In other States it is many times more than that. That is what makes this situation different from the amendment that the Senator from Montana has here. Twenty-six thousand unemployed in the State of Louisiana will not get their unemployment benefits if this bill is not passed.

One might say, "Well, what about all those people who are being adversely affected by the withholding?" I think I have addressed that. There is already a procedure for taking care of that. We will all have our opportunity to look that one squarely in the face without the unemployed people of the country losing benefits without the social security compromise coming unraveled, and all of the other things that have been said here on the floor.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. DOMENICI. I would be pleased to.

Mr. LONG. In view of the fact we have been informed by the distinguished chairman of the Finance Committee that Treasury proposes by regulations to put the withholding off to make it year-end withholding rather than to make it withholding prior to the end of the year, can the Senator tell me how much revenue the Treasury would lose during the remainder of fiscal year 1983?

Mr. DOMENICI. I am informed that that which the Secretary of the Treasury proposes to do by regulation was already taken into consideration in the basic bill, and that the only change was in NOW accounts which came into existence afterward. This will have some effect on the total revenues, but there is nothing we can do about that in terms of the issue that is before the Senate. If the law provided for that they are free to do that and, as I understand it, the estimates took that into consideration.

Mr. LONG. Can the Senator give us his estimate what difference it makes to start withholding in 1983 rather than 1984?

Mr. DOMENICI. I submitted it for the Record a couple of days ago, it is about \$1.1 billion for the remainder of fiscal year 1983, I think the Senator knows the numbers with reference to the outyears. Since the Senator from Montana's amendment addresses only a year, the loss is \$1.1 billion in revenue using the same CBO estimates and Joint Tax Committee experts on both the original estimates and these.

Mr. LONG. Is this not true, Senator, that the Budget Act with regard to the issue of waiver makes no real distinction between waiver for emergency purposes or waiver because Congress for some other reasons might regard it as good Federal policy?

Mr. DOMENICI. The Senator is absolutely correct.

Mr. LONG. I thank the Senator.

Mr. DOMENICI. I think I made that point, and certainly appreciate his clarifying it for me. I do not intend to indicate that there are levels of waiver considerations or qualities or quantities. It is just clear that this one violates section 311 of the Budget Act, and the Senator has asked for it to be waived. I suggest this is an opportunity for us to avoid the discussions, all the discussions, that have been going on and to do what we ought to do, to say it does not belong on this bill, and the budget provides us with an excellent vehicle to keep it off. Unless the Senator gets a majority of the votes here, he cannot get a waiver, and the provision will not be on this bill. I think that is something that is helpful to everyone here. If we vote against the distinguished Senator in his waiver, we are not voting on the issue. We are voting on whether to reduce the revenue base of the country when we have huge deficits. Everybody says we must in some way get rid of those deficits. I did not find anybody proposing that we get rid of this \$20 billion over the next 5 years. I did not hear anybody say "Well, I have a new tax to take its place or I have \$20 billion in medicare changes or other cuts to take its place." We are just here dealing with \$20 billion as if it does not matter on the deficit side. We just wipe it out and nobody ought to be worried about it. We have received a lot of letters. We have a way of working our will and hopefully before we are through we will provide some way to continue the deficit reduction. But we will have done it thoughtfully, without just wiping away \$20 billion over the next 5 years from the omnibus budget bill that reduced deficits and started us on this road to recovery.

Mr. President, there is no doubt in my mind that while there may be various reasons for waiving the Budget Act. We have discussed a couple of them here today. However, the urgency of unemployment compensation, the good fortune of time that we arrived at a social security solution with the fine cooperation of the President, the Speaker and the blue-ribbon Commission, that that occurred at the end of a budget cycle and therefore we have a waiver for that bill, there is no doubt that those are the kinds of things that would be overwhelmingly supported here.

But there is no doubt in my mind that there are not going to be further tax reductions in 1983, and 1984, and 1985. We have to produce a new budget resolution. It will have some new policies. It will talk about all the main issues, everything from defense to taxes. But can anybody really stand up here and say they expect the policy is going to move in the direction of cutting more taxes in the 1983, 1984, 1985, 1986 cycle? That is basically what we are doing here today and that is why I feel confident in opposing the amendment, the motion to waive, and

why I think Senators ought to think very carefully before they do it.

You know it almost strikes me that we go through this onerous job of reconciliation on the tax side, we make some tough decisions, and we provide \$98 billion over the next few years, we reduce the medicare costs, we reduce some other expenditures in the budget and then, before the ink is dry, we come down and say "Well, as to \$20 billion of that \$98 billion, we just want to wipe it out and add \$20 billion to the deficits."

We ought not be concerned about it.

Some would be saying: "We ought to grant this waiver just like nothing is at stake. Senator MELCHER is right, waive the Budget Act."

I hope I have convinced the Senators that this is an appropriate procedure that the Budget Act prescribed. It ought not be waived cavalierly and it ought not be waived here this afternoon. Quite to the contrary, we ought to get on with the business of passing this bill and, in due course, taking up the issue that is raised in part, not in toto, but in part by the amendment of the distinguished Senator from Montana.

Mr. LONG. Mr. President, I am informed that the Treasury regulations to provide for year-end withholding would cost us \$50 million in revenue in fiscal year 1983 and would cost us \$200 million in revenue in 1984.

Now, that is the revenue loss because the regulations reduce the amount that we would collect otherwise by that amount. This compares with the Melcher amendment which, in the main, involves whether you collect the money sooner, within the next few months, or whether you collect it after the end of the year when people file their tax returns.

Now, the Treasury, in my judgment just in order to try to reduce the opposition to the withholding, brought out these Treasury regulations which will cost us \$250 million in 1983-84 with no further consideration. They just thought it would be a good idea to strengthen their position in trying to put the withholding on interest and dividends into effect. So the Treasury makes that change without budgetary consideration; just does it to increase their strength here in the Congress in trying to maintain the system of withholding on interest and dividends.

They can do that without any process. I have not heard a soul here on the Senate floor protest about the loss of the \$250 million by the Treasury changing their regulations to try to pick up some votes in the Congress.

When the Senator proposes a measure that would defer taxes—and most of what is involved in the budget impact is merely deferring the collection of something from the third quarter of this year over into April of next year—we are told, "Oh, my goodness, that is going to cost us some money." The practical matter of that is most of

it is deferral of tax collection to a future point.

Mr. President, I believe we ought to look at some of these things in perspective, rather than to contend that those who agree with one are carrying on a holy crusade and those who disagree with one are bad people engaging in conduct unworthy of Americans.

For example, Mr. President, I heard so much conversation on the Senate floor to the effect that the bankers have done something unworthy of bankers in making their case against withholding. I had little choice but to repair to the Constitution of the United States to see if they had some support for their position. I find the first amendment of the Constitution relevant. That is an amendment that says that Congress shall pass no law prohibiting the exercise of free speech or free press, or the right of people to assemble peaceably.

Let me quote these next words: "And to petition the Government for a redress of grievances."

Now, there is the same amendment which so correctly protects the freedom of speech, freedom of press, and freedom of people to assemble. And there is the right of people to petition the Government for a redress of grievances. They thought enough of the right of people to protest that they actually wrote it right there in the Constitution and sent it out for the States to ratify in the Bill of Rights.

To chastise and scorn people for exercising their rights under the Constitution, Mr. President, is just contrary to American traditions, and we ought to stop that.

Furthermore, we ought to stop pretending that all the righteousness is on our side and all the evil is on the other side. Let me read a proposal out of the 1980 Republican Party platform, which, in my judgment, was sincerely placed there. I just have difficulty believing that those on the other side of the aisle are not as sincere as those on my side of the aisle. Let me read this language:

We also oppose Carter proposals to impose withholding on dividend and interest income. They would serve as a disincentive to save and invest and create needless paperwork burdens for government, business, industry, and the private citizen.

Mr. President, listen to this vitriolic language: "They would literally rob"—that is not my word, Mr. President, that is the 1980 Republican platform—"They would literally rob the saver of the benefits of interest compounding and automatic dividend reinvestment programs."

Mr. President, we have been told that an article appeared in the Washington Post exposing the improper conduct of the bankers. I had to go get me a copy of that article, because every now and then you find something in the Washington Post that is very thoughtful and well done, and

you cannot tell whether it is good or not until you read the article.

So, Mr. President, I went and got this article that the Senator from Kansas (Mr. DOLE), the distinguished chairman of the committee, referred to yesterday.

I wish to congratulate the person who wrote the article on Sunday, March 20, Mr. Paul Taylor. It was worthy of reference by the chairman of the Finance Committee.

Let me just read what the author said on this subject:

One ad that especially annoyed Dole reads, in large boldface type: "Warning: 10 Percent of the Money You Earn in Interest is Going to Disappear," with the word "Disappear" fading to white.

That ad was held up for us to see yesterday, and I saw it.

Misleading? Perhaps. But the body of the ad makes it clear that this is a withholding scheme, not a new tax, and that therefore the 10 percent is a payment against taxes that would be owed at year's end.

The ad notes there are exemptions for the poor and elderly, although it objects to the red tape.

A more inflammatory treatment—

This is the writer to whom I complimented for writing in the Washington Post—

A more inflammatory treatment comes from a sample speech distributed by the ABA to member banks: "Literally, the Government will be picking the taxpayers' pockets."

Now, that is a strong statement, Mr. President. I doubt if I would go as strong as the American Bankers Association.

"Literally, the Government will be picking the taxpayers' pockets." The Government will be able to "loot your savings account," it says.

That compares with a passage in the 1980 Republican campaign platform, which opposed President Carter's withholding proposal: "They would literally rob the saver of the benefits of interest compounding."

Now, I leave it up to any fair-minded person, who is being the stronger in overstating his case? Would it be the bankers who said that they would pick the saver's pockets or would it be the Republican Convention which said they would rob him?

"Robbing" suggests that someone is breaking and entering feloniously at night or separating one from his wealth at the point of a pistol or a knife.

Mr. President, it is difficult to choose who was the more vitriolic in that regard. I suggest that we stop this thing of the pot calling the kettle black.

Now, Mr. President, to go further, the Senator from Louisiana had lost all interest in the matter some years ago until a majority of the Senate brought in a resolution taking the position that the Congress should under no circumstances engage in withholding on interest and dividends.

That was Senate Concurrent Resolution 92, 96th Congress, 2d session, June 12, 1980. This was reported on

July 23, the legislative day of June 12, 1980.

Mr. President, the resolution was reported by Mr. LONG as chairman of the Finance Committee. The RECORD will show Mr. LONG did not sponsor this resolution. He had nothing to do with it. It came from others. Let me just read the resolution.

Concurrent resolution declaring that the Congress does not favor the withholding of income tax on interest and dividend payments.

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the enactment of a withholding tax on interest and dividend payments would be detrimental to the economic well-being of the United States.

I confess, Mr. President, the Senator from Louisiana reported that resolution to the Senate. It was not his resolution: Whose resolution was it? The principal sponsor was Mr. CHAFEE. For himself and who? Mr. DOLE, Mr. LUGAR, Mr. GOLDWATER, Mr. DECONCINI, Mr. HATCH, Mr. DURKIN, Mrs. KASSEBAUM, Mr. STAFFORD, and so forth, Mr. President, 60 Senators in all.

I ask unanimous consent that the cosponsors be printed in the RECORD, Mr. President.

There being no objection, the cosponsors were ordered to be printed in the RECORD, as follows:

LIST OF COSPONSORS

Mr. Dole, Mr. Lugar, Mr. Goldwater, Mr. DeConcini, Mr. Hatch, Mr. Durkin, Mrs. Kassebaum, Mr. Stafford, Mr. Tower, Mr. Humphrey, Mr. McClure, Mr. Cochran, Mr. Church, Mr. Helms, Mr. Pressler, Mr. Ford, Mr. Garn, Mr. Randolph, Mr. Danforth, Mr. Hayakawa, Mr. Thurmond, Mr. Pryor, Mr. Zorinsky, Mr. Hatfield, Mr. Mathias, Mr. Wallop, Mr. Young, Mr. Schmitt, Mr. Cohen, Mr. Heinz, Mr. Roth, Mr. Laxalt, Mr. Durenberger, Mr. Baker, Mr. Stevens, Mr. Warner, Mr. Armstrong, Mr. Stone, Mr. Percy, Mr. Glenn, Mr. Leahy, Mr. Morgan, Mr. Nunn, Mr. Bumpers, Mr. McGovern, Mr. Tsongas, Mr. Schweiker, Mr. Hart, Mr. Eagleton, Mr. Boren, Mr. Metzenbaum, Mr. Melcher, Mr. Stewart, Mr. Williams, Mr. Levin, Mr. Gravel, Mr. Nelson, Mr. Riegle, and Mr. Bentsen.

Mr. LONG. Mr. President, that is a majority of the U.S. Senate, ably headed by the ranking member of the Finance Committee, Mr. CHAFEE, for himself and Mr. DOLE, who was at that time the ranking member of the minority side, and who serves with great distinction as chairman of the Committee on Finance at the present time.

Mr. President, here is a statement that I read off the wire, indicating that President Reagan charges that a compromise on social security legislation is being held hostage by "selfish banking interests and urged Congress to reject efforts to bar withholding taxes on interest and dividends."

I ask unanimous consent that this item be printed in the RECORD, Mr. President.

There being no objection, the news item was ordered to be printed in the RECORD, as follows:

WITHHOLDING

(By Jim Luther)

WASHINGTON.—President Reagan charged today that compromise social security legislation is being held hostage by a "selfish" banking industry and urged Congress to reject efforts to bar withholding taxes on interest and dividends.

"The social security and unemployment insurance lifeline that extends to millions of Americans . . . cannot be permitted to be severed by the obstruction tactics of a Washington lobby and its congressional friends," the President said in a written statement issued at the White House.

Because of the fight over the withholding amendment, it appears unlikely Congress will be able to meet its deadline of completing work before Easter on the \$185 billion measure to shore up the troubled social security system. Lawmakers plan to recess all next week.

Reagan met with congressional Republicans today and blasted the banking lobby for its tactics, according to Senator ROBERT J. DOLE, R-Kan.

After the meeting, Dole told reporters, "The President, in one of the rare times I have seen him really disgusted, threw his glasses down and said he's had it up to his keister with the banking industry for their distortion and outright falsehoods on withholding on interest and dividend income."

Dole, the manager of the social security legislation and the biggest champion of withholding, said Reagan singled out the American Banking Association or its "outright false information."

In his statement, Reagan said he would have "gladly signed" the social security legislation "to relieve legitimate worries about the economic security of so many."

"Now, however, a selfish special interest group and its congressional allies are attempting to make this vital economic security bill a legislative hostage," the President said.

The amendment to repeal withholding—"based on a campaign of distortion and designed to prove that the banks and other financial institutions can still have their own way in Washington—has no place in the bill pending before the Senate," he said.

Mr. LONG. Mr. President, I find myself asking that if one is in error, why must he be so self-righteous when he changes his mind? Why should he not concede that these are matters about which honest people differ? Some people might feel strongly one way, some might feel strongly the other way, and there is a lot to be said for both sides of the argument.

I, for one, Mr. President, am not convinced—with all the mail I have received, 58,000 communications at last count, many thousands of them handwritten—I am not convinced and I cannot believe that the people of Louisiana who sent me those communications are ignorant, stupid, or incapable of knowing what they are talking about. It just seems to this Senator that people are very well informed on the subject. They have been informed by both sides. I cannot believe that they do not know what they are talking about.

Furthermore, Mr. President, when the Senator made reference yesterday to the so-called two-way mirror, this Senator cannot find any basis for getting upset about that. What it appears

happened was that a public relations firm, seeking to determine how best to pursue their effort to convince the public, or persuade the public to their point of view, paid people \$25 each to sit down and talk about matters. They had someone looking through one of these mirrors where you can see through one way but you cannot see through the other, seeking to observe how people reacted.

Mr. President, there is no claim of right of privacy here. These are people who accepted \$25 to sit down and talk about matters of the day. Incidentally, that is good pay to talk about matters. Most people are willing to sit around a cracker barrel and talk about something for nothing, but here they are paying \$25 per head to sit down and talk to you, telling you what they think about matters. It seems to me that is a pretty nice proposition. People get my opinion all the time without paying, and I pick other people's minds from time to time without any pay. I see nothing wrong about that technique.

I should think that advertising firms might decide whether to recommend that their clients should put out purple hose rather than brown hose, or green hose rather than white hose. They might pay somebody, and I think that would be a generous thing to do, to pay somebody \$25 to sit down and give their opinion. One beautiful lady walks in with purple hose, and then a lovely lady walks in with lavender hose. Then they ask, "Which hose do you think is the more attractive? Which do you think would more attract the customer?"

Chances are, the person interviewed would probably answer the question based on the shape of what was in the hose. But, Mr. President, if they brought in two identical twins, then I think one might get an unbiased opinion as to which hose would be more attractive on a young lady and would be in a better position to suggest to his client which he would recommend.

I find nothing improper about that, Mr. President. It just seems to me to be one of prejudging his own position to say that there is some evil about someone seeking to test public reaction, by paying somebody \$25 to talk to them about matters and recording it.

I would be willing to bet if you went out there on the street right now and you asked, "How many people can we find who would be willing for \$25 an hour to talk about matters and give their judgment about matters, well understanding that somebody is going to be peeping through a mirror and recording everything they said about the subject? I would think that for \$25 an hour you would find a whole horde of people out there on Pennsylvania Avenue right now who would be willing to do something like that.

I think there is no point in someone suggesting anything improper about that matter.

I do think, Mr. President, that those of us who take a position have a responsibility to report to our constituents on what we did about it. Did we prevail? Did we have a vote? Did we win or lose? Did someone filibuster and delay? What happened?

Mr. President, the majority of the Senate indicated that we do think this provision for withholding on interest and dividends ought to be repealed. Having taken that position, Mr. President, as one of the group of more than 50 Senators, this Senator is going to continue to support the repeal effort.

Does the Senator from Montana desire that I yield to him at this point, Mr. President?

Mr. MELCHER. Yes, Mr. President.

Mr. LONG. I will yield for a question, if the Senator desires or otherwise I will yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Does the Senator yield the floor?

Mr. LONG. Does the Senator desire that I yield for a question or that I yield the floor?

Mr. MELCHER. I wanted to ask a few questions, if the Senator will yield.

Mr. LONG. I believe I will just yield the floor, Mr. President.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will be happy to yield to the Senator from Montana in a moment. I just want to compliment the senior Senator from Louisiana for upholding the banks, the ABA, and the other powerful lobbying groups. I cannot believe the Senator from Louisiana would defend the tactic of gathering 5 or 10 people together, without telling them that they are being watched through a one-way mirror, simply, because they are getting paid \$25. I guess what we need to know is, did the people know they were being watched, and do we know what they were being asked, or what they were being told?

The Senator from Kansas suggests he can almost hear the questions and statements, or mistatements, based on the ads we have seen run by the American Bankers Association.

One is that the 10-percent withholding is a new tax. If you get four people together in a room, and I do not care whether it is a one-way mirror or a two-way mirror (a two-way mirror might not help very much) if you said it was a new tax, and asked "What do you say about this?" they would say "I am against it."

And then throwing more raw meat into the cage, claiming that the law will be taking away savings, or hurting the elderly, you can stimulate people pretty well.

There is no doubt in my mind that these are experts. They demonstrate how good they are. I hope we can get the name of this marketing group because if they can sell this to the Con-

gress and the American people they can probably sell almost any candidate.

Maybe even those running for office want to look up this group. I would just suggest that if these people can market repeal of this law, which is nothing but collection mechanism, they may have a knack for selling candidates.

I do not really think that is the way the bankers in my State would deal with their grievances with the law. I do not believe there is any banker in the State of Kansas who would bring people into a room and peek at them through a mirror while somebody was feeding them some "raw meat," some inflammatory misinformation, in an effort to stimulate a proper response. I do not think that would happen—I am certain that would not happen in the State of Kansas.

I have heard a lot about the Republican platform. I did not realize the Democrats had so much interest in the Republican platform. That is the first time I have heard it mentioned in a couple of years. I am not even certain the Republicans have much interest in the Republican platform. Now we are getting all this bipartisan interest in the Republican platform. But there was a significant difference between the Carter proposal and the proposal that is on the floor today.

The Senator from Montana read with some enthusiasm a reference to the Republican platform. In the first place, the Carter plan required 15-percent withholding, not 10 percent. Second, the broad exemptions for the poor, the elderly, and the small accounts were not available. Third, the broad end-of-the-year withholding rules were generally not available under the Carter proposal. Thus, the proposal criticized by the Republican platform was very different from that of last year.

I am sorry to see the Senator from Louisiana leave. I was just going to read a statement he made on June 30, 1976. I voted with the Senator from Louisiana, he was so persuasive. The Senator from Louisiana said:

In 1962 the House passed a proposal very similar to what the Senator is proposing here. President Kennedy worked very hard to try to get us to agree to that. I was one who held out against it and would not support it at that time because it seemed to place a very heavy burden on the banks to do all the bookkeeping and handle this. I have had friends who are in the banking business tell me that with these new computers, and they say it confidentially—they are part of a fraternity and want to work together—it is really not much of an administrative problem at all. It would be very easy for the banks to comply with this withholding.

Furthermore, they have perfected the techniques to be used. Here is a situation where literally millions, perhaps 5 million and maybe even more, of taxpayers are successfully avoiding paying their taxes on interest and dividend income to the Government. As the Senator said, it is not a matter of closing a loophole, but this is just a

matter of catching tax cheaters. When we let as many as 5 million taxpayers chisel and cheat on the Government it is bad for taxpayers' moral. People feel they can cheat on their taxes and get away with it. So I would hope the amendment would be agreed to.

We have been under pressure to pick up some revenue to pay for the tax cut in the bill. We have had some pretty bitter fights about this. At least for the time being, if the amendment were agreed to, that would make the controversy over the budget item moot because we would have enough revenue where we would not have to argue any further about that for the time being.

He went on to say how this could be administered without any problem and President Kennedy's administration was satisfied.

Mr. President, I do not cite that to disagree with the distinguished Senator from Louisiana. We can all, as he says, stand here and say someone was on this side, someone was on your side. The broader point is that in 1982 we were faced with growing deficits, we were faced with high interest rates, we were faced with a falling stock market. The President of the United States, Ronald Reagan, said, "We have to take some tough action." One of the things he suggested was a \$99 million—some say tax increase; this Senator believes it is tax reform. In that package was tax withholding of 10 percent, with a lot of exemptions to take care of elderly and other low-income people. I suggest there is a vast difference between what happened in the Carter administration and now.

It is not popular. The Senator from Kansas agrees it is not popular. I do not quarrel with those opposed to it.

I have said on this floor a half dozen times the very thing the Senator from Louisiana said. Certainly, the people have a right to petition Congress, a right to redress their grievances. I suggest they ought to do it in an appropriate way. They ought to lay out the facts and should not try to deceive the American people. They should not say it is a tax when it is not a tax. That is the quarrel we have had, plus it does bother the Senator from Kansas a little bit, I guess, because it was this Senator who, last year, made the motion to delay withholding for 6 months so the banks could work it out. I now believe that they have used that 6 months, obviously not to work it out but to do it in.

I hope the Senator from New Mexico prevails. It seems to me if we can do this, I have just talked to the chairman of the Ways and Means Committee. He is still very hopeful we can go to conference and finish the social security package this week.

Mr. MELCHER addressed the Chair. The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, very clearly, on introducing the amendment, I based my support of the amendment on considering not only the merits of reconsideration of the withholding provisions, allowing for a timeframe for both the Senate and

the House to do that, but I also based it well knowing there would be revenue loss for this fiscal year. That, of course, requires a budget waiver.

We had a budget waiver on the bill. It was adopted unanimously without debate. Although the bill carries with it far more revenue loss than is involved in the revenue loss from my amendment, it was nevertheless routinely accepted by the entire Senate. No debate, a simple statement of the resolution, and unanimous adoption.

To belabor the budget waiver on this amendment is a technicality which those opposed to the amendment will attempt to use to evade voting on the merits of the issue involved in the amendment. A vote on a budget waiver does not change the issue at all on what is involved in the amendment. Being for the amendment implies agreement with the waiver.

There is no way to stretch the imagination or to stretch the record or to alter the record but what a vote against the budget waiver is a vote against the amendment itself. Since it was planned to make a point of order against the amendment for lack of a budget waiver, I offer this motion not to delay consideration of the amendment or the underlying bill but to move on, to make progress, and to do exactly what the Senator from Kansas, the chairman of the Committee on Finance, has indicated we should do, attempt to pass the bill today.

Instead of promptly adopting the waiver by unanimous consent or voice vote, we have had more of the same filibuster, more of the same argument, hoping that, somehow, the individual Senators will either be confused or be tired of the whole argument and just vote against the budget waiver. My intention is to move as expeditiously as the managers of the bill will allow and get on with the vote, not only on this amendment but to subsequent amendments that will be offered to the bill, and get on with passage.

Reference was made to what the Treasury Department announced on March 2, where, in Treasury News, a press statement quoting the Treasury Department says:

The Department of the Treasury today announced revisions to the regulations regarding withholding on dividends and interest and on the broadened information reporting rules, to take into account concerns raised by Members of Congress and affected financial institutions.

The announcement states that Treasury will defer the effective date for withholding with respect to original issue discount instruments until January 1, 1984.

I had earlier introduced a sense of the Senate resolution which would put the Senate on record as advising Treasury to delay the withholding procedures until at least October 1. On March 2, the Treasury Department issued this statement and said they needed more time in order to implement withholding on certain instruments—which, by the way, include

Treasury notes and bonds they themselves sell. They need more time to institute the tax withholding procedure on Treasury notes and bonds.

Let me ask this: Is this not the very area or rather the two areas—the original issue discount instruments including (a) Treasury bills, (b) other discount instruments where Treasury Department officials state that there is tax loss? Those are the two areas. These are the two areas the Treasury Department and the Joint Committee on Taxation agree have been the two prime areas where there has been a problem collecting the taxes due on interest.

That is where the Treasury has said that, in particular, they want to zero in, because they believe the proper amount of income taxes have not been paid on interest that holders of these bills or other instruments have. Holders of these investments have evaded paying their just taxes in many instances, Treasury officials have asserted.

What is going on here? This is the area in which they said they feel there is a large amount of cheating. They want to close the loophole, close the gap, collect the money. On Treasury's own volition they are going to delay starting withholding until January 1; hence, my amendment is offered to coincide with that. That is the area in which they want to zero in. They feel a lot of money is escaping, a lot of interest payments are escaping reporting, and therefore the taxes are not being paid on them.

By their own admission and by their own volition, under their own regulations, they are delaying the implementation of withholding procedures called for in the tax law of 1982, the very subject we are talking about.

Was there any budget waiver on that? Has anybody taken into consideration the revenue loss involved in that delay? Of course not. There is no budget waiver on that. None is necessary, because it is not before us. Yet, it is a revenue loss.

To be honest about it, in the debate on this particular point, those who are opposed to our amendment should concede what that revenue loss is.

I might point out that the Treasury says they are flexible on the bank float. In other words, they are flexible on how many days the banks or the savings and loans or the credit unions may hold the taxes amounting to 10 percent collected from each customer—how long they can retain that money before turning it over to the Treasury. The Treasury Department officials say they are flexible on that.

The chairman of the Finance Committee has stated that bankers complained about that, so the Treasury very promptly said the institutions can have another 30 days. Or is 45 days adequate? Is there a budget waiver on the revenue loss there? Or is the float time going to be extended even more?

Would we even consider the revenue loss there? Of course we should, if we are going to be completely honest and fair and complete about what we are talking about in raising revenue.

I point out that what is being done does cost Treasury money. The 90,000 employees IRS has on the payroll, paid for out of Treasury funds, have work to do in connection with this particular withholding provision in the law.

There were requests for a delay in the areas I have mentioned. The Treasury Department has established the delay. They have established it under their own regulations. They have done so because they cannot get ready before then. In order to get ready for the rest of it, affecting ordinary taxpayers what they are doing is sending out with every tax refund the Form 662-A which I described yesterday. It describes to the individual taxpayer what they are going to start doing in connection with withholding on interest and dividends beginning July 1, if there is no change in the law.

I am advised that 50 million of these are being tucked in the envelopes with the refund checks. We are told by the Senator from Kansas, the chairman of the Finance Committee, that everybody who receives a social security check on April 1 will also have one of these forms inserted into the envelope along with the check. That is another 36 million. Yes, they are busy preparing these forms in order to be able to explain the collection of the taxes withheld. That costs money. There is no budget waiver on those. They have been busy preparing this brochure I have here. It is on a pretty good grade of paper. They probably cost about 6 or 7 cents apiece. The questions and answers in this Treasury Department brochure deal with withholding on interest and dividends. I will read only the last question and the answer.

The question: "Why couldn't the Government simply strengthen the information reporting system in order to accomplish the withholding?"

The answer: "Much nonreporting is due to inadvertence, forgetfulness and failure to keep records. Any attempt to reach this unreported income through information reporting and audit procedures would require millions of telephone calls, letters, and visits, many involving small amounts of tax, which inevitably would have been regarded as "harassment" of taxpayers."

Treasury Department March 2 press release describes the area in which they are going to wait for January 1, which they have identified as an area where they really want to zero in, where they feel there are large amounts of tax due from taxpayers who are evading payment. For Treasury notes and other discount instruments—there is going to be a delay until January 1 to start withholding taxes. But for ordinary taxpayers with savings accounts.

I want to return to that answer in the brochure. The last phrase says that "telephone calls, letters, and visits * * * would have been regarded as harassment of taxpayers." The word "harassment" is in quotation marks.

So, rather than harassing those individuals who they feel constitute the big area in which many tax dollars are escaping, they will delay that to January 1, and they are going to send out these forms to the rest of the taxpayers and start collecting on July 1.

I think that is the answer as to why we are getting the letters we are receiving from constituents complaining. They see through the IRS method of collection of additional taxes.

People feel it is harassment. People feel it is unnecessary. People feel it is just some more redtape. People feel it is just another step by the IRS, and they do not really believe that the cost of doing it really nets out much revenue gain.

I agree. I think in the revenue estimate by Treasury the revenue gain is overestimated. But I use their figures in stating my case. Those figures are—\$1.1 billion.

My motion is for a budget waiver on the amendment and hopefully it will be a favorable vote so we can get on to the real issue of voting on the amendment itself, pass it hopefully, and then get on with the rest of the amendments to the social security bill and final passage.

The VICE PRESIDENT. The majority leader is recognized.

MR. BAKER. Mr. President, I will not take very long because I agree it is time for this issue to come to a head. But before we vote, I wish to make an effort to establish an historical perspective on where we are now, and how we got here.

I can recall more than a year ago, a year ago last August, in fact when I had the opportunity to meet with President Reagan and my colleague and cohort on the other side of the Capitol, the minority leader, Congressman MICHEL, and a few others. When we were talking about social security at that time it was about minimum benefits. That encounter was one of what has now grown to be a list of several cases in which I was required, according to the dictates of my conscience, to tell the President that I did not think he should do what he had proposed to do in respect to social security and minimum benefits because, as I pointed out then, I thought and I think now that social security is such a politically explosive, and such a devastatingly important political issue that unless we can drain some of the heat and energy out of that issue, Congress will be immobilized and find it impossible, or virtually so, to do the necessary reform to the system as a whole.

At that time I felt that there was the imminent danger that social security would become the No. 1 political

football of this century. Perhaps it should. I do not know many issues that affect as many people as social security does, so many people are dependent and have no other recourse to a livelihood and subsistence except for social security. It is a devastatingly important issue. I thought last year and I think now, Mr. President, that on occasion the political system of the United States recognizes in its own unique and perhaps unusual way that some issues are so important that they must not be politicized, that we simply have to rise above the usual and necessary partisan political conflict and address the issue at hand on a bipartisan basis. It is not often that we act in such a manner, but when we do, I think they are the best moments of our political system.

It was in the wake of my conversation with the President and his advisers and in the wake of subsequent developments that the President sought the establishment of a bipartisan commission to consider the social security question. It was an attempt to depoliticize in, an attempt to form a commission modeled after the Water Quality Commission which was chaired by then G. Nelson Rockefeller, that commission produced a series of recommendations which were largely enacted into law and were the result of a bipartisan effort that was widely celebrated and cheered.

The President proposed that he would appoint part of the Social Security Commission, that the Speaker of the House of Representatives would appoint part and I would appoint part. Indeed this was done in collaboration with my friend and colleague, the minority leader of the Senate, and the Speaker invited the minority leader of the House Representatives to participate as well. So the bipartisan Commission on Social Security was constituted, the latest embodiment of an effort to rise above partisan political advantage to address an issue of burning, compelling importance.

And how well I recall reports of that Commission's deliberations about how pessimistic the Members were that any agreement could be reached and how their hopes were buoyed up and then dashed on the rocks of disappointment. But finally, Mr. President, the Social Security Commission produced a result and by near unanimous vote recommended fundamental and important and vital changes in the social security system on a bipartisan basis, and those recommendations were reported to the House of Representatives and to the Senate.

I recall at that time, Mr. President, that many politically seasoned observers remarked at that time, "Well, this is a good recommendation but it will never hold together, the package will fly apart because partisanship will once again emerge and destroy the best efforts of this Commission." But those remarks proved to be false, Mr.

President; indeed, the package was enacted by the House of Representatives with no fundamental changes, and that is a tribute to the ability of Republicans and Democrats in the House of Representatives to rise above partisan political advantage and to address a basic need of the Nation.

So now the bill reaches the Senate, and now the challenge rests with us. Are those who predicted that the package will fly apart because of partisan consideration or personal political advantage correct? Or is the Senate going to continue the tradition that was begun by the President, extended by the Speaker of the House of Representatives and by the bipartisan Commission on Social Security, and confirmed by the House of Representatives and laid before the Senate for the final challenge? Are we going to fail to carry out that effort to depoliticize this most important fundamental political issue? That is precisely what we are confronted with at this moment.

The perspective I would propose to suggest to the Senate is this: Against that background, let me suggest that the motion to waive the provisions of the Budget Act made by the distinguished Senator from Montana in layman's terms is the following: Senator MELCHER is saying in so many words, "I ask the permission of the Senate to add an extraneous measure to this bill, this social security package, which was not recommended by the Commission, which makes a fundamental change and probably will blow this package apart. And that I recognize that it is not in order because the Budget Act prohibits it unless the Senate will grant its consent."

That is the perspective. Will the Senate grant its consent for an amendment to be offered to this package that the House of Representatives would not accept, that the Commission did not accept, and which will threaten and endanger the fundamental aspects of a bipartisan effort to cure important defects in the Social Security System?

That is what we are being asked to do, to give consent of the Senate to do what the House of Representatives declined to do, what the Commission declined to do, and what the country does not want done.

Mr. President, I am not here to argue the merits of withholding of interest and dividends. Nor do I think that should be the issue before the Senate because the Senate has decided in its wisdom to schedule a debate on that issue on April 15 this year. I did not take any offense when questions were raised about whether that would actually occur or not, and I agreed, indeed, as I recall, I suggested the possibility of calling up the chosen vehicle and making it the pending business before the Senate so that an interest and dividend withholding amendment could be offered at that time and then to lay aside that measure to resume

automatically as the pending business on April 15.

Some asked: Does that mean we cannot offer it to social security? And I said, of course, it does not mean that. But I devoutly wish for a different result. I said then and I say now I hope that will not be done, and I hope the Senate will not now give its consent for that to be done, for the vote we are about to cast is not in favor of or against interest and dividend withholding; the vote we are about to cast is whether the Senate will give its consent to add this extraneous matter to the social security package. That is the question, Mr. President.

The VICE PRESIDENT. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I move to table the motion to waive the Budget Act—

Mr. MELCHER. Mr. President, will the Senator withhold a minute?

Mr. MOYNIHAN. I withhold without losing my right to the motion I have just made.

Mr. MELCHER. I thank the Senator for doing that. I merely want to emphasize to the Senate that a great number of the amendments that have been accepted, already accepted, do have a budget impact, and points of order were not lodged because it was agreed by the Senate to vote on the issue itself, the issue contained in the amendment.

The same point of order or the same requirement, the same procedure of insisting on a motion for a budget waiver on a particular amendment was not made. And in this case, I just emphasize that what we are voting on is the issue itself. A vote against the budget waiver is a vote against the amendment to delay starting up the withholding of taxes on savings and dividends until January 1.

Mr. MOYNIHAN. Mr. President, I move to table the motion to waive the provisions of the Budget Act.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from New York to lay on the table the motion to waive the provisions of the Budget Act. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. SIMPSON) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—54

| | | |
|-------------|------------|-----------|
| Abdnor | Gorton | Moynihan |
| Andrews | Grassley | Murkowski |
| Baker | Hart | Packwood |
| Bentsen | Hatch | Pell |
| Bingaman | Hatfield | Pressler |
| Boschwitz | Hawkins | Roth |
| Chafee | Hecht | Rudman |
| Chiles | Heinz | Specter |
| Cochran | Jackson | Stafford |
| Cohen | Kassebaum | Stennis |
| D'Amato | Kennedy | Stevens |
| Danforth | Lautenberg | Thurmond |
| Dodd | Laxalt | Tower |
| Dole | Leahy | Trible |
| Domenici | Lugar | Wallop |
| Durenberger | Mathias | Warner |
| Garn | McClure | Weicker |
| Goldwater | Metzenbaum | Wilson |

NAYS—43

| | | |
|-----------|------------|----------|
| Armstrong | Glenn | Mitchell |
| Baucus | Heflin | Nickles |
| Biden | Helms | Nunn |
| Boren | Hollings | Percy |
| Bradley | Huddleston | Proxmire |
| Bumpers | Humphrey | Pryor |
| Burdick | Inouye | Quayle |
| Byrd | Jepsen | Randolph |
| DeConcini | Johnston | Riegle |
| Denton | Kasten | Sasser |
| Dixon | Levin | Symms |
| Eagleton | Long | Tsonfas |
| East | Matsunaga | Zorinsky |
| Exon | Mattingly | |
| Ford | Melcher | |

NOT VOTING—3

| | | |
|----------|----------|---------|
| Cranston | Sarbanes | Simpson |
|----------|----------|---------|

So the motion to lay on the table the motion of the Senator from Montana to waive the provisions of the Budget Act was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLÉ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The VICE PRESIDENT. The Senator from New Mexico.

Mr. DOMENICI. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. DOMENICI. A parliamentary inquiry, Mr. President. Does this amendment violate section 311 of the Budget Act?

The VICE PRESIDENT. It does.

Mr. DOMENICI. Mr. President, I raise the point of order against the amendment under section 311 of the Budget Act.

Mr. MELCHER addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, I wish to debate the point of order.

The VICE PRESIDENT. The point of order is not debatable except at the sufferance of the Chair.

Mr. DOMENICI. Has the Chair ruled on the point of order?

The VICE PRESIDENT. The Chair has not ruled. The Senator may be heard.

The Senator from Montana.

Mr. MELCHER. I thank the Chair.

The vote which just occurred, while a procedural vote, is, nevertheless, a

vote on the substantive issue. As such, it was a denial on the procedural vote of getting to the final vote on the amendment. The motion for the budget waiver was made by me and was made with full knowledge that a point of order would be raised on the amendment as conflicting with or violating the Budget Act, and I did not receive the waiver. Those waivers are generally granted by unanimous consent and indeed, sometimes not even unanimous consent is asked on a budget waiver. A vote is just taken on the amendment and the amendment is voted up or down. That is the will of the Senate as a result and the budget waiver requirement is ignored.

There are perhaps six—I am advised several—probably six amendments already accepted to this bill that impact the budget and would be subject to a point of order, requiring a waiver of the budget rules.

The usual procedure of the Senate is to vote on the issue and as far as I am concerned, the vote that has just occurred prevents a vote on the issue, making the vote on a procedural motion which is ordinarily granted without debate and sometimes, as we find even with this bill before us now, a waiver from the budget is not even asked for, but amendments have been accepted and are part of the bill now.

Mr. President, I thank the Chair very much for recognizing me. I wish to inform my colleagues in the Senate that I have no intention whatsoever, and I doubt whether anybody else would have any intention, of further taking up the time of the Senate by, for instance, appealing the ruling of the Chair, which the Chair is about to make. I do so with the firm belief that, having taken a vote, procedural or otherwise, which is on the merits of the amendment itself, there is no need to prolong the debate. The vote has been cast, the decision has been made, and the Senate will work its will as it should.

The VICE PRESIDENT. The Chair rules that the point of order is well taken. The amendment falls.

The Senator from Kansas.

Mr. DOLE. Mr. President, first, I wish to thank the Senator from Montana. I indicated for the RECORD earlier that the Senator from Montana has been conducting debate on this issue—

Mr. STENNIS. Mr. President, may we have quiet here? I would like to hear what the Senator has to say and I think others may, too.

The VICE PRESIDENT. The Senate will be in order.

Mr. DOLE. The Senator from Kansas wishes to note for the RECORD that I complimented the Senator from Montana privately. I also wish to do so publicly because he has carried on this debate in a very high-level manner. I am willing now to move very quickly to finish the social security package. I think we can do that. I would appreci-

ate the cooperation of all Senators with amendments.

It is my hope to stay in session as long as we wish tonight or until early morning. I have had a conversation with the chairman of the Committee on Ways and Means. He would still like to go to conference, if possible, tomorrow afternoon or early Thursday and pass this and have it on the President's desk sometime between now and the weekend, or early next week.

I think the pending amendment was the amendment of the distinguished Senator from Pennsylvania. Is that correct?

I would like to make a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. DOLE. Is there an amendment pending?

The VICE PRESIDENT. Only the substitute amendment is pending.

AMENDMENT NO. 528

(Purpose: To remove the Social Security Trust Funds from the unified budget)

Mr. HEINZ addressed the Chair.

The VICE PRESIDENT. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I call up my amendment No. 518 and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 528.

Mr. HEINZ. I ask unanimous consent that further reading be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, insert the following:

REMOVAL OF SOCIAL SECURITY TRUST FUNDS FROM THE UNIFIED BUDGET

SEC. . Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"REMOVAL OF SOCIAL SECURITY TRUST FUNDS FROM THE UNIFIED BUDGET

"SEC. 1136. (a)(1) For the fiscal years beginning after September 30, 1984, and ending before October 1, 1988, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplemental Medical Insurance Trust Fund, and a separate category for estimates of revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States Code, for each such fiscal year. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of outlays and revenues for such Trust Funds and

estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1984, and ending before October 1, 1988, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplemental Medical Insurance Trust Fund and in specifying the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(b)(1) Notwithstanding any other provision of law, at the time the President submits the budget under section 1105(a) of title 31, United States Code, for any fiscal year beginning after September 30, 1988, and at the times the President submits the supplemental summary and changes in budget authority, outlays, and receipts under section 1106 of such title for any such fiscal year, the President shall transmit to the Congress a separate statement specifying requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year and estimates of revenues for such Trust Funds and revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year. The budget for any such fiscal year submitted under section 1105(a) of title 31, United States Code, and any supplemental summary or changes in budget authority, outlays, and receipts submitted under section 1106 of such title for any such fiscal year, shall not contain any requests for new budget authority or any estimates of outlays or revenues for any such Trust Fund for such fiscal year or any estimates of revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1988, shall not include in the provisions specifying—

"(A) the appropriate level of total new budget authority and total outlays required under section 301(a)(1) of such Act for such fiscal year;

"(B) the estimates of total new budget authority and total outlays for each major functional category required under section 301(a)(2) of such Act for such fiscal year; or

"(C) the recommended level of Federal revenues required under section 301(a)(4) of such Act for such fiscal year,

any amounts attributable to budget authority and outlays for the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for such fiscal year or any amounts attributable to revenues for any such Trust Fund or revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 for such fiscal year.

"(3) Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1988, or any amendment thereto or any conference report thereon, shall not contain any specifications or directions described in the second sentence of section 310(a) of such Act which relate to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or revenues from taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954.

"(c) The budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for any fiscal year beginning after September 30, 1988, shall be exempt from any general limitation imposed by statute on budget outlays of the United States, including any limitation on net lending.

"(d)(1) For the fiscal year beginning on October 1, 1988, and the succeeding fiscal years, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and a separate category for revenues for such Trust Funds and revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States Code, for each such fiscal year. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of outlays and revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1988, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund and the recommended level of revenues for such Trust Funds and for revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such

Trust Funds and revenues from taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(e) The provisions of subsections (a)(2), (b)(2), (b)(3), and (d)(2) are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(f) For purposes of this section—

"(1) the term 'budget outlays' has the same meaning as in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974;

"(2) the term 'budget authority' has the same meaning as in section 3(2) of such Act; and

"(3) the term 'concurrent resolution on the budget' has the same meaning as in section 3(4) of such Act."

Mr. HEINZ. Mr. President, this amendment was put into the RECORD by me on Friday. This is the amendment that would remove social security trust funds from the unified budget. On Friday, I spoke at some length on the merits of this amendment. We did not take the amendment up at that time out of fairness to Senator DOMENICI and Senator CHILES who had engagements out of town and have very strong views on the amendment. We wanted to be sure we could fully debate this amendment. I shall not repeat for the Senate all the remarks I made on Friday. I shall simply summarize the arguments I made.

Before I do that, however, I am advised that Senator PERCY and Senator RIEGLE wish to be cosponsors of this amendment. I ask unanimous consent that they be so included.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

Mr. HEINZ. Mr. President, first, I want to make clear to my colleagues that this amendment would remove the operations of the OASI and DI trust funds from the President's budget, from the concurrent resolution, and from the reconciliation process, effective with fiscal year 1989. In that respect, it tracks the House amendment that is in the House bill, H.R. 1900. Some have suggested that we should separate OASI and DI from the unified budget but leave it in the reconciliation process. Leaving OASI and DI in the reconciliation process might remove it from the budget on paper but it would leave social security in the budget process in fact.

Legislating social security changes as part of the budget reconciliation process is, in my opinion, very unsatisfactory regardless of which piece of paper

you use to account for its operations. With social security subject to reconciliation, it seems to me we would still be forced to debate social security changes in the context of the annual effort to reduce budget deficits. And we would be forced to do that this year, next year, and the year after because, as we look at those horrendous budget deficits, they show no signs of disappearing on any horizon that this Senator is able to see.

Furthermore and most importantly, Mr. President, I believe the greatest source of public confusion and public cynicism about social security financing comes from the fact that we have been talking about the financing problem and our tremendous budget deficits in the same breath. How is anyone out there supposed to know that we are not balancing social security on the backs of the elderly, as some say, or not raiding the trust funds to finance the defense budget as some have accused us of trying to do, if we are making all of these judgments at the same time each year as part of the budget process?

I want to be very clear about this, Mr. President: the amendment I am offering would remove social security OASI and DI from reconciliation and require Congress to address the budget and social security as separate issues.

Why do I think we ought to treat social security separately? For one thing, it used to be separate. It was only in 1968 that we combined it with the rest of the Federal budget. It has always been a very distinct kind of Federal program. That is why I think it should be separate now.

What kind of a program is it? Unlike any other kind of program, it is a social insurance program. It is not welfare, it is not even like the medicare program, where the benefits of the medicare program bear no relationship to the amount of contribution. This is a program that is financed by its own worker tax contribution quite apart from the income tax we use to finance most other Federal program. It is judged over a far longer period of time than most other Federal programs in the Federal budget process. The Congress reviews fiscal policy with a 1-year, or a 3-year, or, maybe, on the rarest of occasions, a 5-year horizon. Most changes made in spending or taxes through the budget process take effect within a year or two—usually a year or less—with very little warning to those affected.

On the other hand, the social security program has a horizon that is much longer. This bill looks forward 75 years. We cannot and we do not, in this solvency bill, cut benefits in the program quickly, because those now retired make a lifetime of payments in the expectation of receiving benefits, benefits that we do not want to change quickly, because that would force them to change their retirement plans significantly.

By the same token, those working today in expectation of receiving benefits in 20 or 30 years need adequate, fair warning to adjust their retirement plans. That is why when we change the retirement age, we do it in the next century, some 30 years from now, before it becomes fully effective.

So in this social insurance program, they review this financial status with the help of actuaries not over a 3-year or a 5-year or even a 20-year horizon but over a 75-year period.

To consider social security only in terms of its financial condition in the next year or so forces Congress to make changes on short notice to achieve immediate budget savings and destroys the notion we have tried so hard to create, that social security is a retirement program that younger workers today can count on tomorrow.

Until social security financing is separated from the annual search for some kind of quick fix in the budget, younger workers are going to be hesitant to plan on social security, to plan on having its benefits, and they will remain cynical about not just the program but also the Congress that proposes to defend it.

Mr. President, there is another danger included in the OASDI cash benefits program, the annual budget process, and that is that the immense size of this program makes it an irresistible target for budget cuts, whether or not those cuts are needed to finance the program.

With \$200 billion a year in budget deficits facing us for as far as we can see, absent a good deal of action, and social security accounting for \$1 out of every \$6 we expect to spend in that budget, sooner or later somebody is going to come along in the search for budget cuts and latch onto social security. Even though we do not think that is going to happen today or next year, mark my words, that is what will happen.

Social security is a tempting target, because, with 35 million beneficiaries and 150 million contributing workers, a very small change in the program can result in substantial revenues or substantial savings in outlays in a very short period.

I have seen on this floor some very small changes made in the last 3 days that, frankly, will result in tens of billions of dollars difference in the next several years on what is in—or, in this case, not in—the social security system. Some of my colleagues did not even know what was happening at the time, I suspect.

Only when social security is out of the unified budget and the annual budget process, can we assure ourselves and the public that changes made in the program are to improve the financing of the program and to insure its solvency and that they are not there to eliminate our budget deficits.

Mr. President, some of our colleagues are concerned that social secu-

rity spending will rise uncontrollably in the future, and they feel that only keeping social security in the budget will force Congress to exercise fiscal discipline in this program. In my opinion, social security is an amazingly stable program in the long run. That is contrary to the conventional wisdom, but the statistics belie the conventional wisdom. OASDI outlays are expected to fluctuate, roughly, between 4 percent and 6 percent of GNP over the next 75 years; but 75 years from now, they are expected to be about where they are today—about 5 percent of the gross national product.

It seems to me that having its own dedicated payroll tax clearly identified as such on payroll stubs is the best source of fiscal discipline for this program. I cannot imagine, for the life of me, how mixing this financing with financing of every other program helps Congress control the cost of this program. It seems to me that the more we mix it in, the more difficult it is to control anything. The more apparent the separate financial condition of the program is, the more exacting Congress will be in assuring that it is financed adequately.

If you look back at the last 2 years, 1981 and 1982, I think you will agree with my case. In 1981 and 1982, the Budget Committee came along and said we need \$40 billion or \$20 billion or \$10 billion to make the social security system solvent.

No. 1, not only did we not believe that was enough to make the system solvent—those of us who have a little knowledge of the system—but also, the American public did not believe that those changes had anything to do with social security, just were needed to make the President's budget look a little better.

If we look at the financing for the OASDI program over the next 75 years, I think it is apparent that even though the program is expected to be financed adequately as a result of the measure before us, it will present serious problems of a magnitude we cannot fully realize now to the budget process.

I have a chart behind me, Mr. President. The chart I have here has been prepared on the basis of the bill reported by the House Ways and Means Committee. Unfortunately, that bill, which is far different from the one the House passed and sent us, included a hefty tax increase that we do not have in our bill. We chose to restrict the growth of benefits instead. Nonetheless, the charts show us quite clearly that over the next 30 years the social security system is going to develop some very, very large surpluses, and that sometime after the year 2020, social security will start spending those surpluses as a result of experiencing a number of years of very significant annual deficits.

As I think my colleagues can see on the second chart, OASDI trust fund

reserves will begin to grow quite steeply starting in 1990, very steeply indeed, until about the year 2015 or 2020, when they will reach a peak of nearly \$3 trillion. In 1983 dollars, not 2020 dollars, \$3 trillion in reserves.

What does that mean? What it means is that we are going to be under more temptations than Adam and Eve ever dreamed of to spend those reserves on things on which they should not be spent.

By the time we wake up to that problem and wake up and find that we have created a whole new set of spending programs, about that time we are going to start finding out that we are running huge deficits in the social security programs as we now know we are going to do and as we have provided for, and we will not have the money to pay our social security benefits that we are promising people today.

Mr. President, unless we separate social security from the budget it is absolutely inconceivable to me that we are going to be able to finance social security in any kind of a rational way in the long run, even though spending in this program is expected to be relatively stable in relation to the economy.

Left in the unified budget there does not seem to be anything we are going to be able to do except spend social security surpluses on other programs in the surplus years and cut social security in the deficit years.

Mr. President, that clearly is bad and irresponsible budget policy, and it is irresponsible and destructive social security policy.

So I ask you, Mr. President, what assurance can we provide young workers that retirement benefits are going to be there if we know right now we are going to slash benefits beginning in every year starting in the year 2020? Without some assurance that this program will be treated like the social insurance program that it is, how can we expect young workers who are paying into social security today, nearly 100 million of them, to trust that the benefits that they pay in taxes are going to be there when they retire 30 years from now?

The answer is unless we separate social security as I provided, I do not think we can. The only answer is for this Congress to take strong action to restore public confidence in the social security program before the broad-based public support for this program begins to unravel.

The bill before us, as amended by the Finance Committee, H.R. 1900, is a very good bill in that respect, not that everyone likes everything in it, but it does do the job that we have been saying should be done, namely, to either raise the revenues or slow the growth of benefits so there will be a social security system for young people and their children when they eventually retire.

But if we just leave it at that, if we do not take the second step, if we do not insure that the surpluses we produce from passage of this legislation will be protected we will be back here on this Senate floor—it may be 20 years from now—and we will be saying to ourselves, “I thought those fellows back in 1983 solved the mess, but look at the mess we are in now.”

Mr. President, we do not have to be in that kind of mess 20 or 30 years from now. Announcing our intention by the adoption of this amendment today, to treat this program responsibly with an eye to the long-term commitment that underlies it, is the way to address that concern.

So I ask my colleagues to join me in assuring that social security will be treated responsibly by separating it from the unified budget and the annual budget process.

Mr. STENNIS. Mr. President, will the Senator yield briefly to me?

Mr. HEINZ. I am pleased to yield to the Senator from Mississippi.

Mr. STENNIS. Let me commend as well the Senator for a fine explanation here of this highly important amendment. It shows thoroughness, completeness, and represents a lot of work on his part. He has rendered a real service here in preparing and delivering that speech.

I did not get to hear the first part, but I understand this is an unconditional and complete separation from what I call the general budget and sets all of these funds for this particular purpose up in the budget of its own.

Mr. HEINZ. The Senator is correct.

Mr. STENNIS. I do not think the Senator could have chosen a more important subject with reference to the entire matter that we have this year.

Mr. President, I ask unanimous consent that I may be joined as a cosponsor, one of the sponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Again I thank the Senator.

Mr. HEINZ. I thank the Senator from Mississippi for his very kind remarks. I am honored to have him as a cosponsor.

Mr. STENNIS. I thank the Senator.

Did the Senator say it is going to reach a point in the year 2020 or 2030, somewhere in there, of \$3 trillion? What were his figures?

Mr. HEINZ. The Senator is correct. According to the analysis of the Ways and Means Committee bill there will be a surplus that will under their bill approach some \$2½ trillion to \$3 trillion. We are used to dealing with billion around here. But I say again this is trillion dollars, which is nearly inconceivable, but that amount will take more than twice our current national debt that we all say we are never going to be able to pay off.

Mr. President, if the Senator will permit me, this is the way we can eliminate a very substantial amount of

that national debt because social security will be able to absorb it and in that respect such investments will be in the social security system and most welcome rather than in the general funds of the Treasury.

Mr. STENNIS. I was here when it was separated. Very few knew when it happened.

Mr. HEINZ. Not everyone can make that statement.

I thank my good friend from Mississippi.

Mr. RIEGLE. Mr. President, if the Senator has completed, I wish to make a statement.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair.

Mr. President, I am pleased to join with my colleague from Pennsylvania, Senator HEINZ, in offering this amendment which would remove social security from the unified Federal budget.

I think it is important to know that Senator HEINZ served in a distinguished way on the Social Security Commission and the Social Security Commission has made this recommendation.

The amendment that he and I and the other cosponsors are offering today is an amendment that had the endorsement of the Social Security Commission, which included other distinguished Senators, including that of the Senator from Kansas, Senator DOLE, and Senator MOYNIHAN.

So we have in behalf of this concept the full endorsement of the National Commission on Social Security, and this particular item was also included in the House-passed bill. So this is not a new issue.

This is an issue that has been looked at at length. It has been debated at length and, as I say, is a recommendation of the President's Commission on Social Security.

The amendment we are offering today would first require that in fiscal year 1984 the three social security trust funds, the old age and survivors, disability, and hospital insurance trust funds, all of which are funded through a separate payroll tax, be included in a separate functional category in the Federal budget. Also included in this separate budget function would be the Federal supplementary medical insurance trust fund which is mostly funded from general revenues. In the fiscal year beginning in 1989, the old age and survivors and disability trust funds, which are payroll financed would be removed entirely from the unified budget, while the hospital insurance and Federal supplementary medical insurance trust fund would be retained in its separate functional category.

As a member of the Budget Committee, I am particularly concerned that any changes that are made in the social security system are considered for reasons relating to social security and not become tied up in the endless debate on other Federal budgetary

considerations. As recently as last year the administration endorsed budget included \$40 billion in unspecified cuts in social security. The cuts which were recommended at that time had the appearance of helping to reduce the Federal deficit but offered no assurance that social security benefits were not being cut beyond what was necessary to preserve the social security system by itself as a free standing entity.

One need only review the events of the last 2 years to see the justification for this concern. In May 1981, the Reagan administration unveiled a package of massive and unprecedented cuts in social security, whose magnitude went far beyond anything reasonably needed to protect the safety of the social security trust funds. The administration's proposal would have built up substantial reserves in the social security trust funds which would be applied toward helping the administration meet its other objectives in the Federal budget. That same year we saw the reconciliation bill—an arm of the budget process—used as the vehicle for elimination of the minimum social security benefit and making other reductions in the program. Also, last year during consideration of the budget resolution, further attempts were made to enact unspecified cuts of \$40 billion out of the social security system. These cuts would have produced budget “room” for other Federal spending categories without any assurances that social security benefits would not be cut beyond what is absolutely necessary to preserve the system's financial integrity.

So I think it is clear what ought to be done here is what the Social Security Commission named by the President has recommended, namely we separate these funds out of the budget, and that we handle them on their own basis.

We are taking the other steps to insure their integrity in terms of new outside public participants on the board and by the financial steps that we are taking to put the system on a sound financial footing from an actuarial point of view. The particular recommendation of the Commission we are now considering is fully in keeping with that set of moves, and I think the best and surest way for us to eliminate the temptation to go in and, as the Senator from Pennsylvania says, try to latch on to those social security reserves in future years as those reserves build up. What we are doing here is to take and move them over into a separate category where we cannot get at them in the budgetary framework and where the financial integrity of social security and the revenue-benefit relationships will be maintained solely in their own right and protected in that fashion.

Mr. President, in addition to concerns what social security should not be part of the political forces which

are part of the budget process, we must remove the temptation to use social security trust funds to disguise the extent of the deficit in the rest of the budget. Fluctuations in trust fund balances are cushioned by trust fund reserves, but as long as social security remains a part of the unified budget they also appear to effect the Federal deficit or surplus, which provides misleading information of the annual budget deficit.

Over the past few years, social security has been running an annual deficit and thereby paying benefits out of the reserves in the trust funds. This made it appear that the Federal Government had to engage in new borrowing, when in fact the total deficit created by the shortfall in social security revenues was met by using surpluses from previous years. In addition, in the next few years, after we enact the legislation we are now considering, the social security trust funds should be running a rather large surplus. Under the compromise package it is estimated that by fiscal year 1988 the trust funds will have a surplus of over \$14 billion. If social security is included in the deficit totals for that year, it will appear that the Federal Government will have to borrow less to meet the Government-wide shortfall, when in fact, the surplus in the social security trust funds must be kept in reserve for future social security beneficiaries.

Mr. President, finally I would like to make it clear that I do not believe that placing the social security trust funds in a separate functional category, removing it from the unified budget, and removing it from the reconciliation process will solve either the financing problems of the social security system nor problems with the Federal deficit. It was not intended to do that. What it will do is clarify the choices which must be made on both of these vital issues and insure that those decisions are made fairly.

As I say, and I do not think it can be said enough, we had Senators from our body here serving on the Social Security Commission. That Commission was dominated 2 to 1, 10 members to 5, by appointees of the President himself, and that Commission made this recommendation.

I say to the Senator from Mississippi and others, the Commission itself made this recommendation. The chairman of the Senate Finance Committee was on that group and was party to this recommendation. The House has adopted it in their bill, and it ought to be in here because it provides, I think, every person in this country with certain knowledge that the social security funds are going to be treated in their own right, there will be no tampering and people want that. That is one thing that has come out of this debate as these concerns have arisen out in this country, people who are paying into the social security system day in and day out want that money set aside and they want it kept inviolate and

they do not want it left in any fashion where moves can be made to change the social security arrangements in order to try to meet certain other spending priorities within the Federal budget.

There is a need for a clear division here. These are trust funds, and "trust" implies a special fiduciary arrangement, and by separating this out in this fashion we will be in a much better position to protect this money, to see the integrity of the system exists over a longer period of time and, I think, restore the confidence of the American people.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not want to take a lot of time but I understand the distinguished Senator from Florida desires to speak on this subject and he will be here shortly. I will take a few minutes though.

I would like to remind the Senate that the blue ribbon panel on social security reform was established to provide the Congress with a set of recommendations to close the funding gap in social security. The Social Security Reform Commission was not established to review Federal budgetary practices. There was such a panel about 15 years ago, the President's Commission on Budget Concepts, and that Commission reviewed the way the Government handled its budgetary duties and found a lot of things wrong.

The Budget Concept Commission decided that the different and competing budgets confused the public and Congress and impeded governmental decisionmaking. It recommended that a single unified budget should be adopted to improve the utility of the budget. This unified budget would include all of the trust funds, including social security.

Mr. President, I bring up that bit of history to illustrate a point. The Commission established to reform social security arrived at a conclusion totally different and at odds with the Commission established to address reform in budgeting. If we were to appoint a similar budget commission today to study budget questions, what might they conclude? Such a commission, consistent with the blue ribbon commission, would probably include the chairman of the House Budget Committee, the chairman of the Senate Budget Committee, and maybe even the Director of the Office of Management and Budget.

What would they say about removing social security from the unified budget? Mr. President, we do not have to speculate about what they might say. Instead we can refer to a letter that I and the other two principals sent to the Social Security Reform Commission. The letter states:

We strongly recommend that the social security program remain in the unified Federal budget.

The letter explains the reasons behind the recommendation, and I ask unanimous consent that the letter be made a part of the RECORD after my remarks so that the Senators may review the text.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Another member of a commission to review budgetary practices would certainly be the Director of the Congressional Budget Office. Again we do not have to speculate as to what the Director of the Budget Office might say. We have a recent letter and I ask unanimous consent it be made a part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. DOMENICI. Dr. Rivlin states at one point in her letter:

[F]rom the perspective of good budgeting practice, the proposal to remove amounts that represent about one-quarter of all Federal spending is inadvisable . . . It is comprehensiveness, and integrity of the unified budget be maintained.

Finally, a commission might include representatives of the groups affected by the change. What would the largest group of retirees, the American Association of Retired Persons say? Again we do not have to speculate. We need only refer to their written statement:

On behalf of our more than 13 million members, we urge, in the strongest possible terms, that you not be stampeded into supporting any legislation that would remove social security from the "unified budget."

I ask unanimous consent that letter be made a part of the RECORD also.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. DOMENICI. I do not mean at all to denigrate the action of the Social Security Reform Commission on the budget issue. But this Commission was not established to review budgetary treatment of social security. If it had been established for that purpose it would have been composed of somewhat different members. What these letters show without doubt is that a commission charged with reviewing the role of social security in the budget would have arrived at a decision to leave social security in the unified budget. That was true 15 years ago; it is true today.

Mr. President, the argument that social security will in the future, God willing, and we hope, have some significant reserves and therefore it ought to be taken off budget because of those reserves just does not make any sense.

One would conclude that because it is going to have reserves in a trust fund that we are going to spend trust fund money. What is next? We have a highway trust fund. It has been on the unified budget. We do not spend everything that is in that trust fund every year. It is accounted for. If you

want to go look at the account, you can find it.

The next logical thing is: Why do we not take the highway trust fund off budget? What is the next logical thing?

Mr. CHILES. Aviation.

Mr. DOMENICI. The aviation trust fund. Then you can look at the other pensions, including the military and the civilian pensions. Why do we not take them off, and in particular the civilian pension trust fund? That is said to be an annuity and the moneys are supposed to be there; even if they are not, some think they are. We can take it off. Then we can start funding it out of general funds, and we will not even have on the budget what we are funding with general funds.

So, Mr. President; the argument that we are going to have excesses, surpluses in that fund that comes from tax dollars, that spends money into the American economy, that has reserves that have to be invested, that probably all by itself has more economic impact in terms of looking at what happens to the American economy—how much are we taxing for it? How much are we spending as a proportion of the GNP? We are going to say let us take that one that has the most impact—and there is nobody that thinks any other fund has more impact—and we are going to set it over on the side and say it is not part of the American budget.

We cannot really believe that is what will happen if we take it off budget. We are going to be bringing it back on budget every time we look at the effect of Government, taxes, spending, trust funds on the economy of the United States. Why not put it where it belongs? Put it in the unified budget.

The fact that you have reserves does not mean that you can spend trust fund moneys for those items that are in a national budget that are not part of the expenditure of trust fund moneys. They will be accounted for as they have been in the past.

I compliment my friend from Pennsylvania. He has worked very hard on this. He has a genuine concern. I just do not believe that the concern that he expresses that we might at some time be tempted, as he has described here—is sufficient reason to take this important segment of the economy and take it off budget.

Mr. President, it is obvious to me that this amendment violates the Budget Act and, at the appropriate time, I will make a point of order, but I will not do it at this point.

Mr. President, I want to restate some of the reasons I oppose the effort to remove the social security trust funds from the unified Federal budget. Such a move would be bad economic and budgetary policy. It would not contribute one dollar to closing the enormous funding gap in the social security program.

I think it is time to examine some of the arguments made in favor of removing social security from the budget. The first argument is that Congress has made changes in the social security program solely to achieve short-term budgetary policy.

This argument is not valid. Recent proposals to change social security have not been made simply to reduce the unified budget deficit. Changes were suggested because trust fund reserves declined to critically low levels. Changes were suggested because they were—and still are—needed to insure that all benefit checks go out come July of this year, and every month thereafter.

A second argument is that social security has somehow suffered by being included in the unified Federal budget. This argument is also invalid. During recent years, the inclusion of social security and medicare within the Federal budget has actually caused deficits to be larger than they otherwise would have been. Since 1969, when social security was first included in the budget, the Federal deficit has been less only four times. In 10 years, social security made the Federal deficit deeper.

The next argument I want to challenge is that social security should be removed from the budget to protect its viability as an intergenerational retirement plan. It is true that social security has a long horizon—we look at it in 75-year chunks. However, Congress would need to take all other retirement programs off budget to be consistent. We would need to remove Federal civilian and military retirement, and many smaller programs.

Congress has already given an indication of how it feels about the validity of this argument. Last year, the President proposed to remove the railroad retirement program from the unified Federal budget. Neither the House nor the Senate even considered that proposal. I do not think it would be logical to remove one program and not other similarly situated programs.

Another argument frequently made is that social security should be removed from the budget because it is a trust fund program. Again, all trust funds would need to be removed from the budget to be consistent. That would mean lumping social security and Federal employee retirement into the same category as, for example, the highway trust fund. Removing all trust funds would mean about 35 percent less budget coverage of spending and taxation.

If Congress allows social security to be excluded from the budget on the grounds that it is special, what program will be next? Will we exclude national defense because it is too important to handle on a year-to-year basis? That has already been proposed, and it will be much more difficult to deny if we set a precedent with social security.

Another argument sometimes made for removing social security from the budget is that public understanding of the budget and social security would improve. This is simply not the case. It would, instead, make it appear that Congress wants to hide Federal budget realities from the American people. The media and the public would justifiably accuse Congress of sweeping its problems under the rug.

There exists a great misperception that removing social security from the budget will somehow help resolve the financial problems of the system. Let me lay that myth to rest. Removing social security from the budget does not contribute \$1 to social security solvency.

In fact, it may increase the future financial problems of the system by making it more difficult to arrange temporary or permanent infusions of general revenues. This may be a particular problem for medicare, given its bleak financial future.

I want to commend my colleague from Pennsylvania, the chairman of the Committee on Aging, for alerting us about the problems of dealing with the large surpluses expected to build up in the retirement trust funds in the years beyond 1989. It is critical to allow those reserves to accumulate so that we have funds to pay for all benefits when the baby boom generation retires.

We must not be tempted to use these reserves to pay for deficits in defense or welfare or any other Government programs. We must, instead, insure that the reserves are not used to cover the massive deficits we face in the medicare program. We must also insure that these future surpluses do not tempt future Congresses to increase social security benefits for short-term political gains.

These are indeed serious problems, and I am sure my colleague from Pennsylvania will help us find a way to insure that the large reserves do not lead us into temptation.

Mr. President, I recognize that the effort to remove social security from the budget is intended only to help the social security program. Unfortunately, the arguments in favor of removing it are weak.

Social security programs, like all other programs, must be reviewed constantly to assure that they are fulfilling the basic objective of providing a timely and adequate income for our Nation's retirees, survivors, and disabled. Removing social security from the budget process would only make such review much more difficult.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington D.C., December 2, 1982.

Dr. ALAN GREENSPAN,
Chairman, National Commission on Social Security Reform, Washington, D.C.

DEAR ALAN: As stewards of the federal budget process, we strongly recommend that the social security program remain in

the unified federal budget. It would be deceptive and unproductive to remove social security from the budget, as many members of the National Commission on Social Security Reform are suggesting. This option would not contribute one dollar to closing the \$150 billion to \$200 billion short-term deficit the commission identified in the retirement trust fund. It would merely obscure the problem.

Commission memorandum number 53 explained some of the pros and cons of including social security in the unified federal budget. We would like to add to this memo a few more reasons for keeping social security in the budget.

Social security trust funds involve so much money—over one quarter of all federal outlays—that to omit them from the budget would misrepresent the government's activities and their economic impact.

Inclusion of trust funds in the unified budget allows for a more honest and straightforward budget presentation. The American people are thus able to see clearly how the government spends revenues.

Social security funds may not be used to pay for other government programs or to balance the budget. These funds have always been used to pay benefits and administrative costs for social security only, and will continue to be used only for those purposes. Keeping social security in the budget does not threaten its separate status.

Social security programs, like all other programs, must be reviewed constantly to assure that they are fulfilling the basic objective of providing a timely and adequate income for our nation's retirees, dependents, and disabled; removal of the program from the budget would make such review more difficult.

The public will perceive any changes in the present social security accounting method as manipulation and an attempt to hide the mandate of the social security financing problem.

The National Commission was established to solve the social security problem, not substantially alter the federal budget process.

We are sympathetic to the desires of the members of the commission to ensure that social security is not used to improve or mask the overall budget picture. There is a simple and honest way to do this. Social security could be displayed within the present unified federal budget as a separate budget function, apart from other income security programs. This would clarify the trust fund nature of the program while retaining its impact within the federal budget. We would be willing to work for such a change in categorization if the commission believes it would increase public understanding of the relationship between social security and the rest of the budget.

We commend the members of the commission for the hard work and bipartisan spirit that they put into this difficult task. We believe that a great deal of this progress will be eroded if the commission recommends a change in how we present social security in the budget but fails to recommend a set of concrete ways to ensure the solvency of the system. As the American public is well aware, taking social security out of the budget does nothing to solve the social security financing problem.

Sincerely,

PETE V. DOMENICI,
Chairman,
Senate Budget Committee.

JAMES R. JONES,
Chairman,
House Budget Committee.

DAVID A. STOCKMAN,
Director,
Office of Management and Budget.

EXHIBIT 2

CONGRESSIONAL BUDGET OFFICE,

Washington, D.C., March 14, 1983.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for my comments on the advisability of removing the Social Security accounts from the budget. From the perspective of good budgeting practice, the proposal to remove accounts that represent about one-quarter of all federal spending is certainly inadvisable. In 1969, when Social Security and other trust funds were combined with other programs into the unified budget on the basis of recommendations by the President's Commission on Budget Concepts, the principal reasons were the need for a comprehensive budget and for a single measure of budgetary balance to ensure sound fiscal practice. Those needs are no less urgent today.

Exclusion of Social Security would confuse public understanding of the government's fiscal impact. The unified budget is constructed to show clearly the flow of cash to and from the federal government. Decisions made on spending programs or on taxation can be easily translated into increases or decreases in the deficit and in the government's need to borrow. This important bottom-line data will be needed no matter how Social Security is posted on the books. Current budgetary practice highlights the borrowing needs of the government in a straightforward and clear manner. By contrast, removing Social Security outlays and receipts from the budget will be confusing. To arrive at the government's borrowing needs in any fiscal year, budget documents would have to display a "regular budget deficit or surplus" plus a "Social Security deficit or surplus" to arrive at a "total deficit or surplus." To some extent, this confusion already exists because of current off-budget entities, but putting one-quarter of federal activity in the latter category would worsen the situation appreciably. Discussions of "the size of the federal sector" would be similarly confused, since many are familiar with the fact that the federal government's budget is 20 to 25 percent of gross national product (GNP) and seven of those percentage points would disappear with removal of Social Security.

The budget should be as inclusive of federal activities as possible. In order for the Congress to make informed decisions on how to allocate public monies, it is essential that the basic document underlying those decisions include all federal programs, so that comparisons can be made and tradeoffs can be explicit. This argues for a comprehensive budget, indeed one that would incorporate currently off-budget items and a more satisfactory treatment of federal credit and tax expenditures, not one that excludes a major portion of federal activity.

Social Security is, of course, different from most other programs. Because it is the heart of the social insurance system and because it embodies a long-term contract between the people and the government, Social Security benefits should not be treated as an annual discretionary spending option. But inclusion in the unified budget in no way connotes such a disposition. In the long-term, moreover, inclusion of Social Security in the unified budget does force the Congress to ask the right question: How much can the nation's economy afford for social insurance given competing claims on the economy and given the willingness of

taxpayers to pay? Making Social Security a separate entity would unnecessarily narrow this question into "How high a level of benefits can payroll taxes support?"—a question that ignores competing claims, alternative tax sources, and the burden of other taxes.

Exclusion of Social Security from the budget would establish a bad precedent. Within recent months, I have read proposals to remove from the budget a number of accounts based on many of the same arguments now advanced for removing Social Security. For example, some have advocated moving off budget all trust funds (on the principle that their revenues, like Social Security's, are dedicated), all federal retirement programs (because they should not be an annual political football), and national defense (because it is too important to be hostage to cyclical problems). Social Security's removal might lend support to such proposals. In the end, we could have a proliferation of federal sub-budgets, completely eroding the usefulness of the budget as an economic and allocative instrument. Moreover, federal trust funds as a whole are projected to be in substantial surplus over the next five years and, if these surplus accounts are removed from the budget, the budget that remains will show larger deficits than are currently projected.

The courageous and hard-fought compromise on Social Security involves real changes in the Social Security system and merits greater public confidence in the system's future. It would be unfortunate if the measure to remove Social Security from the unified budget undermined confidence in that compromise.

As the Congress struggles with serious problems in both the social insurance programs and in the overall budget, it is critically important that the clarity, comprehensiveness, and integrity of the unified budget be maintained.

Sincerely,

ALICE M. RIVLIN
Director.

EXHIBIT 3

NATIONAL RETIRED TEACHERS ASSOCIATION, AMERICAN ASSOCIATION OF RETIRED PERSONS,

Washington, D.C. May 13, 1982.

DEAR SENATOR: On behalf of our more than 13 million members, we urge, in the strongest possible terms, that you not be stampeded into supporting any legislation that would remove social security from the "unified budget". Such a move would set the stage for precipitous and drastic short-term benefit cuts or large increases in payroll taxes.

The social security system faces very serious short and long-term financial problems which must be addressed and soon. The removal of the social security programs from the unified budget would limit the options available for dealing with those problems.

Given the magnitude of the payroll tax increase legislated in 1977 and the adverse economic impacts which further legislated payroll tax increases would have in the short term, this option is bad public policy and unacceptable.

Short-term reductions in benefits for persons who are already on the rolls (i.e., reductions in cost-of-living adjustments or reductions in underlying benefits) or for persons who are about to come on the rolls (i.e., new beneficiaries) are equally bad and unacceptable. Such reductions would amount to a changing-of-the-rules-of-the-game on people after the game is over and would cer-

tainly drive up the incidence of poverty among the elderly very substantially.

By leaving social security's programs where they are—within the unified budget—a far greater number of options are available to provide the system with whatever may be needed to maintain the system's contingency reserve funds at levels sufficient to assure the payment of benefits at levels presently promised.

We know that some have argued that social security should be removed from the unified budget as a means of insulating the system from benefit cuts. The problem with this reasoning, however, is that the system does face serious financial problems. (It is not unreasonable to conclude that social security will need, as the Senate Budget Committee indicated in its Resolution, some \$40 billion over the next three years to assure the system's continued ability to pay benefits on time.) We are sure that those who espouse this particular line of reasoning and who are opposed to short-term benefit cuts would not opt for billions more in payroll taxes. But with the system outside the unified budget, there are no other options (other than an annual appropriation subsidy—something unlikely to happen). It would be illogical and inconsistent to argue that the social security system should be removed from the unified budget to prevent reductions in benefits but be included in the budget for the addition of billions in non-payroll tax revenue (i.e., general revenue).

Others, who support removal of the social security programs from the unified budget, argue that the debate over social security has become much too politicized and that removal of the programs from the budget will facilitate the development of a bipartisan consensus solution. Unfortunately, the historical fact is that social security can not be immunized from the political aspects of the legislative process no matter where the social security programs are located for financial and accounting purposes.

The Associations are clearly on record as supporting an automatic infusion of non-payroll tax revenue into the programs, if needed to maintain the solvency of the system. We adamantly oppose short-term benefit reductions (including reductions in cost-of-living adjustments) and further increases in payroll taxes. We believe that leaving the system within the context of the budget as a whole will provide the National Commission on Social Security Reform, in the first instance, and the Congress and the Administration, in the second instance, the greatest range of options for dealing with the system's serious financial problems.

Finally, since social security is such a large program which levies taxes and makes expenditures of close to \$200 billion per

year, it can not be ignored if policymakers are to make informed and rational decisions on fiscal and general economic policy matters. We hope the Senate will quickly put aside any consideration of this matter and get on with the task of developing a budget for the nation that is fair and makes sound economic sense.

Sincerely,

CYRIL F. BRICKFIELD,
Executive Director.

Mr. HEINZ. Will the Senator yield?

Mr. DOMENICI. For a question?

Mr. HEINZ. Yes, for a question.

Mr. STENNIS. Mr. President, I would like to ask for the floor at this point for 4 minutes.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. DOMENICI. I have the floor and the Senator from Pennsylvania wanted to ask me a question and I yield for that purpose.

Mr. HEINZ. I thank the Senator from New Mexico for yielding.

Mr. President, I wanted to know if he could clarify a point that he made in his presentation. The point that he made that I refer to is that he says that we will be taking social security off budget. Does the Senator suggest that the receipts and the expenditures of this trust fund will be in some way hidden the way offbudget programs are hidden? Is that what the Senator is suggesting?

Mr. DOMENICI. Well, I did not use the word "hidden." Some offbudget items might be hidden to some people; some of the loan programs of our country that are not on budget, people might perceive that they are hidden. But if you want to dig them up, you can dig them up, so there is no conspiracy to hide them. That really was not my point.

My point was that social security is such an important part of Government, and if you have a budget that is supposed to reveal facts about Government, the percent of taxes versus GNP and all of those relationships, then you would not really have a very good picture of what is going on. You would have to pull social security back on for purposes of observation at least—so why go through that kind of an episode?

Mr. HEINZ. Will the Senator yield for a further question?

Mr. DOMENICI. I am pleased to yield.

Mr. HEINZ. Prior to the consolidation of the trust funds in the administrative budget, there was a solution to this problem which the budget in 1968 and in previous years had. Is the Senator suggesting that, prior to 1969, when the budget was displayed, that it was not possible to get a clear idea of the overall macroeconomic impact on the budget? Is that what the Senator is saying?

Mr. DOMENICI. Well, I say to the Senator, as I indicated in my opening remarks, the blue ribbon Commission on Social Security, as I view it, was made up of people appointed by the President because of their position in Congress and in society to know a lot about social security. That is why they were appointed. There was one other commission 15 years ago that had to look at budgeting. And I can rely on them. They operated in the timeframe the Senator is asking me about. They concluded that we had too many budgets and, therefore, social security and all other operations should be on one budget.

My own experience tells me that, but that is the only answer I have to the Senator's question. A commission 15 years ago thought that it should be on a budget.

Mr. HEINZ. If the Senator will yield further: Is he aware that prior to fiscal 1969, the problem of identifying the overall effect of Federal financial receipts, disbursements, and other operations was solved by publishing a consolidated summary of the administrative budget and trust fund budget?

I have here, page 41 of a document entitled, "The Budget of the United States Government for Fiscal Year 1968." I ask unanimous consent that page 41, which sets forth the way in which this was achieved and, as I envisage, might be achieved in the future, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—BUDGET RESUME: ADMINISTRATIVE BUDGET AND TRUST FUND RECEIPTS AND EXPENDITURES

(In billions of dollars)

| Description | Administrative budget funds | | | Trust funds | | |
|---|-----------------------------|---------------|---------------|------------------|------------------|------------------|
| | 1966 actual | 1967 estimate | 1968 estimate | 1966 actual | 1967 estimate | 1968 estimate |
| Receipts: | | | | | | |
| Individual income taxes..... | 55.4 | 62.2 | 75.2 | | | |
| Corporation income taxes..... | 30.1 | 34.4 | 33.9 | | | |
| Employment taxes..... | | | | 20.0 | 26.4 | 28.4 |
| Excise taxes..... | 9.1 | 9.3 | 8.8 | 3.9 | 4.5 | 4.9 |
| Unemployment tax deposits by States..... | | | | 3.1 | 3.0 | 3.0 |
| Other receipts..... | 10.7 | 11.9 | 11.7 | 8.6 | 11.7 | 12.5 |
| Interfund transactions..... | -6 | -8 | -7 | -8 | -7 | -7 |
| Total receipts..... | 104.7 | 117.0 | 126.9 | 34.9 | 44.9 | 48.1 |
| Expenditures: | | | | | | |
| National defense..... | 57.7 | 70.2 | 75.5 | .8 | 1.1 | 1.4 |
| International affairs and finance..... | 4.2 | 4.6 | 4.8 | .2 | .1 | .2 |
| Space research and technology..... | 5.9 | 5.6 | 5.3 | (¹) | (¹) | (¹) |
| Agriculture and agricultural resources..... | 3.3 | 3.0 | 3.2 | 1.2 | 1.4 | 1.2 |
| Natural resources..... | 3.1 | 3.2 | 3.5 | .1 | .1 | .1 |

TABLE 1.—BUDGET RESUMÉ: ADMINISTRATIVE BUDGET AND TRUST FUND RECEIPTS AND EXPENDITURES—Continued

(In billions of dollars)

| Description | Administrative budget funds | | | Trust funds | | |
|---|-----------------------------|---------------|---------------|------------------|------------------|------------------|
| | 1966 actual | 1967 estimate | 1968 estimate | 1966 actual | 1967 estimate | 1968 estimate |
| Commerce and transportation..... | 3.0 | 3.5 | 3.1 | 3.8 | 3.7 | 3.7 |
| Housing and community development..... | 3 | .9 | 1.0 | 3.2 | 3.0 | 1.0 |
| Health, labor, and welfare..... | 7.6 | 10.4 | 11.3 | 26.4 | 31.5 | 37.1 |
| Education..... | 2.8 | 3.3 | 2.8 | (¹) | (¹) | (¹) |
| Veterans benefits and services..... | 5.0 | 6.4 | 6.1 | .6 | .8 | .6 |
| Interest..... | 12.1 | 13.5 | 14.2 | | | |
| General government..... | 2.5 | 2.7 | 2.8 | (¹) | (¹) | (¹) |
| Deposit funds (net)..... | | | | -.5 | -.2 | -.1 |
| Allowances for: | | | | | | |
| Civilian and military pay increase..... | | | 1.0 | | | |
| Possible shortfall in asset sales..... | | | .8 | | | |
| Contingencies..... | | .1 | .4 | | | |
| Interfund transactions..... | -.6 | -.8 | -.7 | -.8 | -.7 | -.7 |
| Total expenditures..... | 107.0 | 126.7 | 135.0 | 34.9 | 40.9 | 44.5 |
| Excess of receipts (+) or expenditures (-)..... | -2.3 | -9.7 | -8.1 | (¹) | +4.0 | +3.6 |

CONSOLIDATED SUMMARY

| Description | 1966 actual | 1967 estimate | 1968 estimate |
|--|--------------|---------------|---------------|
| Cash receipts: | | | |
| Administrative budget receipts..... | 104.7 | 117.0 | 126.9 |
| Trust fund receipts..... | 34.9 | 44.9 | 48.1 |
| Intragovernmental and other noncash transactions..... | -5.1 | -7.2 | -7.0 |
| Total receipts from the public..... | 134.5 | 154.7 | 168.1 |
| Cash expenditures: | | | |
| Administrative budget expenditures..... | 107.0 | 126.7 | 135.0 |
| Trust expenditures..... | 34.9 | 40.9 | 44.5 |
| Intragovernmental and other noncash transactions..... | -4.0 | -6.8 | -7.1 |
| Total payments to the public..... | 137.8 | 160.9 | 172.4 |
| Excess of receipts from (+) or payments to (-) the public..... | -3.3 | -6.2 | -4.3 |

¹Less than \$50,000,000.

Note.—For explanation of administrative budget and trust funds, see page 170. For details on receipts, see table 13 on pages 64 to 69. For details on expenditures, see table 14 on pages 155 to 168; for further detail, by agency and account, see pages 174 to 391.

Mr. HEINZ. Mr. President, I would further repeat my question to my good friend from New Mexico, whether or not he would agree that the consolidated summary that appears there would, in fact, quite fairly represent the combined fiscal operations to the Federal Government.

Mr. DOMENICI. I can look at this sheet of paper that he is talking about, the budget of the U.S. Government for 1968, and it looks like it does what it ought to do.

But I am reminded that this Commission reviewing budget concepts completed their work in October of 1967. It was ratified in 1969. This material is from 1968.

Mr. HEINZ. Yes; the Senator is correct. That represented the way we budgeted prior to the implementation on the National Commission on Budget Concepts.

Mr. DOMENICI. I would only read the bold black print, from the report of the President's Commission on Budget Concepts. The Commission's major recommendations during this timeframe to which the Senator alludes as being an adequate way to show the budget states in part:

The Commission's most important recommendation is that a unified summary budget statement be used to replace the present three or more competing concepts that are both confusing to the public and Congress and deficient in certain essential characteristics.

So rather than go back to 1968 and in 2 minutes look at this, I would conclude that the Commission's major recommendation found great fault with this as a part of our budgeting practice.

Mr. HEINZ. I thank the Senator for yielding and for answering those questions. I appreciate them very much.

Mr. DOMENICI. I thank the distinguished Senator from Pennsylvania. I yield the floor.

Mr. STENNIS. Mr. President, I shall not detain the Senate very long now.

I am very much interested in the practical side of the point involved here, Mr. President, because I was here and have a distinct recollection of part of what happened here when the budget was all merged or put together.

This is beyond my special work and I do not have any special knowledge of the subject.

I remember we were working with the Appropriations Committee and the Armed Services Committee somewhere in there, and all of a sudden a big question came up about the merging of the budget. I do not think anyone knew at the time, or many of us did not know at the time, just what had happened. It was in dispute. But at the same time—and I have forgotten what the amount was—a very small black budget showed up, I think less than \$1 billion—and I am sure it was—and that was the last black budget we had, by the way. It was part

of the workings to change the arrangement of the budget.

I think there would have been a big upheaval about it then, but people were not conscious about the security, the carelessness, and so forth, of the budget money, and how much it meant to them.

Things rocked along and no one objected to having a balanced budget. Things rocked along in that way. Speaking for myself, it was not commonsense as I saw it to be putting all those great volumes of money into the regular live, regular budget when the due date for it was way down the line.

I am glad to see this brought up and straightened out. I am not critical at all of the Senator from New Mexico. He knows of the high regard as well as appreciation that I have for the work he does. But one of the big things that will come out of this bill, if we are able to pass a bill, will be a correction of this situation. When it has \$2 trillion or \$3 trillion in it, somebody else will have to do the same job of making corrections, changes, and everything else. I do not believe our successors will let that much money lie around and be untouched.

Anyway, as part of being a sound plan, sitting on its own bottom, with the people knowing where their money is, what is happening to it, with none of it being paid out except under the regular social security law, so far as those things are concerned, and

they are the ones I have dealt with, they will be a lot better off in their own mind and, actually, they will be better off, too, in the way it will come out.

I hope we can pass this. I believe it is just essential as a step in reform at this time.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I am opposed to this amendment that would take the social security and disability program out of the unified budget.

I have always said, and will continue to say, that we should not cut social security benefits to make up for deficits in the rest of the budget. That is the stated intent of the amendment, and I agree with the goal. However, I do not think this amendment is necessary to achieve that goal, and I think it would have two serious side effects. First, it would destroy our ability to make national fiscal policy. Second, it could lead to greater Presidential power over Federal spending levels.

I would like to explain that.

Our primary concern with social security is to keep the trust fund sound, so that full benefit payments can be assured. But that does not mean that on a month-by-month or a year-by-year basis the trust funds take in just as much as they pay out. During periods of strong economic growth, when most people are employed and paying taxes, the trust funds run a surplus and build up revenues. During recessions, fewer people are paying taxes and more people take early retirement, so that the system draws down revenues. This is fine for balancing the trust fund, because it should even out over time.

However, when we consider fiscal policy, we are concerned with the total impact of the Federal deficit on inflation and on the credit markets. For those purposes, what counts is the total amount of cash the Government puts out in spending, compared to how much it takes back in taxes. If spending exceeds taxes, then fiscal policy is stimulative, whether that spending comes from general revenues or from trust funds. If taxes exceed spending, then fiscal policy is restrictive. Inflationary pressures are restrained, but so are the forces for economic growth and employment.

Now I am not saying that fiscal policy concerns should dictate social security benefits. Certainly they should not. I am saying that we have to know what fiscal policy is. We need some mechanism to add up all spending and all taxes and see how they compare. If we did not call it the unified budget, then we would have to call it something else.

The proposed amendment of the Senator from Pennsylvania says: Notwithstanding any other provision of law, any concurrent resolution on the budget under this title shall not include in the provisions for the appro-

appropriate level of total new budget authority and total outlays required, the estimates of total new budget authority and total outlays for each major functional category or for the recommended levels of Federal revenues required under this section, any amounts attributable to budget authority and outlays for the Federal old age and survivors insurance trust fund and the Federal disability insurance trust fund. That says to me when we are considering fiscal policy, "Stick your head in the sand." You cannot find out. You cannot total up how much you are spending.

I guess we will have to walk around the back door. I guess we will have to pass slips of paper in code because we cannot have a total unified budget.

How in the world are we going to ever be able to say that we know something about fiscal policy?

We go back to these arguments about 1967 and 1968. Who in this Congress was concerned about total fiscal policy at that time on anything more than maybe a 1-year basis? We did not look at 5-year numbers; we did not look at 3-year numbers; we did not know or talk much about stimulative policy; we did not talk about macroeconomics. We also were building in the mechanisms for these tremendous deficits that we have been running ever since.

We have been trying to unwind that. One of the ways of unwinding it is to at least provide ourselves with all the information we need to have to make rational decisions which we have to make to determine whether we have a stimulative policy or whether we have a restrictive policy.

My goodness, to say that we are going to have all this money as a surplus in social security, and that it is going to tempt us, I can say to my distinguished friend from Pennsylvania that this is a beautiful argument, but the argument, prior to the time we had these new figures, was just the other way. The argument was that we wanted to take it off budget because if we do not take it off budget we were going to find people trying to cut social security to balance the budget.

Now we are reversing, and now we are saying: "My gosh, we do not want to put it on-budget because we will be tempted to spend all this extra money."

I wonder how many of us really believe there will be all of these surpluses in social security between now and the year 2010. I wish I did.

I wish I believed that we were not going to have to revisit social security again as we have already revisited it since 1978. I am afraid we might well have to, because some things can change.

We know that when we are really talking about what we are seeking here, we are seeking to make ourselves face up to the need for responsible fiscal policy. And remember this: the House has taken medicare off budget

and left medicare on. How in the world are we going to be able to relate policy changes and differences in what we are doing with that kind of situation? That is the temptation. If we are going to take old age and survivors insurance off, why not medicare? Medicare—the fastest-growing program we have in the Federal budget today, the next crisis that is waiting to blow up on us—are we now going to take medicare off budget?

It certainly can be tempting. We can make the same kind of arguments as to why we should take social security off. We do not want to see people affecting medicare policy and the health of old people just because it might be affecting the budget. Certainly, it does. Certainly, we need to know what that effect is.

Are we going to say on medicare we cannot use those totals anywhere, as the Senator from Pennsylvania has said here: "you cannot include that total."

My goodness, Mr. President, I hope that the Senate—that has tried since we have put the Budget Act into place—will be working to put things back on budget. The thrust in the Budget Committee, as my distinguished friend from Michigan knows, by many members of the Budget Committee, is to take some of the items that have managed to get themselves off budget, some of the agricultural credit programs, and say those need to come back and be on-budget, and that we need to be able to count those because that is borrowing authority.

My friend from Colorado is always talking about having items out there that are always drifting around, that are affecting policy, that are affecting what interest rates are going to be, that are affecting how much credit is out there in the market, and that are off budget. But here we are talking about reversing a proposition that the Senate has been working very hard on, to put items back on budget.

We started it with the adoption of the Budget Act. We have tried to continue it, to make these items come into the budget. Now we are going to take this giant—and I say giant—step backward, because we say social security will be off budget. We shall stick our heads in the sand. We will not allow ourselves to look at how much we are taxing, how much we are paying out, how much the Government is taking from people, to add that number with the general revenue tax and with every other tax we have to determine what is going to be the overall effect on the growth of our economy, on the amount of savings that will be available, on the amount of capital that we are trying to create with all of those items.

I think this would be a giant, giant step backward for the Senate and the Congress to take. I certainly hope it is a step that we will not take.

The proposed amendment would prohibit us from counting social security revenues and outlays in the totals revenues and spending we put into the budget resolution. Those totals are the only place where Congress addresses fiscal policy. We have no other mechanism to add up taxes and spending and what it does to the economy. The public would not believe us if we published a deficit each year, but did not include huge portions of Federal taxes and spending. It has already become common knowledge that there is about \$17 billion a year of off-budget spending that adds to the Federal deficit. All the expert testimony we have had from economists at the Budget Committee tells us that we ought to be putting the remaining items into the unified budget, not taking more things out.

Most people are aware that social security is a trust fund, and it is the largest one. But most people are not aware just how much of the Federal budget is paid on a trust fund basis. A quick look shows at least 13 separate trust funds, involving everything from social security, to highways, to unemployment insurance; to inland waterways, and hazardous substances. Programs funded in this way cost almost \$300 billion a year, or more than one-third of the budget.

As Dr. Alice Rivlin, the Director of the Congressional Budget Office, points out in a recent letter, there have recently been proposals to put various of these trust funds off budget. There have been other proposals to make military spending a trust fund, or put it off-budget, to keep it out of the annual political arena. Any time you talk about putting one-third or one-half of Federal spending off-budget you have destroyed our ability to make Federal fiscal policy.

Mr. President, I ask unanimous consent that a copy of Dr. Rivlin's letter appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., March 14, 1983.

HON. PETER V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for my comments on the advisability of removing the Social Security accounts from the budget. From the perspective of good budgeting practice, the proposal to remove accounts that represent about one-quarter of all federal spending is certainly inadvisable. In 1969, when Social Security and other trust funds were combined with other programs into the unified budget on the basis of recommendations by the President's Commission on Budget Concepts, the principal reasons were the need for a comprehensive budget and for a single measure of budgetary balance to insure sound fiscal practice. Those needs are no less urgent today.

Exclusion of Social Security would confuse public understanding of the government's fiscal impact. The unified budget is

constructed to show clearly the flow of cash to and from the federal government. Decisions made on spending programs or on taxation can be easily translated into increases or decreases in the deficit and in the government's need to borrow. This important bottom-line data will be needed no matter how Social Security is posted on the books. Current budgetary practice highlights the borrowing needs of the government in a straightforward and clear manner. By contrast, removing Social Security outlays and receipts from the budget would be confusing. To arrive at the government's borrowing needs in any fiscal year, budget documents would have to display a "regular budget deficit or surplus" plus a "Social Security deficit or surplus" to arrive at a "total deficit or surplus." To some extent, this confusion already exists because of current off-budget entities, but putting one-quarter of federal activity in the latter category would worsen the situation appreciably. Discussions of "the size of the federal sector" would be similarly confused, since many are familiar with the fact that the federal government's budget is 20 to 25 percent of gross national product (GNP) and seven of those percentage points would disappear with removal of Social Security.

The budget should be as inclusive of federal activities as possible. In order for the Congress to make informed decisions on how to allocate public monies, it is essential that the basic document underlying those decisions include all federal programs, so that comparisons can be made and tradeoffs can be explicit. This argues for a comprehensive budget, indeed one that would incorporate currently off-budget items and a more satisfactory treatment of federal credit and tax expenditures, not one that excludes a major portion of federal activity.

Social Security is, of course, different from most other programs. Because it is the heart of the social insurance system and because it embodies a long-term contract between the people and the government, Social Security benefits should not be treated as an annual discretionary spending option. But inclusion in the unified budget in no way connotes such a disposition. In the long-term, moreover, inclusion of Social Security in the unified budget does force the Congress to ask the right question: How much can the nation's economy afford for social insurance given competing claims on the economy and given the willingness of taxpayers to pay? Making Social Security a separate entity would unnecessarily narrow this question into "How high a level of benefits can payroll taxes support?"—a question that ignores competing claims, alternative tax sources, and the burden of other taxes.

Exclusion of Social Security from the budget would establish a bad precedent. Within recent months, I have read proposals to remove from the budget a number of accounts based on many of the same arguments now advanced for removing Social Security. For example, some have advocated moving off budget all trust funds (on the principle that their revenues, like Social Security's, are dedicated), all federal retirement programs (because they should not be an annual political football), and national defense (because it is too important to be hostage to cyclical problems). Social Security's removal might lend support to such proposals. In the end, we could have a proliferation of federal sub-budgets, completely eroding the usefulness of the budget as an economic and allocative instrument. Moreover, federal trust funds as a whole are projected to be in substantial surplus over the next five years and, if these surplus accounts are removed from the budget, the

budget that remains will show larger deficits than are currently projected.

The courageous and hard-fought compromise on Social Security involves real changes in the Social Security system and merits greater public confidence in the system's future. It would be unfortunate if the measure to remove Social Security from the unified budget undermined confidence in that compromise.

As the Congress struggles with serious problems in both the social insurance programs and in the overall budget, it is critically important that the clarity, comprehensiveness, and integrity of the unified budget be maintained.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. CHILES. Mr. President, I mentioned a while ago that putting social security off-budget could lead to greater Presidential control over spending. Let me explain that point.

Many people forget that the Budget Act was born in the impoundment crisis of the early 1970's. It is formally titled the "Congressional Budget and Impoundment Control Act of 1974." As someone who was actively involved in the fight against impoundment, I remember the circumstances pretty well. One of President Nixon's main arguments for impoundment authority was that only the President had the ability to judge fiscal policy. Congress passed its various tax and spending bills separately through the course of the year. At no point did we have to add it all up; look at the bottom line, and vote on the deficit. While the Budget Act makes us go through the painful act of voting on deficits, it also lets us tell the country that we have examined all tax and spending proposals, we have examined unemployment, inflation and interest rates, and exercised our constitutional responsibilities for taxing and spending. Now if we begin putting major chunks of Federal taxes and spending off-budget, we will no longer be able to make that claim. And some President, sooner or later, will make this claim that he has to impound funds in the name of fiscal policy. I think that is a real danger, and opens the door to another constitutional crisis which we should avoid.

Finally, Mr. President, let me speak to the issue of medicare. While this amendment does not put medicare off-budget, the House version does, so it is part of the problem we open up if we adopt this amendment. While medicare is authorized under the Social Security Act, and paid for by a special payroll tax, it is quite different from the retirement system. Benefits are not linked in any way to contributions. Anyone who contributes gets full benefits, no matter how much or how little that contribution is. And those benefits are about to exceed those payments.

The medicare hospital trust fund is facing massive deficits in a very few short years. The system itself will be out of money sometime in 1987 unless we make some changes. Deficits in the

trust fund will continue to grow every year, reaching over \$400 billion by 1995. We cannot avoid the fact that medicare costs are projected to double in the next 5 years. The reforms being considered in this bill (H.R. 1900), though very significant, will not take care of that problem. We will have to be looking at a variety of solutions, and some consideration of general revenue financing as well as cost control measures will inevitably be options we will have to consider. That has to be done in the context of the overall unified budget.

The impact of medicare on the Nation's economy is significant. Health care is big business. Medicare alone now accounts for 17 percent of all health care payments in the United States, and medicare alone will soon grow to 1½ or 2 percent of the total GNP. Whatever actions Congress takes in medicare have to be viewed in the overall national economy context, as well as in the context of how those actions will affect 30 million medicare beneficiaries.

The House version of this bill recommends that, after 1988, the hospital insurance trust fund be considered outside the unified budget, but that the supplemental medical insurance portion of medicare (part B) remain on-budget. I understand the rationale for that, since the supplemental medical insurance program is not really a trust fund—in fact it is financed about 75 percent by general revenues right now. But I think it is unwise to separate the two since how we treat one affects the other. I would also like to point out that moving a portion of medicare off-budget also separates it from the medicaid program. Health care spending through medicaid is also a significant portion of the Federal budget—over \$21 billion today. From a health policy perspective, medicare and medicaid are closely linked. When we address urgent issues of health care cost containment, both medicare and medicaid must be considered together. Differences in how they are funded are not a controlling factor. If we separate the hospital insurance' portion of medicare from medicare part B and from medicaid, we would also open the door to some wild schemes for a back-door route to general revenue financing by simply beginning to transfer responsibility from the off-budget to the on-budget portion.

Mr. RIEGLE. Will the Senator yield?

Mr. CHILES. I yield.

Mr. DOMENICI. Mr. President, I think the Chair had recognized me.

Mr. CHILES. If I still have the floor, I shall yield.

Mr. RIEGLE. I ask the Senator from New Mexico if he will yield for just a question.

Mr. DOMENICI. I shall be pleased to.

Mr. RIEGLE. It seems to me we all serve on the Budget Committee. If this is set apart and it is free standing

as the amendment calls for, what is to keep the Budget Committee from nevertheless considering it when we are trying to make macroeconomic judgments as we do, we are certainly free to take a look at it, certainly free to assess what we think we need with all other Federal activities. If it is free standing, it is not as if by separating it, we are taking it totally out of view. It would still be in view. We would be free to consider it. I do not understand why we could not make the same value judgments if it is free standing and separate as if it is in the budget discipline.

Mr. CHILES. I think the Senator from Michigan would not want us to violate the law. The law would say:

Notwithstanding any other provisions of law any concurrent resolution of the budget considered under this title shall not include any amounts attributable to budget authority and outlays for the Federal old age and survivors insurance trust fund and the Federal disability insurance trust fund.

That just tells me we cannot include that. I certainly would not want to violate the law.

I guess maybe we could go out of the committee room and talk about it. Maybe we could get together over coffee and talk about it.

What a way to run the budget affairs of the United States of America, to say we are taking this major item, one-fourth of the national budget, but we are not going to look at that, we are not going to look at what its effects are; we are not going to include that in determining whether we have a policy that is stimulative or a policy that is restrictive, or what we are doing to the national debt; we just exclude that.

Certainly, I do not think many people would say—well, I hope they would not say—that they are any more concerned about the survival of a sound social security system than the Senator from Florida. I introduced a bill trying to fix the social security system 2 years ago. I did not get any cosponsors at that time, because we had to apply some medicine to the system. Finally, we are getting around to doing it as we get the gun put to our head.

Trying to protect the system does not mean trying to hide it. I think that would be the worst thing to do to protect the system.

Mr. RIEGLE. If the Senator will yield, nobody is talking about hiding it. We are talking about having it stand separate, by itself. The American people want this, the Presidential Commission wants it, we ought to want it.

I am not surprised the Budget Committee does not want to give it up. The Budget Committee, and I am a member of the committee, is reaching in every direction for everything it can get its hands on. The fact of the matter is we can consider this if it is free standing and separate, We can weigh its macroeconomic consider-

ations within the framework of the law. We can weigh all kinds of things now that are outside the Federal budget discipline as we try to make these decisions.

I thank the Senator for yielding.

Mr. CHILES. I thank the Senator and I want to say I have not found the American people saying they want to take a fourth of the Federal budget and exclude it and put a curtain around it and say, do not look at that when you are making your policy, do not look at that when you are trying to determine your overall policy and whether there is going to be sufficient money; just exclude that. I have not found that.

Mr. ARMSTRONG. Will the Senator from Florida yield to me briefly?

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. ARMSTRONG. I beg the Chair's pardon. Will the Senator from New Mexico yield to me briefly?

Mr. DOMENICI. I would be pleased to yield.

Mr. ARMSTRONG. Mr. President, I just want to congratulate the Senator from Florida on his statement and to associate myself with his remarks, every jot and tittle. He is 100 percent right. This amendment, in my opinion, is a serious mistake for all the reasons he has stated.

I also want to express my full agreement with what the Senator from New Mexico has said. There are few propositions, it seems to me, that are more easily deferred than the adoption of the amendment of the Senator from Pennsylvania. If this is a good idea, it can easily withstand a hearing in the Budget Committee, an airing in a more complete way. I believe the careful study of this amendment will turn up exactly as the Senator from New Mexico and the Senator from Florida have stated.

I do want to clear up one point. That is the recommendation of the National Commission on Social Security Reform. I do not believe the National Commission considered this matter in any great detail. I think I was present on both occasions when it was considered, once for a very few minutes and on the second occasion for a slightly longer period, perhaps 15 or 20 minutes, when there was some discussion on it, some debate. On the first occasion, the indication was that all but two or three members agreed with it. On the next occasion, there was an informal changing of votes, and it is my recollection—and I have not verified my recollection—that several members who had previously indicated their approval of the motion expressed doubts.

So it is not a case where the Commission held hearings on this subject or had extensive consideration. It was considered. I believe it fair to say that a majority approved it but not an overwhelming majority did so.

I think we should be guided by the advice of the Senator from New Mexico and the Senator from Florida.

Mr. DOMENICI. Mr. President, I raise the point of order against the amendment.

Mr. HEINZ. Will the Senator from New Mexico withhold his point of order, which I shall be happy to let him make if I may speak for just a few minutes.

Mr. DOMENICI. I shall be happy to do that. May I make the point of order and ask that the Chair yield to the Senator?

How much time does the Senator desire?

Mr. HEINZ. The Senator from Pennsylvania would like to speak for about 3 minutes. I have no intention of preventing the Senator's making his point of order, but I prefer to make my remarks before the Senator makes his point of order.

Mr. DOMENICI. That is fine. I yield the floor, Mr. President.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from New Mexico for his forbearance, and I shall not take a great deal of time on the part of my colleagues. I do want to set the record straight on a few things. The Senator from Colorado, who I note is also a member of the Budget Committee, is correct that this was a recommendation of the National Commission on Social Security Reform. It is correct that originally 12 or 13 of the members were for it at the time. When it was finally voted on it was 10 to 5; 2 to 1 is still a substantial margin.

Mr. ARMSTRONG. Have we polled them lately? There may have been more shifts.

Mr. HEINZ. But they may have been in the other direction, I say to my friend.

Mr. ARMSTRONG. Mr. President, would the Senator agree, however, that the consideration of this matter by the National Commission which met, I believe, for approximately 13 days of hearings or of meetings, that it was a relatively brief time on two occasions, perhaps totaling 30 minutes in all? It was not an extended discussion, nor were there outside witnesses heard or anything of that kind.

Mr. HEINZ. I would agree that the formal discussion was about the length the Senator said. The informal discussions were, indeed, quite hot and heavy because I had numerous discussions with the Senator from Colorado and virtually every other member of the Commission, as did the Senator from Colorado, I might add.

Mr. ARMSTRONG. Fair enough, and I appreciate that clarification.

Mr. HEINZ. Second, this subject was analyzed at some length by a variety of people, among them the Director of the Commission, Robert J. Myers, who

provided to the members of the Commission on September 8, 1982, memorandum No. 53. I ask unanimous consent, Mr. President, that that memorandum be included in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

SEPTEMBER 8, 1982.

MEMORANDUM NO. 53

To: Members of the National Commission on Social Security Reform.

From: Robert J. Myers, Executive Director.
Subject: Inclusion of Operations of Social Security and Medicare Trust Funds in the Unified Budget.

This memorandum presents the pros and cons with regard to the removal of the operations of the Social Security and Medicare trust funds (OASI, DI, HI, and SMI) from the Unified Budget.¹

In Fiscal Year 1969, the operations of these four trust funds were included in the Unified Budget for the first time. Before then, the operations were listed separately from other government operations, and thus they did not affect the overall balance of the Federal Budget. The inclusion of the operations of these trust funds in the Budget has been criticized by some persons because of these trust funds in the Budget has been criticized by some persons because of what they believe to be the artificial effect that they may have on the balance of the Budget. For example, in 1969, the excess of income over outgo in the OASDI Trust Funds had the effect of "balancing" the Budget recommended by President (which, otherwise, would have shown a deficit). The 1981 National Commission on Social Security recommended that the operations of these four trust funds should be removed from the Unified Budget.

If such action were taken, it is important to note that any transactions involving payments from the General Fund of the Treasury to these trust funds (such as interest on the invested assets, reimbursement for military service wage credits, or employer OASDI-HI taxes with respect to covered civilian employees or military personnel) would be shown in the Budget as outgo items.

PROS WITH REGARD TO REMOVING OPERATIONS OF TRUST FUNDS FROM THE UNIFIED BUDGET

(1) Benefit, coverage, and financing changes would not have an effect on the Budget. If the operation of the trust funds were outside of the Unified Budget, any changes which were recommended or enacted would be on the basis of program considerations. It could not, therefore, be argued that the underlying purpose was to balance the Budget. For example, any reductions in the rate of growth of benefit outgo could not be said "to balance the Budget on the back of Social Security". Even if the operations of the trust funds were removed from the Unified Budget, persons interested in the total borrowing demands of the Government could still make the desired analysis by adding together such operations with those of the Unified Budget. (It should be noted that, at present, certain significant Federal programs are "off budget".)

(2) Reductions in administrative expenses for program operations would not be made solely for the effect on the Budget. Current-

¹ It does not discuss the question of whether other trust funds (such as the Railroad Retirement Account and the Civil Service Retirement Fund) should be treated similarly.

ly, staff reductions or limitations on personnel levels for the Social Security (and Medicare programs) can be made for budgetary purposes without regard to program requirements. This might be done even if the several trust funds had excesses of income over outgo that could readily meet necessary administrative expenses. If the operations of the trust funds were removed from the Unified Budget, such reductions or limitations on personnel would not affect the Budget, but rather only the operations of the trust funds. It can be argued that the personnel expenditures of the programs should be determined so as to provide high-quality service to the claimants and beneficiaries and so as to assure efficient operations.

(3) A better picture of the effect of payments from the General Fund of the Treasury would result. If the operations of the four trust funds were removed from the Unified Budget, any payments thereto from the General Fund of the Treasury would appear as an outgo item in the Unified Budget. Under the present procedures, such items are of a "wash" nature and do not affect the Budget. At times, this could be very misleading; for example, under a proposal to "bolster" the trust funds by a transfer of very large sums from the General Fund, if this were done, no effect on the Unified Budget would be shown at the time.

(4) Public confidence will not be eroded by the erroneous belief held by some people that Social Security and Medicare taxes are placed in the General Fund of the Treasury and are used for other purposes (such as financing the Marshall Plan, the Korean war, the Vietnam war, or welfare payments). Such persons conclude that the trust funds are now having financial problems because the money was spent for other than program purposes.

CONS WITH REGARD TO REMOVING OPERATIONS OF TRUST FUNDS FROM THE UNIFIED BUDGET

(1) The operation of the four trust funds impact in a major way on private-sector economic activities. Accordingly, the Administration and the Congress should consider these operations within the context of the entire Budget when fiscal policy is formulated. Otherwise, economic policymaking could be confused and hindered.

(2) The operations of the trust funds are too important a part of national domestic policy and governmental expenditures to be operated independently. All governmental programs should be operated under the controls that are now a part of the Budget process. The operations of the four trust funds are such a significant portion of total governmental expenditures that they should not be exempt from the necessary scrutiny which all programs receive under the general budget process.

(3) Inclusion of the operation of the trust funds in the Unified Budget allows for simpler and more straightforward budget presentation. Continuing the operations of the four trust funds in the Unified Budget makes the full scope of Federal financial activities easier to comprehend, especially the proportion of the total spending allocated to each activity—e.g., national defense, health expenditures, and income maintenance.

ROBERT J. MYERS.

Mr. HEINZ. Mr. President, the point has been made by members of the Budget Committee that we should defer consideration of this so the Budget Committee has time to study it. Well, Mr. President, this is not the

first time this recommendation has been made. Yes, it was made by the National Commission on Social Security Reform in our report of 1983, but it was also made 2 years before that by the National Commission on Social Security which reported in 1981. Frankly, I do not know that the Budget Committee has ever held a jot or tittle's worth of hearings on this since 1981. I suspect they have not.

Mr. ARMSTRONG. Let us tell them to get on the ball.

Mr. HEINZ. Mr. President, if they are on the ball, they should have been on the ball 2 years ago, not here on the floor.

Mr. President, the Senator from New Mexico has been extremely courteous. I reiterate once again that we are not taking social security off budget. It is not going to be the Federal Financing Bank operating in the dark of who knows where. We are not going to hide it. This particular canary weighs about \$225 billion at the present moment.

Now, no one suggests that even Caspar Weinberger can hide the defense budget, which is about the same size. He would like to, I gather. But, Mr. President, nobody's sleight of hand is going to hide the social security program, no matter how big and heavy that hand.

I must say I would find a point made by the Senator from Florida, who I have enormous respect for, to be amusing and ironic, if it was not aimed at this amendment. His point is that the way to keep the hands of the executive branch—and we know that their fingerprints have been around from time to time—the way to keep the hands of the executive branch off of this is to keep it in the budget. I find it immensely ironic that the chairman of the Budget Committee said, when he rose to defend his opposition to this amendment, "And I have here a letter from Dave Stockman who supports the position of the Senator from Florida and the Senator from New Mexico."

Now, the last time I looked, Dave Stockman was in the executive branch. I think he is down at the Executive Office Building. I think he works for the President. I think he has something to do with the executive branch budget process.

Mr. President, I assure my colleagues that one of the reasons Dave Stockman may not like this amendment is that it is not going to be possible for him to, I think the Senator from Florida used the word, "revisit" the social security trust fund.

Mr. President, I hope that is absolutely right; I do not want any Director of the Office of Management and Budget to revisit social security for some other purpose. That is the entire idea behind this amendment.

I think the Senator from New Mexico, frankly, understands the problem we are dealing with here. I know that this is fundamentally a turf

issue. I understand that because I am in my committee, and we in the Senate Finance Committee are as jealous of our turf as anybody else, and we go to considerable lengths to protect it. I do not disagree with the motivations of the Senator from New Mexico or any other members of the Budget Committee, and they are numerous, who are on the floor. They are all looking out for their committee and we would all do the same for ours. But in looking out for the turf of one's committee—and we all do it—I think we still have to put the interests of the country ahead of that in this sense: We have to address the issue which I made on Friday and which I made, if the Senator will remember, with the Senator from New Mexico back on July 29, 1982, on which date the Senator and I, to my mind, had a very important colloquy on the balanced budget amendment, which I ask unanimous consent to have printed in the RECORD.

There being no objection the colloquy was ordered to be printed in the RECORD, as follows:

Mr. HEINZ. I commend the Senator from New Mexico on the amendment which he introduced to Senate Joint Resolution 58 and which the Senate passed 97 to 0 on Tuesday. There are a number of details which have to be worked out in the balanced budget amendment, and I think the place to spell these details out is in statute. One major complication to the balanced budget amendment which I would like to see resolved in later legislation is the problem of how to handle social security.

Mr. President, it occurs to me, as I think about how the balanced budget procedure is going to work, that there are going to be some serious consequences for social security financing if the Congress does not enact special provisions for handling this program.

Some have suggested that Senate Joint Resolution 58 needs to be amended to exempt social security from the provisions of the balanced budget amendment. However, in looking over the Senator's amendment and the projected context of the implementing legislation he intends to propose in the future, it is my opinion that Congress will have authority to set up special procedures for social security in statute at a later date.

I would like to take a moment to review the difficulty I see in lumping social security in with other programs in the balanced budget amendment, and ask the Senator from New Mexico if he agrees that his amendment and implementing legislation would assure the hands of the congress will not be tied in responding to these difficulties.

Before he replies let me explain why I think there is going to be a problem. Taking for a moment just the cash benefits part of social security—the old age, survivors and disability insurance programs (OASDI)—we are talking about a program with a 75-year planning horizon. That means that at any particular time, we try to assure that the cash benefits are adequately financed for the next 75 years. This 75-year actuarial balance is a promise of sorts to those now paying tax contributions that there will be funds to pay them benefits when they are retired. Before next summer, the Congress will have to act to correct the long-run imbalance which currently exists in OASDI. When we do, the program will be balanced for the next 75 years, assuming our esti-

mates for the future hold true. The fact that the program will be in balance over the long run does not mean, though, that it will be in balance in each of the next 75 years. Social security is a dynamic program. Constant changes in demographic and economic conditions necessitate the buildup of trust fund reserves in favorable times which can then be spent down in less favorable times. The use of these reserves enables the financing of the system to respond to changing conditions without annual statutory changes in payroll tax rates and benefit levels.

Now the balanced budget amendment is going to establish as the general rule that in each and every year receipts of the U.S. Government should grow no faster than national income, and that outlays should not exceed receipts. At the same time, social security's receipt and outlays will fluctuate depending upon a number of factors such as the relationship between workers and retirees and between wages and prices. In some years social security will have several, indeed many years in a row, of surpluses and in other years it will have many successive years of deficits and have to spend some of its reserves.

Trying to forecast budgets more than a few years ahead has its dangers. None of us can state with impunity what the future will hold. But I think there is one long-run phenomenon which we can all agree is likely to occur and which is going to have tremendous effects on social security's finances. This phenomenon is the aging of the "baby boom" generation. Like a rabbit swallowed by a snake, this generation will advance slowly through the age groups—first swelling the ranks of the workers, and then after about 2015, swelling the ranks of the retirees. Under current law, even with the long run deficit we now have in social security, this demographic pattern will result in annual surpluses most likely beginning in the 1990's. Now we are going to do something to improve the financing of social security—and just about anything we do is, I think, going to have the effect of building up even larger surpluses. I would like to ask the chairman of the Budget Committee if he agrees with this assessment. Does he agree that it is likely that we are going to have to build up surpluses in OASDI during this relatively favorable demographic period?

Mr. DOMENICI. Let me say to my good friend from Pennsylvania, first, I compliment him for bringing the matter to the attention of the Senate. It is tremendously relevant. I would say, based on the work of the actuaries, that I agree with the Senator that this is a reasonable expectation. This is indeed likely to happen.

Mr. HEINZ. I thank my colleague from New Mexico.

The second point I would like to make is that these surpluses on an annual basis are going to appear very large within the context of the Federal budget. If you take just 1 year, the year 2010, for example—what you would find is that under the intermediate forecasts we would expect OASDI to spend under current law about \$350 billion in constant 1982 dollars. If the Federal budget is 22 percent of GNP, the Federal budget will be about \$1.5 trillion in that time, in 1982 dollars. It could be smaller.

Current estimates indicate that in that year, under present law, OASDI would take in \$60 billion more in receipts than it would expend in outlays, adding this to a trust fund of more than \$600 billion. If we do any of the things to put the social security system on a sound, long-term basis, frankly those numbers are going to be much larger.

The surpluses could run as high as \$120 billion to \$125 billion a year. It seems to me that if we have annual surpluses this large there will be enormous pressures to spend these surpluses. In the 1960's we had surpluses in social security. My friend from South Carolina was serving in this body in those days and he well remembers that Congress did spend the money, not only in the 1960's but in 1972 we put through a 20-percent increase in social security benefits.

It seems to me not unreasonable to conclude that in a year like 2010 where there will be a lot of money accumulated with the constitutional amendment limiting the growth in receipts, and with outlays kept at the level of receipts there will be a tremendous incentive to use social security surpluses to allow outlays in other programs to expand.

With all programs balanced on the same ledger, it seems to me quite easy—all to easy—for Congress to decide to spend between \$50 and \$125 billion more each year for 10 or 20 years for nonsocial security programs than they have in receipts to cover those programs.

Let me ask the Senator from New Mexico, would he agree that this is indeed quite a real possibility?

Mr. DOMENICI. I think there are many of us who have seen what has happened to social security finances in the recent past who are rather anxiously waiting for the day we have these kinds of surpluses in social security. We have not had that kind of phenomenon in a while. Obviously, if we get the kind of reforms that the Senator from Pennsylvania and many others seek, that our President seeks, that the commission he has appointed seeks, we should get those types of surpluses at some point in time. It should be in the time frame the Senator has discussed.

I believe, however, that the Senator is suggesting that there is nothing in the balanced budget amendment to prevent the Congress from increasing spending in one account when receipts to another account increase—as long as total outlays and receipts of the U.S. Government are in balance. That is my understanding also.

Mr. HEINZ. In other words, even though payroll tax revenues are strictly dedicated to the exclusive use of the trust funds, the excess in payroll tax receipts could encourage excess Government spending in other areas. Would the Senator agree with this logic?

Mr. DOMENICI. I believe the Senator may be correct, although it is quite likely that there would be considerable political pressure against digging the Federal Government into that type of hole.

Mr. HEINZ. I appreciate the Senator's comments. I would ask my colleagues to look at the period after 2015. By that time, it is likely that there will be substantial accumulated trust fund reserves on hand to offset the deficits that will begin occurring as the first of the "Baby Boom" generation retires. Again, picking one year 2025 we can see how the balanced budget amendment is going to create problems for social security when it begins to experience these annual deficits. In 2025, OASDI will spend about \$450 billion in 1982 dollars—in the context of a Federal budget—if it is still about 22 percent of GNP—or close to \$2 trillion. In that 1 year, OASDI will, under current law, have a deficit of over \$100 billion and will have, if they have been allowed to accumulate, trust fund reserves of more than \$230 billion. If Congress has enacted one of the proposals to reduce benefits by changing the benefit formula in social security, the reserves in the trust funds will be larger, and the deficit in that year will be smaller—perhaps \$50 bil-

lion or less. Nonetheless, this will be a substantial deficit compared to the fiscal year 1982 OASDI deficit of about \$5 billion in the context of a \$740 billion Federal budget. Again, I would like to ask the Senator from New Mexico if he would agree that it is reasonable to expect, even with the changes in social security financing we hope to enact this year, that beginning sometime after the year 2010, OASDI is going to run annual deficits as it begins paying retirement benefits to the "Baby Boom" generation.

Mr. DOMENICI. Again, based on the work of the actuaries, I agree with the Senator that is a reasonable expectation.

Mr. HEINZ. When we get to that period of deficits, then, and OASDI has annual receipts lower than its annual outlays, unless we can consider distributions from the trust fund reserves in balancing receipts and outlays, it seems to me we are going to be in a bind. If in 2025 social security receipts are \$40 or \$50 billion less than outlays, and if the trust funds cannot be used as receipts in this accounting exercise, then we are going to have to cut either social security benefits by \$40 or \$50 billion, or we are going to have to cut some other programs by those amounts in order to have balanced budgets. Does the Senator from New Mexico agree that these social security deficits are going to make it difficult to balance the budget?

Mr. DOMENICI. Social security deficits that large would certainly complicate the problem of balancing the budget. Our experience in the budget process this year illustrates your point very well.

Mr. HEINZ. And would the Senator agree that it would be unfortunate to have to make cuts in the budget, when, in fact, social security could have built up substantial reserves precisely for the purpose of paying for benefits during these years?

Mr. DOMENICI. I agree with the Senator. Not only would it be unfortunate, but it would also probably create a political furor if that occurred.

Mr. HEINZ. I am concerned, then, that we find some way to assure that the balanced budget amendment does not interfere with the funding mechanism which is already in place for social security. It is my opinion that the Senator from New Mexico's amendment will help in this regard. I think it is important that we discourage future Congresses from using excess Social Security receipts to cover excess outlays elsewhere in the budget. Would the Senator agree that under the provisions of his amendment, the Congress will have the authority to adopt accounting procedures which specify that OASDI and HI outlays and receipts be totaled, and balanced, separately from other U.S. Government outlays and receipts?

Mr. DOMENICI. It is my judgment that my amendment gives Congress the authority to establish through statute accounting procedures to address the problem the Senator has described. I think this is quite feasible. I do not think this would in any way conflict with the intent of either the constitutional amendment or my amendment which the Senate has approved.

Mr. GORTON. Will the Senator yield?

Mr. HEINZ. I will in just a moment.

Now it seems to me another way to handle the problem with social security is to establish a special definition of receipts for use with the social security trust funds. As it stands in years when social security is experiencing surpluses, excess receipts are accumulated in the trust fund accounts and invested in securities. Then later when these "excess receipts" are needed to pay for benefits, the securities are redeemed. Now it is my understanding that on the balanced budget statement, according to the definitions used in the committee report accompa-

nying Senate Joint Resolution 58, social security's "excess receipts" would be matched against outlays in the surplus years—providing the overall Federal budget with a windfall—and could not then be matched against outlays in the deficit years, when social security is actually using them to pay benefits. Now I would like to ask the distinguished chairman of the Budget Committee, whether, as a result of his amendment, the Congress could decide to change this around? Would the Congress have the authority to exclude these "excess receipts" from the definition of receipts in the surplus years and include them in the definition in the deficit years when they are actually being spent?

Mr. DOMENICI. My amendment gives the Congress the authority to decide through legislation on the definitions for terms used in the constitutional amendment. I am confident a way can be found to deal with the potential problem you have described—either through defining receipts as you suggest or through some other accommodation. I am certainly prepared to take a careful look at the Senator's suggestions when we consider implementing legislation.

Mr. HEINZ. I thank the Senator for his response because I think we will all be concerned about voting for something that would have a reverse effect, for example, in not allowing us to plan for the future. My understanding of the amendment the Senator from New Mexico has made to the constitutional amendment and based upon his colloquies here on the floor with others, is totally consistent with what he has just said to me.

When the time comes to draft legislation defining these terms, we can take a closer look at how this can actually be accomplished. But I appreciate the Senator's assurance that Congress will have the flexibility to address this problem in statute. I believe, then, that most of my concerns about the problems for social security in the balanced budget amendment can be resolved at a later date through statute.

I thank my colleague from New Mexico who has been extremely responsive. With his improvements in this amendment, I am sure we can solve this problem through the proper enabling legislation.

Mr. DOMENICI. Let me just add again that I think the Senator has served the Senate well in bringing this matter to our attention. I am sure there will be other kinds of trust funds and revolving funds which will come into existence during the life of our Constitution and this amendment. I think the notions we have raised here on the floor will serve well in interpreting the responsibility and the breadth of definitional authority that Congress will have.

Mr. GORTON. Will the Senator yield for a question?

Mr. HEINZ. I yield.

Mr. GORTON. I may have missed some of the nuances in this colloquy, but is either the Senator from Pennsylvania or the Senator from New Mexico asserting that by definitions in enabling legislation Congress could state social security taxes do not constitute receipts or social security benefit payments do not constitute outlays?

Mr. HEINZ. If the Senator will permit me to respond, the problem that we get into with social security is that under any of the alternative methods of dealing with the system that I have seen—and I have seen, in the last 5 months, about as many, as a member of the National Commission on Social Security, as any living human would want to see, and there are many more forming, I am sure, between now and the time we report back to our colleagues. The social se-

curity system, because of the way the baby boom moves through, earning on the one hand a lot of money for the social security system before they retire—building up a surplus therefore, before the year 2015, then afterward, if you will, living off that surplus that they necessarily have to build up in the system—if you count social security contributions to that reserve, as you would every other kind of receipt, it causes very serious kinds of problems. The one I referred to in the first instance was that it may cause Congress to overspend.

Mr. GORTON. Why would it make Congress overspend?

Mr. HEINZ. Because of the unified Federal budget. We will have the appearance of running a surplus even though those reserves that we have built up, the so-called surplus in the social security system, will be committed by the legislation to pay benefits in the years after the year 2015 or 2020.

Mr. GORTON. It would be more accurate to say, then, would it not, I ask the Senator from Pennsylvania, that it would allow the Congress to overspend because outlays may equal receipts?

Mr. HEINZ. The Senator is entirely correct, it would allow them. My fear, I say to my good friend, is that it would encourage them.

Mr. GORTON. I would have the same fear. Mr. HEINZ. That is my fear.

Mr. GORTON. I am not sure how that could be prevented by statute.

Mr. DOMENICI. Mr. President, I shall answer the Senator's very direct question. The Senator's question was whether we were saying that social security taxes or social security payments would not be receipts and outlays.

My answer is I did not say anything that indicated that. Obviously, we have some accounting problems of a severe nature, with huge reserves that are going to be spent later.

All I said was that there are ways and means in terms of accounting, definitions and the like, that can indeed make this workable within the terms of the constitutional amendment.

Mr. GORTON. I thank the Senator from New Mexico. In that respect, I agree with him entirely. I assume he would make the same statement in connection with any other trust fund.

Mr. DOMENICI. The Senator is absolutely correct. In fact, I said at one point, that if this amendment becomes part of the Constitution, we may have some trust funds the Senator and I do not know about yet that will have a similar problem. This colloquy ought to help us with those too. There may be similar situations that we ought to be able to take care of by accounting so they do not prejudice their real purpose or the annual budgets in any way.

Mr. GORTON. The Senator is simply saying that by statutes creating and governing those trust funds, we can see to it that the trust fund is preserved, without automatically violating this constitutional amendment.

Mr. DOMENICI. The Senator is correct.

Mr. HEINZ. The Senator is correct. I would only add that one of the things that seems apparent to this Senator—and his view may be shared, I do not know—is that we have not seen any means, at least in the National commission or the Finance Committee or the Aging Committee, to do what we do with the rest of the Federal budget, which is put in a pay-as-you-go basis. We do not know how to do that. The demographics do not permit us a strict pay-as-you-go approach in social security, no matter which assumptions, current law or proposed, one accepts. Therefore, we have to have a

method of dealing with the programs which, for good reasons, are not pay-as-you-go programs. I trust that is an answer to the Senator's inquiry.

Mr. GORTON. I thank the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I think we all remember the balanced budget amendment. The colloquy shows that the Senator from New Mexico was, indeed, sensitive to the very problem I described at these charts. That problem was, "How could you make the balanced budget amendment operate if you had these kinds of deficits operating in the budget from the Social Security Trust Fund?"

Now, I do not wish to put words into the mouth of the Senator from New Mexico, but my reading of our colloquy is that he had some real concern about that issue back last year. And I think, Mr. President, that the real issue is how are we going to address that concern today. I do not know how we can have rational budgeting, how we can control the Federal Government in the proper way, if we insist on keeping the tremendous surpluses and deficits that will cycle through the social security program in the so-called budget deficit. That does not mean that we cannot display a consolidated budget. Indeed, we can. That is what we did in 1968, 1967, and in previous years.

Mr. President, I say to my good friend from New Mexico I have concluded my remarks. I appreciate his courtesy, and I understand he has a little message he wants to deliver to the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the Senator from Pennsylvania for his participation. I think he has contributed immensely.

I have a couple of responses I should like to make, but in the interest of time, I will not do so, other than to respond to one point.

I hope nobody really believes this is a turf battle. Frankly, it is not. I do not see how you could have a budget resolution and a Budget Committee charged with doing what it is supposed to do and take social security and put it off on the side. If that is turf, it is turf in a sense different from coveting it for some purpose to affect it or hover over it or pull it into a committee and do something with it.

What we are talking about is presenting an appropriate picture of the Government versus the economy. In that sense, it is turf.

Likewise, the amendment does not have any effect on the executive branch, as the Senator speaks of, or CBO. It affects our budget resolutions and nothing more. It does not preclude a President, 5 years from now, recommending changes in social security. It just affects the budget resolutions that come before the Senate and the House.

With that, I raise a point of order against the Heinz amendment on the ground that the amendment violates section 306 of the Congressional Budget Act.

Mr. HEINZ. Mr. President, I move to waive the Budget Act.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

Mr. RIEGLE. Mr. President, I ask for the yeas and nays.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. What is the issue before the Senate?

The PRESIDING OFFICER. The question before the Senate is the motion to waive the Budget Act.

Mr. RIEGLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOMENICI. Mr. President, I move to table the motion to waive the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to waive the Budget Act. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Maryland (Mr. SARBANES) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 41, as follows:

(Rollcall Vote No. 39 Leg.)

YEAS—56

| | | |
|-----------|------------|-----------|
| Abdnor | Goldwater | Nunn |
| Andrews | Gorton | Packwood |
| Armstrong | Grassley | Proxmire |
| Baker | Hatfield | Quayle |
| Bentsen | Hawkins | Roth |
| Bingaman | Hecht | Rudman |
| Boschwitz | Heflin | Simpson |
| Chafee | Hollings | Stallford |
| Chiles | Huddleston | Stevens |
| Cochran | Jensen | Symms |
| Cohen | Johnson | Thurmond |
| D'Amato | Kassebaum | Tower |
| Denton | Kasten | Tribie |
| Dixon | Lugar | Wallop |
| Dole | Mathias | Warner |
| Domenici | Mattingly | Welcker |
| East | McClure | Wilson |
| Exon | Murkowski | Zorinsky |
| Garn | Nickles | |

NAYS—41

| | | |
|----------|-------------|------------|
| Baucus | Danforth | Hatch |
| Biden | DeConcini | Heinz |
| Boren | Dodd | Helms |
| Bradley | Durenberger | Humphrey |
| Bumpers | Eagleton | Inouye |
| Burdick | Ford | Jackson |
| Byrd | Glenn | Kennedy |
| Cranston | Hart | Lautenberg |

| | | |
|------------|----------|---------|
| Leahy | Mitchell | Riegle |
| Levin | Moynihan | Sasser |
| Long | Pell | Specter |
| Matsunaga | Pressler | Stennis |
| Melcher | Pryor | Tsongas |
| Metzenbaum | Randolph | |

NOT VOTING—3

| | | |
|--------|-------|----------|
| Laxalt | Percy | Sarbanes |
|--------|-------|----------|

So the motion to table the motion to waive the Budget Act was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DOMENICI. I move to table that motion.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. DOMENICI. Mr. President, I raise a point of order against the Heinz amendment on the ground that it violates section 306 of the Budget Act.

The PRESIDING OFFICER. Before the Chair rules, I recognize the Senator from West Virginia.

Mr. BYRD. I thank the Chair.

SENATE SCHEDULE FOR THIS EVENING

Mr. President, I asked for recognition at this point to inquire of the distinguished majority leader, if he will, to indicate what the plans are for the rest of the evening.

Mr. BAKER. Yes, Mr. President, I thank the minority leader.

First, let me say I think we are making good progress on this bill now, and I share with the distinguished manager of the bill on this side the hope that we can finish it yet tonight. Therefore, my first answer to the minority leader is I would expect this to be a reasonably late night because we still have two or three amendments of consequence to deal with.

It is further complicated by the feeling of the leadership on this side that we must do the jobs bill conference report as soon as we receive it. The last information I have from the other body is that they are now debating amendment No. 82 which deals with targeting, and they expect to vote on that amendment at about 6:30 p.m. I am told that is the only amendment that will require extensive debate and, perhaps, the only one that will require a vote.

Based on that they should complete action on the conference report in the House by 7 p.m. or thereabouts. It has already been enrolled, assuming no further changes are made, and it should be in the Senate by 7:30 p.m.

I hope to admit the messenger as soon as he reaches the door of the Senate Chamber, and since it is a privileged matter, I would ask the Chair to lay the conference report before the Senate, which would temporarily, displace the social security package.

I do not know how long it will take to finish the conference report on the jobs bill but based on information I am given by the chairman of the com-

mittee and others, Senator HATFIELD and others, I would not expect it to take a long time. So I would expect we could finish the jobs conference report by, say, 8:30 tonight, in which case we would go back to social security. That would give us from 8:30 to maybe 10:30 or 11 or maybe 11:30 tonight—I see the chairman of the Finance Committee egging me on for an ever later estimate—I think there is a chance, may I say to my friend the minority leader, that we can finish both the jobs bill conference report tonight and the social security bill.

It is important to do that if we can because we have still got a conference, perhaps a long conference, on social security. I do not anticipate a long conference, but it will be, even if the best we can do, it is probably going to be Thursday morning before the House can get to the conference report, and if we can beat that I, of course, want to. But the way it looks right now we will be in until 10 or 11 p.m., maybe later, tonight.

We hope we can finish social security tonight, and if we cannot we will go back on it in the morning. We are going to do the jobs bill conference yet tonight, which should not take very long, and the chances now of getting out Wednesday look slim; the chances of getting out on Thursday look good.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has raised a point of order.

Mr. BYRD. Mr. President, I ask the Chair to recognize me further, and I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. May I say to the distinguished majority leader that we are canvassing this side of the aisle to try to get some indication of how many amendments remain and as to whether or not those who would offer such amendments would be willing to enter into a time agreement. That may not be the desire of the distinguished manager to enter into any time agreement. He may feel that better progress can sometimes be made without a time agreement on amendments.

I understand Mr. LONG has two amendments, Mr. BAUCUS has two amendments, Mr. LEVIN has one amendment, Mr. BOREN has one amendment, Mr. MATSUNAGA has one or two amendments, Mr. BRADLEY may or may not have an amendment, and Mr. DECONCINI may or may not have an amendment.

Mr. RIEGLE. I have an amendment.

Mr. BYRD. And Mr. RIEGLE.

Mr. BAKER. That is very helpful, and I will confer with the distinguished manager of the bill and have something further to say about it. If we can lock in that no other amendments may be in order, it may be much easier to enter into time agreements after we have identified those amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico raises the point of order—

Mr. RIEGLE. May I be heard on the point of order before the ruling is made?

The PRESIDING OFFICER. I have deferred to the Senator from Michigan, and I have waited for a long time.

Mr. RIEGLE. I understand. I asked for a chance—

The PRESIDING OFFICER. The Chair has some rights, too.

A point of order has been raised, and it is not open to debate.

The amendment of the Senator from Pennsylvania would affect the concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974. This is a matter within the jurisdiction of the Budget Committee, and since the amendment is not offered by that committee, it violates section 306 of the Budget Act, and the point of order is sustained.

Several Senators addressed the Chair.

Mr. DOMENICI. I thank the Chair.

UP AMENDMENT NO. 106

(Purpose: To require separate functional categories in the budget for the Social Security Trust Funds)

Mr. RIEGLE. Mr. President, I have an amendment I send to the desk, and while we have colleagues on the floor I ask first that it be read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 106.

Mr. RIEGLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, insert the following:

SEPARATE FUNCTIONAL CATEGORIES IN THE BUDGET FOR THE SOCIAL SECURITY TRUST FUNDS

Sec. . Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

“SEPARATE FUNCTIONAL CATEGORIES IN THE BUDGET FOR THE SOCIAL SECURITY TRUST FUNDS

“Sec. 1136. (a)(1) For fiscal years beginning after September 30, 1984, the President shall, in accordance with the second sentence of section 1104(c) of title 31, United States Code, establish a separate functional category for requests for new budget authority and estimates of outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and a separate category for estimates of revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. The categories established by the President pursuant to the preceding sentence shall be used in the preparation and submission of the budget under section 1105(a) of title 31, United States

Code, for each fiscal year beginning after September 30, 1984. The budget submitted under such section for each such fiscal year shall not classify requests for new budget authority and estimates of outlays and revenues for such Trust Funds and estimates of revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to this paragraph.

"(2) Notwithstanding any other provision of law, any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for a fiscal year beginning after September 30, 1984, shall use the categories established by the President under paragraph (1) in specifying the appropriate levels of new budget authority and budget outlays for the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund and in specifying the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954. A concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for any such fiscal year shall not classify the appropriate levels of new budget authority and budget outlays for such Trust Funds or the recommended level of revenues for such Trust Funds and revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 under any functional category other than the categories established by the President pursuant to paragraph (1).

"(b) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget under title III of the Congressional Budget Act of 1974 for any fiscal year beginning after September 30, 1983, or any amendment thereto or any conference report thereon if such concurrent resolution, amendment, or conference report contains any specifications or directions described in the second sentence of section 310(a) of such Act which relate to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, or the Federal Hospital Insurance Trust Fund or revenues from taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954.

"(c) The provisions of subsections (a)(2) and (b) are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(d) For purposes of this section—

"(1) the term 'budget outlays' has the same meaning as in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974;

"(2) the term 'budget authority' has the same meaning as in section 3(2) of such Act; and

"(3) the term 'concurrent resolution on the budget' has the same meaning as in section 3(4) of such Act."

Mr. RIEGLE. Let me just say while we have a good attendance here that I think on an issue of this kind which represents a recommendation from the National Commission on Social Security, which is the proposal that Senator HEINZ and I put forward, and which we have just had a procedural vote upon, when that same recommendation has been adopted within the House bill, that by any reasonable measure of germaneness that issue ought to be one we ought to have a chance to vote on up or down on the merits.

Now I understand the effort by the Budget Committee to prevent that happening. It is very much a turf struggle here, and I say that as a member of the Budget Committee. The Budget Committee wants to retain the authority here, if it can, to keep this matter fully within the budget.

The amendment that I have just sent to the desk would be different in this respect: It would recognize the inclusion of social security within the budget, but it would not allow the Budget Committee to include social security within the reconciliation process. That is the key issue.

I hope—I address this to the Senator from Kansas, the chairman of the Finance Committee and others—if we are going to have mandated changes in social security in the future, they ought not to come from the Budget Committee. They ought to come from the authorizing committee which can bring forward whatever recommendations it wishes to make.

But in the past what has happened is that the legislative committees have been bypassed by means of the reconciliation process, and you have a Budget Committee serving as the master committee of all of the committees of the Senate. It is not a good process, and I think now is the time to break away from it.

So my amendment differs in that respect. It will leave social security in the budget process, although I think it ought to come out. But it would say that social security, that function, would not be included within the reconciliation process. That means the Budget Committee cannot make those recommendations and come here and in effect offer a mandate as to changes that ought to take place here. That responsibility properly ought to reside within the legislative committee of jurisdiction which is Finance and this would respect that division.

So I hope that the chairman could accept this amendment. Otherwise, we are going to have to debate it here for a while and, in due course, I hope to have a vote on it.

I think this is a reasonable compromise. It addresses precisely what the Senators from New Mexico and Florida asked for earlier, and that is inclu-

sion of social security within the budget, but it strikes the reconciliation power, which means that they do not have the power and the Committee on the Budget does not have the power to come in here mandating legislative changes in social security. That would be a responsibility retained for the Finance Committee, where it ought to be.

Unless, in fact, the Budget Committee seeks that legislative power, I would think that those two Senators and any others who voted on that side ought to support this amendment. Because this amendment accomplishes everything they ask for short of the power to mandate reductions in social security based on the thinking of the Budget Committee.

Mr. CHILES. Will the Senator yield?

Mr. RIEGLE. Yes; I yield.

Mr. CHILES. As I understand the amendment of the Senator, it would not only prevent the reconciliation of social security but it would also prevent any reconciliation of medicare?

Mr. RIEGLE. That is correct.

Mr. CHILES. Well, I think if you really want to look at the next crisis that we have, it is medicare. Medicare is a little different from social security.

Now I think it is interesting to note that the Budget Committee is the great ogre in this, but there is no reconciliation unless this body adopts it. It takes the Senate to decide that there is going to be a reconciliation. It takes the Senate to say we think that now we should instruct committees that they have to make some changes or have to make some savings.

Now, I am not sure that the Finance Committee, when we get to problems on medicare, is not going to want at some time to be instructed that they have to do something. If they are instructed they have to do something, then they go do it. But, if the body, the Senate, has not made instructions to do that, I do not know what we are going to do about medicare. Again it takes this whole body to determine that.

Here we are debating a bill in which we are talking about making the social security system sound—and that is very necessary—and we are going to, while we are doing that, tie our hands behind our back so that we will not be able to have the tools necessary to make medicare sound.

Medicare is not sound today. All of us know that. It is a crisis ready to just explode or to be discovered, concerning what the costs have been and the way the costs have accelerated and the way they continue to accelerate.

Now you are going to say by this nice, little amendment here that the Budget Committee cannot make a recommendation to this body that we should include savings that should be done to perfect or protect medicare. It takes the body to do that, not the Budget Committee.

Maybe it is a good thing not to have that responsibility, not to have to point out what the problems are in that and to bring those problems to the Senate. But I think it would be sort of a bad day for the Senate if we started chopping away at the Budget Act to say you cannot reconcile in medicare, because we all know the problem that is there in that regard.

It would seem to me, if we are going to do something like this, we ought to hold hearings, we ought to determine, through the Committee on Governmental Operations, which is the committee that created the Budget Committee—and that committee is going to hold some hearings on the Budget Act now—we ought to be looking at that before we determine that we want to say that we are going to take away medicare.

CBO says medicare is going to be broke in 1987. Medicare costs are projected to double from \$57 billion to \$112 billion in the next 5 years—in 5 years those costs are going to double.

What you are going to say in this nice little amendment is: "Budget Committee, don't look at that. We don't want to hear from you on that. Don't have anything to say on that. Don't recommend to the Senate that we do anything about that."

Mr. RIEGLE. If the Senator would yield at that point, that is not what it says. The Budget Committee is free to make a recommendation any time it wants to on this issue. The difference is it is not in a position to mandate legislative changes.

Mr. CHILES. But I say to the Senator from Michigan, the Budget Committee does not mandate, the Senate mandates. It is only when you have a vote, a majority vote, in this Senate, that you have a mandate. The Budget Committee just recommends. That is all it does. It takes a majority of the Members of this Senate to make any reconciliation.

Senator RIEGLE says the reconciliation gives the Budget Committee the right to change social security. All the Budget Committee does is say to the Finance Committee, "Save a certain number of dollars." Again, it is up to the Finance Committee to determine where to save that money. We cannot tell the Finance Committee whether to do it off of social security, off of medicare, or anything else. We just project to them to save a certain number of dollars. It is still up to the Finance Committee to determine whether they are going to save it.

Mr. RIEGLE. If the Senator would yield, he is certainly aware of the fact that if social security is one of the functions that is included in there, then that becomes part of the mandate as to where the savings can come from.

Mr. CHILES. No; it is not binding.

Mr. RIEGLE. What I am suggesting is we take it out of the reconciliation process so there is not any ambiguity about it. Let us treat social security

and the trust fund on their own bases. Let us keep those to the side in terms of reconciliation.

The fact of the matter is by including them, you make them targets. That is precisely what you do. And you can obscure it any way you want with whatever kind of language you want. The fact of the matter is that is what happens and people do not want that any more, and the Social Security Commission does not want it any more.

Mr. CHILES. The fact of the matter is I want to face it very directly. I think medicare is going to have to be a target. I think medicare is going to have to be looked at and examined by this Congress and by this Senate to determine what in the heck we are going to do about a program that is going to double in 5 years, a program that is going to go bust in 1987. And if you are going to say to the Budget Committee, "Get out of that act, don't have anything to do with that, don't look at that," then, my goodness, you might as well decide that the Budget Committee better not look at anything.

That is the most drastic problem that is going to face the Congress in the next year. As soon as we finish this one, we better be working on that next one. Because that is the biggest problem we have on the block and the biggest problem we have for those old people out there that are the recipients. How are we going to pay for it, how are we going to continue to try to cover it? And you are going to say, "Don't look at it in the Budget Committee."

Mr. RIEGLE. If the Senator will yield, what I am hearing is the Budget Committee is becoming the committee for the Senate. We are going to make all of these decisions in the Budget Committee. We do not have the legislative jurisdiction in that area.

Mr. CHILES. Will the Senator yield?
Mr. RIEGLE. I will yield in just a minute.

The Budget Committee does not have the legislative authority to delve into these issues. That is a responsibility of another committee in the Senate. As a matter of fact, that is one of the reasons that no member of the Budget Committee were members of the Social Security Commission. The Finance Committee members were named to the Social Security Commission, not the members of the Budget Committee. They were Finance Committee members, as properly they should have been.

The fact of the matter is that this matter should not be included in reconciliation. That is the problem of the last few years, a problem that has to be corrected.

Mr. CHILES. The Senator hears what he wants to hear, but I must say that the Budget Committee is certainly not the committee of primary jurisdiction, but it is the committee that looks at the fiscal condition of the

Nation. It looks at the fiscal policy. If you say we will not be able to look at medicare, an area that is doubling in 5 years, an area that is going busted under the CBO in 1987, and to say we are going to exclude that from the province of the Budget Committee, we are not going to consider that and allow them to make a recommendation to the Senate as to what should be done, to me you might as well do away with the Budget Committee because that is the biggest problem that we have on the block.

We are saying we are taking away from that problem, and we are doing it in a handwritten amendment, with no hearings on the amendment, no consideration by the Commission on Medicare, and no consideration by anybody. We are writing that down and we are about to do that at this time of night. I think it would be a tragic, tragic thing, if we do.

I yield the floor.

Mr. RIEGLE. Mr. President, I think now this amendment really sort of strips the debate right down to its essentials. That is that it is clear, I think, to anybody who is following this debate. The earlier arguments that the Budget Committee wanted to be able to keep track of this, for broad macroeconomic policy reasons and considerations, was really not the fundamental argument being advanced by the other side. The fact of the matter is that they want to have jurisdiction over these trust funds under the reconciliation process. It is a far more questionable purpose, disturbing purpose, on the part of the Budget Committee in this particular instance.

This is precisely what the National Commission on Social Security recognized. That is that this issue should not be locked into the reconciliation process coming out of the Budget Committee because what happens is in order to finance other areas of the Federal Government one raid after the other is made upon either social security or the other trust fund activities, whether they be medicare coverage or whether they be the early retirement benefit or what have you.

Systematically, time after time after time, an effort was made to reduce those over the last 2 years and to take that so-called room in the budget and allocate that to other things, because we have not cut the overall budget one dime. The budget is rising every single day, the deficits are rising, the money is being transferred.

The purpose of the recommendation of the Social Security Commission was to set the trust funds aside so that they would not be the target of that kind of manipulation within the budget process.

So what this amendment does—we concede the point, though I do not like to do it—is to leave the trust funds within the budget for any type of macroeconomic analysis that wants to be done, but when it comes to the hard

bottom line of reconciliation, the trust funds will be set aside from the reconciliation and treat the Federal budget as an entity without those trust funds being figured in in reconciliation.

I am not surprised that the Budget Committee squawks about that. They want the power, as a matter of fact. Every other legislative committee in the Senate knows that. Everybody has bumped into the Budget Committee at one time or another on issues of this kind.

We are not equipped in the Budget Committee, in my judgment, to make the kind of substantive program decisions that, in a sense, are required when making major alterations in spending in the social security trust fund programs. To come in and, in a sense, lock in those requirements through a reconciliation process is the wrong way to proceed.

The committees of jurisdiction ought to retain that jurisdiction. I am surprised that they are not here fighting harder for it, rather than just surrendering it to one all-powerful committee which is prepared to do all the thinking for all the legislative committees around here. I do not think that has helped the Senate. I think that has ended up getting us into trouble.

We have seen that in social security. That is why we have the recommendation before us from the President's Commission, 10 of whom were selected by the White House and 5 by the opposition party, saying that it is time to take the politics out of social security, to take it out of the budget process, take it out of the reconciliation process, and restore the integrity of this money, to put it into a situation where it is free standing and where it cannot become the subject of budget manipulation or any other kind of manipulation. That is the issue here. It is that simple.

People understand it. Polls have been done that show people think that social security and the trust funds ought to be taken out of the Federal budget, put on a freestanding basis, monitored more closely with outside public participants on the board, which is a recommendation which we also adopted in the package here, in order to see to it that this money is not taken and diverted for other purposes. That is precisely what is happening under reconciliation.

It is time to put a stop to it, if we are going to restore credibility to the social security system and people being able to have faith that the moneys they are going to put into the system will be there when they need to call on it. We need to set this aside and get it out from under the manipulation that takes place in the reconciliation process.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise not in support of the Budget Com-

mittee on this matter but, rather, in support of the committee of jurisdiction to make changes that might be needed from time to time in the disability program, the social security program, and medicare. Basically it is the Finance Committee that will be affected by this amendment and not the Budget Committee.

All the Budget Committee does with reference to a program like medicare, which is going to be bankrupt soon, is tell the committee of jurisdiction, which has jurisdiction over many programs, that they have to make savings of a certain amount in each of the next 3 years. It is up to them to decide where they make the savings, how they make them, but, indeed, they get the protection of coming to the floor when they make those tough decisions, coming in here with a reconciliation bill, after we have voted to give them direction and the House has voted to give them direction, and we have gone to conference and voted on a conference.

Then the Finance Committee, as the committee of jurisdiction, is the committee that will decide how they will reform it, if they reform it, to save the money prescribed. But they get the benefit of a reconciliation bill in taking these very difficult steps that are necessary.

If we are going to come to the floor and in a piecemeal manner, with a Budget Act that clearly says no bill, resolution, or amendment to any bill, resolution or amendment is in order unless it comes from the Budget Committee, if we want to just throw that away and say we do not want anyone making any tough decisions about medicare or disability insurance, we do not want to give the Finance Committee any opportunity to bring a bill to the floor protected by the Budget Act so you can get it voted on, so you can protect it against nongermane amendments, then vote with the Senator, and we will just piecemeal here decide in advance before the Senate gets to vote on a reconciliation, before Finance gets to look at it and see if they like it, if they want it, if it helps accomplish their purpose, then vote for what the Senator is voting for.

It is not social security, it is disability and medicare. But in the final analysis, it is saying we can instruct the Finance Committee in reconciliation but it will have no binding effect in the areas he has described. I do not believe any Senator wants to do that. I think that is an absolute shambles, no way to handle a Budget Act. We may just as well repeal it as do what he is asking for.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have listened to the Senator from Michigan. I agree with some of the points he made. However, after listening to the Senator from New Mexico and the Senator from Florida (Mr. CHILES), I really believe that we are going to be

faced with a crisis in medicare in a couple of years. As I understand the budget process and having been on the committee a couple of years, I do not think the Budget Committee reconciles medicare. As I understand, they give the committee a target figure. The Budget Committee may have medicare in mind when they do that, but there is no specific target for medicare, is that correct? That has not changed.

Mr. DOMENICI. The Senator is absolutely correct.

Mr. DOLE. If, in fact, we are going to start to amend the budget process, then I would like to be a part of it. I have several concerns with the Budget Committee and with the process itself in its relation to the Senate Finance Committee. I would rather amend the budget process in a broader sense than this amendment would provide.

I certainly compliment the distinguished Senator from Michigan. I think he is, in effect, trying to protect our jurisdiction.

As he properly pointed when we wanted to address social security, we took members from the Finance Committee. That is our jurisdiction. Somebody has suggested a Commission on Medicare. I am certain it would go to the Finance Committee, if there are public members.

I hope that I can speed up the process by moving to table the amendment without offending the Senator from Michigan. I certainly have an open mind on what the Senator from Michigan has outlined but I would prefer not to try to resolve it this evening. It is my hope that we can move quickly on this and other amendments and still finish tonight. So I move to lay the amendment on the table.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from Michigan on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Missouri, (Mr. EAGLETON) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 68, nays 29, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—68

| | | |
|-----------|----------|-----------|
| Abdnor | Baker | Boren |
| Andrews | Bentsen | Boschwitz |
| Armstrong | Bingaman | Chafee |

| | | |
|-------------|------------|----------|
| Chiles | Hecht | Packwood |
| Cochran | Heflin | Pressler |
| Cohn | Helms | Proxmire |
| D'Amato | Hollings | Pryor |
| Danforth | Huddleston | Quayle |
| Denton | Humphrey | Roth |
| Dixon | Jepsen | Rudman |
| Dole | Johnston | Simpson |
| Domenici | Kassebaum | Specter |
| Durenberger | Kasten | Stafford |
| East | Laxalt | Stevens |
| Eaton | Long | Symms |
| Ford | Lugar | Thurmond |
| Garn | Mathias | Tower |
| Goldwater | Mattingly | Tribble |
| Gorton | McClure | Wailop |
| Grassley | Murkowski | Warner |
| Hatch | Nickles | Wilson |
| Hatfield | Nunn | Zorinsky |
| Hawkins | | |

NAYS—29

| | | |
|-----------|------------|----------|
| Baucus | Hart | Mitchell |
| Biden | Inouye | Moynihan |
| Bradley | Jackson | Pell |
| Bumpers | Kennedy | Randolph |
| Burdick | Lautenberg | Riegle |
| Byrd | Leahy | Sasser |
| Cranston | Levin | Stennis |
| DeConcini | Matsunaga | Tsongas |
| Dodd | Melcher | Weicker |
| Glenn | Metzenbaum | |

NOT VOTING—3

| | | |
|----------|-------|----------|
| Eagleton | Percy | Sarbanes |
|----------|-------|----------|

So the motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 107

(Purpose: To correct the provision relating to child dropout years)

Mr. ARMSTRONG. Mr. President, I have two amendments I should like the Senate to consider, and the first is a technical amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 107.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 105, strike out lines 5 through 13, and insert the following:

Sec. 122. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years and by any child-care years (as defined in this paragraph), and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by the sum of the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year) and any child-care years (as defined in this paragraph) but not by more than the sum of 5 years and any such child-care years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clauses (i) or (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual's computation base years, each such year (up to a combined total not exceeding 2) shall be considered a 'child-care year' if in such year the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year. The preceding sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2."

Mr. ARMSTRONG. Mr. President, I will take just a few seconds to explain the amendment. The amendment has been discussed with the staff.

It simply clears up a provision which already appears in the bill.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ARMSTRONG. I thank the Chair, and I thank the Senator from New York.

Mr. President, the bill, as it comes from the Finance Committee, provides two additional dropout years when computing benefits for a worker who leaves the work force to care for very young children while at home.

I offered this amendment in committee and was pleased that it was adopted. However, when the legislation was drafted following the committee markup, somehow the full import of the intention was not included in the actual drafted language, and therefore this technical amendment is necessary.

As the provision now appears in the Finance Committee bill, it would be operative in only a relatively few cases. The reason is that the child care dropout years provided are applied after selecting the years to be used in determining the person's average earnings instead of before selecting those years, as is done for the regular 5-year dropout applicable to all beneficiaries. The actuarial cost estimates assumed that it would be fully operative and this is allowed for in the funding of the bill.

This is purely a technical amendment, and unless there is further discussion, I will call for the question on the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DOLE. Mr. President, the Senator from Kansas confirms what the distinguished Senator from Colorado

has just stated. We did adopt the amendment in the committee. However, it was called to our attention that we need a change in the wording of the amendment to do what the Senator from Colorado intended. That is precisely what the Senator has done.

Under the 1980 disability amendments, up to 3 child care dropout years were provided for persons applying for disability benefits who had years caring for a child under age 3. In order to qualify, however, the person could have no earnings in that year. Child care dropout years are computed after determining regular dropout years in the benefit computation.

The committee amendment contains a provision which allows up to 2 additional dropout years for persons applying for retirement, survivors or disability benefits. The provision would have the same eligibility requirements as under current law in the case of young disabled workers. That is, the wage earner must have had a child under age 3 in his or her care and the wage earner could not have any earnings in that year. As under present law, if after dropping 5 years of low earnings, the wage earner also has extra years of no earnings, he or she may be able to claim 1 or 2 child care drop years.

The amendment would change the computation of child care dropout years so that those dropout years are determined before providing the regular drop years now in the law for all workers. This would insure that women—or men—who stay out of the work force to care for a child actually receive some advantage over present law.

I understand from the social security actuaries that this amendment would not increase the short- or long-range cost of the proposal in the committee bill.

This is a good amendment, and I think it should be accepted.

Mr. MOYNIHAN. Mr. President, the Senator from Colorado is quite correct in his statement.

I will take just a moment to call attention to the amendment he offered on child care years and to remind Senators that there are more than a few provisions in this legislation which liberalize the system and get rid of inequities—in this case, for working women, and particularly older women as well.

This is not just an unalloyed bit of castor oil. There are many positive aspects, and one of them is precisely to be ascribed to the efforts of the Senator from Colorado, for which I express my appreciation.

Mr. ARMSTRONG. I am grateful to the Senator from New York for his observation, particularly his words about my role in presenting this amendment. He is correct. There are throughout this bill a number of provisions which liberalize benefits. I thank him for his observation and for his encouragement in this amendment and the

others in which he has had a large hand.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 107) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 108

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 108.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, beginning with line 19, strike out all through page 129, line 23.

Redesignate subsequent sections accordingly.

On page 130, strike out the matter between lines 11 and 12, and insert in lieu thereof the following:

In the case of a taxable year—

| <i>Beginning after:</i> | <i>And before:</i> | <i>Percent</i> |
|-------------------------------|------------------------|----------------|
| <i>December 31, 1983.....</i> | <i>January 1, 1985</i> | <i>10.8</i> |
| <i>December 31, 1984.....</i> | <i>January 1, 1990</i> | <i>11.4</i> |
| <i>December 31, 1989.....</i> | | <i>12.4</i> |

Page 131, in the matter between lines 14 and 15, strike out "2.9" in the item relating to 1984 and insert in lieu thereof "2.6".

Mr. ARMSTRONG. Mr. President, I send this amendment to the desk on behalf of myself and the Senators from Georgia (Mr. NUNN and Mr. MATTINGLY), the Senator from Nebraska (Mr. ZORINSKI), and the Senator from Idaho (Mr. SYMMS).

This amendment simply leaves the payroll tax alone. The Commission's recommendations and the proposal which appears before us now as the Senate Finance Committee recommendation increases the already large payroll tax burden on the workers and employers of the country and does so, it seems to me, at a most inopportune time.

During the 1970's, tax maximums quadrupled. They will triple again during the 1980's as the result of legislation already on the books, without taking into account the increase which is called for by this legislation. It seems to me that such an increase on top of that which is already in progress—that is, the twelvefold increase in payroll tax maximums of the 1970's and 1980's—is not only illogical, is not only bad economic policy, but also in its essence is unfair.

Let me say a word first about the possible effects of higher payroll taxes on our overall economic situation, a matter I judge to be of great concern

to all Senators, as it is to our constituents, because I think most of us believe that we are just beginning to see an economic recovery which will eventually bring unemployment rates down to some kind of halfway acceptable levels. But if we are going to have that recovery and if people are going to go back to work, I suggest that it does not make sense to increase payroll taxes.

I approach this from a very simple point of view, and it is that if you tax something, you are going to get less of it. The last thing we want to get less of at this critical moment in our history is jobs. We want more jobs.

In 1977, the last time we increased payroll taxes, the Congressional Budget Office estimated that the then tax increase would cost some 500,000 jobs. I do not think it is a coincidence that since that massive payroll tax increase we have seen a growth in the problem of chronic unemployment.

So the first reason I urge my colleagues to support this amendment is that it is bad macroeconomic policy.

Second, I would suggest to you the higher payroll taxes simply are not there. Counting both the employer and employee contribution, the average working man and woman in this country pays more in payroll taxes than they do in Federal income taxes. Think of it. A tax which was originally expected and intended to be a very, very modest small tax has now grown to be larger than the basic Federal income tax for more than half the workers of this country.

One of our colleagues pointed out to me just within the last 15 minutes that when he first went to work he paid \$40 the first year he worked in social security taxes, and he estimates that if he went to work in that same job today at today's wages for that same job he would pay \$2,200.

That is not a trend that is unknown to working men and women. In fact, many of them feel that this is a serious injustice, and I think they are right.

I am not bold enough tonight to suggest that we roll back the payroll tax increases of 1977, but I do suggest this is not the moment to further increase the tax as is suggested by this bill.

I wish to also point out to the Senate that higher payroll taxes are highly controversial with the people who pay them, and the tendency of raising taxes in order to finance the deficit in the social security system is precisely to feed the flame of what someone has called an intergenerational time bomb.

I do not perhaps think that is an entirely accurate characterization. It may be an overemotional characterization of the concerns that younger workers have, but I do note that they are more and more reluctant to support the social security system, and one of the things we want to get out of the passage of this bill is a shoring up of public faith and confidence in social security and putting to ease the divi-

siveness that has characterized this to a large extent.

What is the justice of it? Aside from how anyone feels about it, what is the real bottom-line justice of a payroll tax increase as compared to the benefit increases that we have seen in social security?

Mr. President, I would suggest to you that there is no stronger reason than just fundamental justice not to increase taxes. We all know that the source of support, the principal source of support for social security is payroll taxes. Benefits during recent years under social security have risen very rapidly. As a matter of fact, during the last decade benefits for social security have risen nearly twice as rapidly as the payroll on which the tax is based; that is, the earning capacity of the workers of the country.

As a matter of fact, just to put it in an even clearer perspective, social security benefits have risen about 50 percent faster than the Consumer Price Index, while wages of working men and women have fallen behind the growth of the CPI.

So for all of these reasons and one more which I wish to mention, I urge the adoption of the amendment.

The final reason to some may not be important, but for some of us it has a very great significance, and this is the question of the refundable tax credit which is built into the Finance Committee recommendation. We have had a principle of parity of treatment between employer and employee all these years back to the very beginning of social security. In the bill we violate that principle by providing a refundable tax credit for 1 year of the employee's portion of the payroll tax increase.

Now, that crosses two thresholds that I am reluctant to cross. One is the general fund financing threshold and the other is the parity between employee and employer. If we roll back the suggested tax increase, we avoid the necessity for doing so.

For these reasons, Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the Senator from Colorado expresses the judgment feeling that many of us have and none of us would in any way wish to do what this bill is doing with respect to payroll taxes if it were not an irony. We must raise 160-plus billion dollars in the next 8 years or our system will be defunct. If we do it we will go into a longer period of surplus which will surprise us but is there.

I fear to report that the amendment before us would cost more than \$42 billion in round terms, one-quarter of the additional revenues that we seek, and without which we do not have a secure system, without which, Mr. President, we do not have legislation.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I am pleased to be a cosponsor of the amendment offered by my colleague from Colorado, Senator ARMSTRONG, to eliminate the payroll tax increases in this bill.

While the payroll tax increases scheduled to go into effect in this bill will provide some relief to the social security system in the form of higher revenues, this relief to the system might prove to be temporary. Slower economic growth as a result of the payroll tax increases might aggravate the system's financial burden.

The increase in the payroll tax rates represents an increase in cost to both the employers and employees. The higher cost to employers is an impediment to business spending on both labor and capital inputs. Faced with the higher tax rate per employee hired, it discourages labor employment. Also, the increase in business costs reduces the available funds for business expansion. As a result, growth in investment is slower with the tax rate increase than without it.

The higher cost to employees provokes the leisure/work tradeoff because it will mean that it will be relatively cheaper to engage in nonwork activity than it is to work. More importantly, it encourages early retirement in the face of lower after-tax incomes relative to generous social security benefits.

The slowdown in capital and labor investment with the tax increase is translated into slower output per man-hour. Accordingly, overall economic performance is made worse off by the increase in payroll tax rates.

As far as the social security budget is concerned, the slower economic activity with the tax rate increases implies a lower earnings base along with higher unemployment. Therefore, revenues will be lower while the demand for benefit payments will be higher.

Mr. President, while I sincerely respect the efforts of the chairman of the Senate Finance Committee and the efforts of the President's Commission on Social Security Reform to propose and implement a compromise solution to the solvency problems of the OASDI trust fund, I believe the tax increases proposed in this package will do more harm than good.

As everyone knows, we have severe unemployment in several sectors of our economy. Why we are passing legislation which will make that unemployment situation more severe is beyond me. Payroll taxes are a tax on employment and every time you tax something, you will have less of it.

Surely, the senior citizen community does not want to sacrifice the jobs of others just so that all of them can receive cost-of-living adjustments which actually overcompensate them for the increased living expenses they are incurring.

I would encourage all of my colleagues to join Senator ARMSTRONG in supporting his amendment.

I make one point. The President's own economic adviser, Dr. Feldstein, when he was at MIT, took a look at these recommendations and made the point that it might cost as much as 2 million jobs in the United States to raise payroll taxes at this sensitive time of recovery.

So, whether or not my good friend from New York is right, that it will cost \$40 billion out of the future income to the trust fund, I think that is a debatable point. If we trigger more unemployment by excessively increasing payroll taxes, where people simply do not hire people because of this massive cost that it now costs on the front end to hire a new employee for a small business that hires most of the people, we may find out we get less money instead of more money.

We need to get people back to work in this country, and I think there are provisions in the bill that will assure the solvency of the trust fund that are built into this legislation with amendments that the Finance Committee has already adopted and that are part of the legislation.

So I think that is the way that we will take care of the solvency of the trust fund.

I urge my colleagues to support the amendment.

I yield back the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, accelerating the OASDI tax rate increases already scheduled under current law is a key part of the financial solvency package put together at such great effort by the National Commission. Dropping this element out of the package now, or modifying it in a significant way, could cause the compromise to unravel.

Everyone knows that this entire bill represents a series of measures that no one is particularly happy about. The virtue of the package, however, is that every group shares somewhat in the burden of preserving social security, and no one pays an extravagant price out of proportion to the others. If the payroll tax acceleration is eliminated, it just means that some other group will have to take a bigger hit to meet our financing targets.

In any event, we are not talking about new taxes: The acceleration provisions generate more revenues to the trust funds simply by moving up the effective date of the payroll tax rate increase schedule for 1985 to 1984, and part of the increase scheduled for 1990 to 1988. This does, of course, raise the payroll tax burden: But it does so in a gradual and predictable way, in conjunction with major benefit restraints such as the 6-month COLA delay and expanding coverage of social security.

While the payroll tax rate accelerations do raise \$40 billion between now and 1990, a significant portion of that

is offset: In 1984 employees will get a dollar-for-dollar credit for the rate acceleration, and employers will be able to deduct the increased employer payroll taxes. So the real impact on employers and employees will be considerably less than the gain to the trust funds.

Mr. JEPSEN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Colorado, (Mr. ARMSTRONG). His leadership and thoughtful debate on the social security issue has been extremely helpful and appreciated. I believe all Senators owe Senator ARMSTRONG a debt of gratitude for his decision to raise some important issues, despite the controversial nature of some of them.

I have been very concerned about the acceleration of tax increases ever since the Commission indicated that it was seriously considering such a proposal. My colleagues will remember that it was not too long ago that social security taxes were raised, constituting the largest single peacetime tax increase in our Nation's history.

Mr. President, whoever said that if you want to get less of something, tax it, surely had the social security tax in mind when the statement was made. If it is the Senate's intention to retard the recovery, stifle employment, and increase the unemployment rolls, then Senators should support the acceleration of the tax rates for social security for surely this will be the result.

Social security taxes are a tax on work. If you work, you pay the tax. Employers pay the tax and employees pay the tax. Consequently, raising the tax increases the cost of having employees.

In addition, because of the fail-safe provisions in the bill, repeal of the tax increases would not increase the likelihood that social security would be in serious financial difficulty in the latter part of this decade. Some adjustments in the cost-of-living adjustments might be necessary, but even then, those at the lowest end of the income scale would not be affected.

I urge my colleagues to join the Senator from Colorado in his efforts. Otherwise, the economic recovery we are all hoping for might never occur.

Mr. MATTINGLY. Mr. President, I rise to support and cosponsor the amendment offered by the Senator from Colorado (Mr. ARMSTRONG). This amendment will simply strip from the proposal the accelerated payroll tax increases, one of the most onerous provisions of the social security package.

I support the Armstrong amendment for a number of reasons. First of all, higher payroll taxes will mean fewer jobs. Second, higher payroll taxes are not fair, because employer and employee contributions are already so high that the average worker is now paying more in social security taxes than in Federal income taxes. Finally,

raising payroll taxes on workers means reducing the real income of those whose income has barely kept pace with rising prices. I urge my colleagues to support the amendment offered by the distinguished Senator from Colorado.

Mr. DOLE. Mr. President, did the Senator from Colorado ask for the yeas and nays?

Mr. ARMSTRONG. I have not, but I am glad to ask for them now. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I shall just take a minute.

If we want a social security package then this amendment has to be defeated.

I do not quarrel with the Senator from Colorado. This is one of the many unpleasant parts of the package.

We have Federal employees circling the Capitol. They do not want to be into the program. We have people who do not want the COLA delay and some who do not want the acceleration of taxes. These are not new taxes but acceleration of existing provisions.

The Senator from Colorado made an outstanding contribution to the Commission. We made a number of changes in our bill through the efforts of the distinguished Senator from Colorado who is not only a member of the Commission but chairman of the Social Security Subcommittee. I would like to know how the Senator would offset the revenue loss of \$40 or \$42 billion?

Is that a part of the package you are offering?

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, the information furnished my office indicates that it would be something less than that, but not to quibble over the amount, the Senator knows there is a provision which the Senator from Idaho has referred to in the bill which in effect tailors the cost-of-living adjustments in the future to available revenues.

Now, again, to explore the justice of it, we are projecting at the present time benefit increase cost-of-living adjustment of \$259 billion between now and the end of the decade as a result of COLA's. The Commission plan will have a delay savings of only \$39 billion.

It is the expectation of my amendment that in the event that the \$39 billion in revenue which would be lost as a result of this amendment puts the trust fund in a position where it could not fully meet the COLA the other provision of the bill adopted by the Finance Committee would simply scale back very modestly future COLA increases.

Of course, I recall, as do other Senators, that we have included a hold-harmless provision for those at the lower benefit levels which is by the

way one of the most important provisions of the bill so if some additional COLA restraints were required it would be applied only to those who were the best able to withstand such restraint.

Again I point out to the Senator from Kansas and others social security benefits have gone up nearly twice as fast as have the wages and salaries on which payroll taxes are based and at about 50 percent faster than the cost of living.

So if the result were to be some COLA restraint, and I hope it is not, but if it is that would not be unjust or bad policy, in my opinion.

Mr. DOLE. Mr. President, for the reasons stated, I do not quarrel with the Senator. If we could have a perfect package and if he or the Senator from Idaho or someone else could have written the package, we might have avoided any acceleration of taxes, but as a practical matter that does not happen. We did the best we could. The package came out of our committee by a vote of 18 to 1 with this provision. I hope the amendment will be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "yea".

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maryland (Mr. SARBANES), and the Senator from Ohio (Mr. GLENN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 27, nays 67, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—27

| | | |
|-----------|------------|----------|
| Armstrong | Heflin | McClure |
| Boren | Helms | Meicher |
| Boschwitz | Hollings | Nickles |
| Cochran | Humphrey | Nunn |
| East | Jepsen | Quayle |
| Garn | Johnston | Roth |
| Goldwater | Kassebaum | Symms |
| Hatch | Kasten | Trible |
| Hawkins | Mattlingly | Zorinsky |

NAYS—67

| | | |
|----------|-------------|------------|
| Abdnor | Cranston | Hatfield |
| Andrews | D'Amato | Hecht |
| Baker | Danforth | Heinz |
| Baucus | DeConcini | Inouye |
| Bentsen | Dixon | Jackson |
| Biden | Dodd | Kennedy |
| Bingaman | Dole | Lautenberg |
| Bradley | Domenici | Laxalt |
| Bumpers | Durenberger | Leahy |
| Burdick | Exon | Levin |
| Byrd | Ford | Long |
| Chafee | Gorton | Lugar |
| Chiles | Grassley | Mathias |
| Cohen | Hart | Matsunaga |

| | | |
|------------|----------|----------|
| Metzenbaum | Randolph | Thurmond |
| Mitchell | Riegle | Tower |
| Moynihan | Rudman | Tsongas |
| Murkowski | Sasser | Wallop |
| Packwood | Simpson | Warner |
| Pell | Specter | Weicker |
| Pressler | Stafford | Wilson |
| Proxmire | Stennis | |
| Pryor | Stevens | |

NOT VOTING—6

| | | |
|----------|------------|----------|
| Denton | Glenn | Percy |
| Eagleton | Huddleston | Sarbanes |

So Mr. ARMSTRONG's amendment (UP No. 108) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to my last amendment: Senator HUMPHREY, Senator JEPSEN, and Senator HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we are moving along rapidly. It is going to take some time, but we are making steady progress.

There is not any set order, but there are Senators who have been waiting 1 day or 2 days, such as Senator HUMPHREY, Senator HAWKINS, Senator BAUCUS, Senator QUAYLE with one amendment which I believe we can agree to, an amendment by Senator MATSUNAGA, and an amendment by Senator LEVIN.

I am not certain, but I think we can have a vote about every 15 or 20 minutes, hopefully.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. HUMPHREY. Mr. President, this Senator would agree to a time agreement of 10 minutes on each side on each amendment and then have an up or down vote, with no point of order being raised against either amendment.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Will the Senator yield? I would like to explain my position.

Mr. HUMPHREY. I yield.

Mr. LONG. I do not want to agree to a time agreement until we have a chance to check with our minority leader (Mr. BYRD). I personally have no objection to a time agreement.

The PRESIDING OFFICER. The Senator from Florida.

UP AMENDMENT NO. 109

(Purpose: To move up two years the phase-out of the earnings limitation for beneficiaries who have attained retirement age)

Mrs. HAWKINS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Florida (Mrs. HAWKINS), for herself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. D'AMATO, Mr. DeCONCINI, Mr. GARN, Mr. HECHT, Mr. JEPSEN, Mr. NICKLES, Mr. SYMMS, and Mr. THURMOND, proposes an unprinted amendment numbered 109.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, beginning with line 14, strike out through line 6 on page 45 and insert in lieu thereof the following:

"(I) \$250 for each month in any taxable year ending after 1987 and before 1989;

"(II) \$500 for each month in any taxable year ending after 1988 and before 1990;

"(III) \$750 for each month in any taxable year ending after 1989, and before 1991;

"(IV) \$1,000 for each month in any taxable year ending after 1990 and before 1992; and

"(V) \$1,250 for each month in any taxable year ending after 1991 and before 1993."

On page 48, line 3, strike out "1994" and insert in lieu thereof "1992".

Mrs. HAWKINS. Mr. President, under the legislation before us today significant steps are recommended to resolve the shortrun and longrun problems facing the OASDI trust funds. However, there is one problem left unresolved that we can help correct today. The problem is age discrimination. Under the bill, anyone between 65 and 70 who chooses to start drawing social security is forced by the Federal Government to make the unfair irrevocable concession never to work again full time.

Current law sets a limit now equal to \$6,600 as the maximum amount a social security recipient can earn in wages or salary annually without penalty. In Florida, the average per capita income is \$7,200, just a little above the limit. Above the limit, social security checks are reduced by \$1 for every \$2 earned. This direct penalty alone has the same impact as a 50-percent tax on wages earned above the limit. If you earn \$2,200 above the limit, then you will have only \$1,000 left after your social security check is reduced.

However, the direct penalty is only a part of the disincentives thrown in the way of those wishing to work again. Right now, social security is not taxed, but wages and salary are. Thus, gaining \$2,000 in wages and losing \$1,000 in social security is not the same thing to the tax men as receiving an extra \$1,000. They treat it as receiving an extra \$2,000. That means \$140 is removed for social security taxes and at least another \$200 is taken for Federal income taxes, probably a lot more. Finally, most States, also have income taxes. Most municipalities and counties do, too. So, take out another \$60. When the smoke clears, the net amount received for earning that \$2,000 is only \$600. That is equivalent to a 70-percent tax rate.

The example I have just given is not one covering a wealthy individual. It is

for someone in the lowest tax bracket, someone receiving \$4,000 in social security and earning \$7,000 in wages for example. They probably also qualify for food stamps.

Equivalent tax rates for earning more than the limit are, therefore, even higher than 70 percent for most people caught in this vicious trap. It can even exceed 100 percent. Under current law, it is possible for a senior citizen to receive a bill instead of a check for earning more than the arbitrary limit. Now, how many people are there that will work knowing that the more they do, the worse off they will be?

Even millionaires get a better deal from the Government. They have to face at most a 50-percent tax rate. Uncle Sam lets them keep at least 50 percent of however much they choose to earn. It is probably a lot higher if they have a tax accountant. Why do we penalize the working old more than we tax the rich? I propose that the earnings limit be raised by \$3,000 for 5 years in a row beginning in 1988 and lifted entirely in 1983.

Thus, the limit would be approximately \$10,000 in 1988, \$13,000 in 1989, \$16,000 in 1990, \$19,000 in 1991, \$22,000 in 1992, with no limit afterward. Assuming inflation remains under control during the 1980's, under my amendment most of the elderly penalized by this misguided policy will be unaffected by it by 1989. Few are likely to earn more than \$13,000 in wages and salary in that year. By comparison, under the bill the earnings cap would equal about only \$7,000, virtually unchanged from today.

Frankly, in my mind the largest criticism that can be made against my amendment is that it is too cautious. Immediate repeal of the earnings penalty is affordable if one believes the persuasive evidence piling up that economic recovery has begun. That evidence suggests that the II-B forecast is too pessimistic and alternative III represents the pathway anticipated by those who believe the end of the Earth is near.

Consider the unemployment figures used. Under II-B, the unemployment rate for 1983 is forecast at 10.7 percent. And under alternative III, the unemployment rate is 11 percent. Under the old way of calculating unemployment, the rate is already 10.4 percent. Under the new way, it is 10.2 percent. Both are well below the averages used for devising the II-B and III forecasts, and the recovery is just beginning.

Consider the economic growth rates assumed. The II-B projection assumes the economy grows in real terms by only 1.4 percent, and the alternative III projection says we will produce less this year than we did last year. Meanwhile, the administration, which by general agreement was considered to be lowballing its economic growth estimates, assumed a growth rate equal to the II-B forecast. Our own Budget

Committee will certainly pick a higher, more realistic number.

Analogous comparisons can be made for other economic variables that are important determinants of OASDI income and outgo. The results of such comparisons are the same.

The II-B forecast is already proving to be too pessimistic, and the alternative III projection implausible. Which, come to think of it, is just what we should expect. The Social Security Administration actuaries make four forecasts. Alternative I is optimistic. Alternative II-A is somewhat optimistic. Alternative II-B is somewhat pessimistic. And alternative III is pessimistic. That means if the actuaries were to make only one forecast, take their best shot, so to speak, they would use assumptions more optimistic than those used in II-B but less optimistic than those used in II-A.

That best guess would permit immediate repeal of the earnings test, as the House voted to do in 1977.

The arbitrariness of any earnings penalty law is even more obvious when one considers that it does not apply if you are older than 70. Why 70? Someone who is 71, 81, or even 91 can earn all they want without penalty. But if you are between the ages of 65 and 70, you have to pay the price. Where is the fairness or logic behind such distinctions?

Frankly, any penalty for working if you are over 65 is inconsistent with raising the retirement age as recommended under the bill before us. You cannot, without being inconsistent, claim that life expectancy has grown, so people should work longer, and then support penalizing working after you turn 65.

The earnings penalty, in addition to being unfair, arbitrary, and inconsistent, also contradicts the firmly held belief that social security payments are an earned right. The public thinks social security is just like a private pension plan or an annuity contract. You pay in for a number of years and at an agreed upon age, you start drawing the benefits you contracted for. After you pay in, you receive. That is the deal, with no strings attached. In fact, if private plans included provisions stating that pension benefits or annuity payments stopped or were reduced when you went back to work, Congress would pass a law outlawing them. However, maybe we would not have to. Who would buy such a poor plan?

Mr. President, the earnings penalty did not become law by accident. It passed during a time when Congress felt it best that those who retired should stay retired, making room for the young to take their jobs. However, how many people feel that way today? Would not our ability to improve the math and science skills of our young be improved if we could entice some of our best retired teachers to come back, full time or part time?

The President asked in his state of the Union address for retired teachers to come forward and teach our children math and science. They certainly will not if they get a bill instead of a check for coming back to the workplace.

For many elderly, the decision to return to work is not voluntary. They do not return to work out of choice but out of necessity. Many people who retire quickly feel the financial pinch of living on a fixed income when the prices of life supports are rising faster than the inflation rate. Consider these figures. The cost of electricity has gone up 60 percent faster than the CPI over the last 5 years. The cost of housing and heating your home has gone up 12 percent faster. Cost of food has risen 7 percent faster. Bus fare has gone up 50 percent faster. And gasoline has gone up at twice the rate of the CPI. Telephone rates for local calls are expected to go up three times within 3 years. Water and sewer providers are asking for large increases all over the country.

What happens when the elderly get their electricity turned off when they do not pay their electricity bill? I will tell you what happens. They have to pay twice their monthly consumption in cash. Utility companies will not take a check once you have been cut off for missing a payment.

Should we penalize these people for deciding they cannot afford to retire after all? Instead, they have to keep working just to pay for a minuscule roof over their heads, or to make a telephone call since someone is breaking in their front door, or to have water come out of the faucets in the house they have lived in for 45 years while their property taxes have tripled in less than 5 years?

How about penalizing those who incur enormous medical bills when their spouses suffer from a catastrophic illness that medicare does not cover? The average person who is on medicare has to come up with \$721 a person annually just to cover the charges for their health costs that are not covered in medicare. Or how about penalizing someone who gets swindled out of their life savings? You can pick up the paper daily in Florida and read of someone who just gave \$10,000 or \$15,000 of their life savings on some flimflam game that went on in a back parking lot. With a little imagination, I am sure my colleagues will come up with some other examples.

The point is simple. Most people want to retire as soon as possible. They look forward eagerly to the day when they can afford to do so. Unfortunately, inflation or a serious financial mishap forces some of them back into a job. We should not make the last years of their lives such a hardship by what we do in Congress.

I suspect it was for some of the reasons I have outlined today that the administration proposed phasing out the earnings penalty in 1983 when they

sent a plan to do so to Congress in May 1981. I commend the Finance Committee for agreeing to eliminate the earnings penalty in 1995 as proposed by this bill.

However, I believe we can do better than wait until 1995. While there are a variety of ways to accelerate the elimination of the penalty, I believe the least controversial way is to increase the 5-year phaseout schedule recommended by the Finance Committee by 2 years. Instead of phasing out the penalty over 5 years beginning in 1990, I propose starting in 1988.

There should be no question we can afford my amendment if we believe the charts we have been shown and the study we have read prepared by the Social Security Administration. Starting in 1988 under virtually any conceivable economic conditions, OASDI will run a string of annual surpluses well into the 21st century. At year end in 1988, OASDI under the moderately pessimistic II-B forecast will have a checkbook balance of \$57 billion according to the Social Security Administration. In 1989, the balance will grow to \$89 billion. And the 1990's will be even better; positive cash flow is expected to exceed \$400 billion in that decade alone. If the doom and gloom III forecast is used, then the 1988 and 1989 year-end figures are \$13 billion and \$23 billion. However, even under alternative III, OASDI will start to run annual surpluses in 1988, the year I propose to phase out the earnings test. And they will continue throughout the 1990's and beyond. By comparison, my amendment costs OASDI \$800 million in 1988 and \$1.3 billion in 1990. That means it costs less than 1 percent of 1 percent of taxable payroll. Even this modest amount is an overstatement if you believe the studies that were presented before comprehensive hearings held by the House Subcommittee on Retirement Income and Employment, during the 96th Congress, 1980.

The studies showed that if the limit were removed people would go back to work, and thereby return up to 85 percent of the cost for repealing the test in the form higher income and social security taxes. This administration campaigned as did many Senators—that together we were going to reward work, and now we have said we are going to penalize you if you are between 65 and 70 and choose to do so. Someday soon, perhaps sooner than we think, for this reason many of us will be called upon to answer why we did not fight to eliminate immediately, instead of starting in 1988 age discrimination against the elderly forced for financial reasons back to work. I wonder how persuasive our answer will be that we decided to look away and wait until 1995 before justice was done.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Florida for offering the amendment. I only wish we could accept it. And I only wish I was as optimistic as even the assumptions cited by the distinguished Senator from Florida. But I think we have to be realistic. This is going to take about \$2.3 billion out of the trust fund. When we were finally trying to put all this together in the Senate Finance Committee, we ended up with about four areas we wanted to address, and one was the area just addressed by the Senator from Florida. The other was the so-called bend points, another was increasing the retirement age to 66, and the other was the day care, child care credit just discussed by the distinguished Senator from Colorado (Mr. ARMSTRONG).

Now, it is not that we did not want to do more. It is that we had certain guidelines to follow, and it seemed to us that we had gone about as far as we could go with reference to this particular issue.

We do begin the phaseout in 1990. I would like it to begin immediately. In fact, the Senator from Kansas coauthored, with the Senator from Arizona, the earlier action in this area. I am not certain what year it was now but it was 4 or 5 years ago.

Under the committee bill, the retirement earnings test for people 65 and older will be phased out between 1990 and 1995. Each year the exempt amount of earnings would rise by \$3,000 and the test would be completely eliminated in 1995. The phaseout of the retirement test is an important change in social security that I have long endorsed. Under present law there are strong disincentives for older Americans to continue to work. The problem with phasing out the test and, indeed, the problem with this amendment is that it costs money. I must say that a lot of amendments are going to be coming up now. They all cost money. And we are hanging on by a thread. We are trying to keep the package intact and everybody is coming along now with an amendment that is \$500 million or \$700 million or \$2.3 billion.

That may not seem like a lot in the social security package, but we have to raise about \$165 billion between now and 1990, and every billion dollars we lose, or \$2.3 billion we lose out of the trust fund must be made up somewhere else. We just had an amendment that would have taken \$40 billion out of the trust fund.

Mr. MOYNIHAN. Mr. President, may we have order. The manager of the legislation is speaking.

Mr. DOLE. I thank the Senator from New York.

I really believe that if in fact we are going to have these big surpluses, and Congress is going to meet in 1984, 1985, 1986, and 1987, then it would certainly be appropriate for the Senator from Florida to offer the amendment and I would join her in that amendment, assuming we are both here in 1987 or whenever that time comes.

Mr. President, we have thought about taking the amendment. We tried to find out some way we could squeeze it into the package, but it seems to me that finally the bottom line is: Can we take it? Do we have the money to take it? The answer is no. Therefore, I would hope we would reject the amendment.

● Mr. LEVIN. Mr. President, I reluctantly vote against the amendment offered by the Senator from Florida to accelerate the phaseout of the earnings limitation on social security recipients. Under current law, this limitation is \$6,600. Income earned above this amount results in social security benefits being reduced by \$1 for every \$2 that are earned.

The committee has proposed phasing this limitation out by 1995. The amendment being offered would phase it out by 1993. I believe that we should phase out or raise the earnings limitations so it is at least high enough to allow an individual to earn an income which can supplement their social security benefits, and, thereby provide the necessities of life. But early total removal of the limitations may weaken the solvency of the system.

While I can support the phaseout by 1995 it has been carefully crafted to avoid any additional reduction of social security benefits to pay for it.

We had best leave it that way. ●

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, there is nothing I would add to the remarks of the distinguished Senator from Kansas except our appreciation to the Senator from Florida for drawing the attention of the Senate to the fact that it may well be, if fortune smiles, that we could afford this toward the end of the decade. We do not think we can.

As time goes by, if it turns out we can, the amendment can be offered and, as the Senator from Kansas said, he will support it, and I will support it. But for the moment we have very little keel room in this legislation, and a billion here and a billion there, as somebody once said in this Chamber, and pretty soon you are talking about real money. And it is real money we are trying to raise. I would ask Senators on both sides if they could stay with the Finance Committee's measure in this regard. It is made up of small items. If we start taking small items out, we do not know where we will be.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I hope the Senator from Florida and the managers of the bill will let me intervene just for a moment to bring in the conference report on the jobs bill.

Before I do that, however, may I say that I do not intend to call up the conference report now. However, after the Hawkins amendment is disposed of, it is my intention to ask the Senate to turn to the consideration of this measure.

Mr. President, once again, after the Hawkins amendment is dealt with, it is the intention of the leadership to ask the Senate to turn to the consideration of the conference report, which is privileged. It is hoped that it will not take an unduly long time to finish consideration of this measure, and then we will return to the social security package.

I express, once again, our hope that we can finish both the conference report and the social security package tonight.

Mr. President, I yield the floor.

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question is on the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), the Senator from Minnesota (Mr. DUR-ENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—44

| | | |
|-----------|-----------|----------|
| Abdnor | Glenn | Mitchell |
| Armstrong | Hatch | Nickles |
| Biden | Hawkins | Nunn |
| Bingaman | Hecht | Pell |
| Boren | Heflin | Pressler |
| Boschwitz | Helms | Pryor |
| Burdick | Hollings | Quayle |
| Byrd | Humphrey | Randolph |
| Chiles | Jepsen | Riegle |
| Cohen | Kasten | Symms |
| D'Amato | Leahy | Thurmond |
| DeConcini | Mathias | Trible |
| East | Mattingly | Warner |
| Ford | McClure | Zorinsky |
| Garn | Melcher | |

NAYS—49

| | | |
|----------|------------|----------|
| Andrews | Hart | Packwood |
| Baker | Hatfield | Proxmire |
| Baucus | Heinz | Roth |
| Bradley | Inouye | Rudman |
| Bumpers | Jackson | Sasser |
| Chafee | Johnston | Simpson |
| Cochran | Kassebaum | Specter |
| Cranston | Kennedy | Stafford |
| Danforth | Lautenberg | Stennis |
| Dixon | Laxalt | Stevens |
| Dodd | Levin | Tower |
| Dole | Long | Tsongas |
| Domenici | Lugar | Wallop |
| Eagleton | Matsunaga | Weicker |
| Exon | Metzenbaum | Wilson |
| Gorton | Moynihan | |
| Grassley | Murkowski | |

NOT VOTING—7

| | | |
|-------------|------------|----------|
| Bentsen | Goldwater | Sarbanes |
| Denton | Huddleston | |
| Durenberger | Percy | |

So Mrs. Hawkins' amendment (UP No. 109) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I indicated earlier that as soon as we finished this vote we would go to the conference report. The chairman of the committee, the manager of the conference report on this side, needs a little more time to examine the nature of an amendment sent to us on one of the items in disagreement with the House.

I understand Senator DOLE and Senator QUAYLE are prepared to proceed now on another amendment to the social security package which will not require a rollcall vote. I hope the managers will agree to do that while I consult with the chairman of the Appropriations Committee and arrange for us to proceed to the conference report.

UP AMENDMENT NO. 110, AS MODIFIED

(Purpose: To allow dislocated workers to withdraw contributions to IRA's)

Mr. QUAYLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an unprinted amendment numbered 110.

Mr. QUAYLE. Mr. President, I ask unanimous consent to withdraw that amendment and submit this amendment, which is a revised amendment, in accordance with an agreement that has been worked out.

The PRESIDING OFFICER. The amendment is so modified. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an unprinted amendment numbered 110, as modified.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title IV add the following new section:

SPECIAL PROVISIONS FOR DISLOCATED WORKERS WITH RESPECT TO INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 423. (a) Notwithstanding any other provision of the Internal Revenue Code of 1954, a dislocated worker having documentation issued by the Secretary under this section, may withdraw contributions to, and interest on, an individual retirement account established in accordance with the provisions of section 408 of the Internal Revenue Code of 1954, without incurring the tax penalty under section 408(f) of the Internal Revenue Code of 1954.

(b) For purposes of subsection (a), an individual is a dislocated worker if such individual—

(1) has at least twenty quarters of coverage under title II of the Social Security Act; and

(2) has received regular unemployment compensation under State law within the preceding 12-month period, and has exhausted all rights to such compensation in his most recent benefit year.

(c) The Secretary shall provide for the issuance of documentation to individuals identified as dislocated workers.

Mr. QUAYLE. Mr. President, I am sending to the desk an amendment which will permit the long-term unemployed to withdraw their contributions to individual retirement accounts without incurring a tax penalty.

We all know that this Nation faces a large problem of workers who have been and who will continue to be permanently dislocated from their current employment. These workers must gain new skills before they can reenter the productive mainstream of the American economy. It seems to me just a matter of commonsense to let workers withdraw their IRA contributions without penalty when they are faced with the need to make a fundamental change in their working career. There is no sense in having funds locked up in a long-term savings account when the workers' needs are immediate and now. IRA withdrawals are already permitted for the handicapped. This amendment permits withdrawals for those who have, in fact, been handicapped by the changes in our economy.

Mr. President, this amendment is very direct and very simple. It involves the individual retirement accounts and forbears the tax penalty for withdrawal to those who are dislocated workers.

This amendment, I am pleased to report, does have the support of the Treasury. It has been slightly modified, I might point out, from the version that was printed in the RECORD on March 16 in order to achieve a greater administrative simplicity.

Basically what it does is just to allow a withdrawal without penalty from an IRA account for those people who are dislocated workers and seeking employment.

Mr. DOLE. Mr. President, I understand from the Senator from Indiana that the Treasury does support this amendment. As I understand what it permits is if somebody is dislocated they can—it is similar to the situation with respect to the disabled. They can withdraw from the IRA without penalty. Is that the essence of the amendment?

Mr. QUAYLE. That is the essence. That is correct.

Mr. DOLE. Does the Senator have a revenue cost estimate?

Mr. QUAYLE. Obviously in fiscal year 1983 there will not be any because they would not be paying the penalty until the following year, so any kind of revenue loss would not be in fiscal 1983 but in fiscal 1984.

Mr. DOLE. Has the Senator talked to the distinguished Senator from Louisiana about this amendment?

Mr. QUAYLE. We have had from the minority side for a considerable amount of time no opposition. This is really not a noncontroversial amendment. I am going to get to one. So it has been over there with the Senator's staff for clearance, and we have had no objection to it.

Mr. PRYOR. Mr. President, I might say to the distinguished Senator from Indiana, I was filling in for the Senator from Louisiana (Mr. LONG). I wonder if we could have an accommodation until he gives his acceptance or possible disapproval of this, and so I wonder if we might lay this aside temporarily until the Senator from Louisiana returns?

Mr. DOLE. I think that is a good suggestion. I wonder if we might not temporarily set this aside until we check with Senator LONG.

You have an amendment that has been cleared with Senator LONG, the one you discussed with him?

Mr. QUAYLE. I have discussed the voucher amendment with Senator LONG, I have not yet had clearance with him. I thought I would wait for clearance.

I was under the impression there would not be any problem with two of the amendments, but I would be glad to accommodate the minority on this. It has been printed in the RECORD, it has been well established for a couple of days, and I have heard no objection. As a matter of fact, one day we had accommodations we had made in response to a number of people who have seen this and commented on it.

Again, it is just foregoing a penalty on withdrawal from IRA accounts of dislocated workers. I can hardly imagine that that is going to be a hugely controversial issue. We are talking about the Federal supplemental compensation authorization and unemployment compensation. This would certainly be a way, without having any drain on the Treasury, to provide some comfort for people that are dislocated and find themselves in a very unfortunate circumstance.

I will be very surprised if, in fact, there is any opposition. But I would be willing to accommodate the minority in any fashion that the manager of the bill sees fit.

Mr. PRYOR. Mr. President, once again, in regard to the amendment of the Senator from Indiana, I certainly cannot speak for our side on this particular issue. I would like to ask, respectfully, if the Senator from Indiana would temporarily set aside the amendment until our side has had an opportunity to examine the amendment.

Mr. QUAYLE. Mr. President, I ask unanimous consent that this amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 111

(Purpose: To provide that FSC shall not be denied to an individual in training)

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 234, after line 23, insert the following:

TRAINING

SEC. 404. Section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new subsection:

"(g) The payment of Federal supplemental compensation shall not be denied to any recipient (who submits documentation prescribed by the Secretary) for any week because the recipient is in training or attending an accredited educational institution on a substantially full-time basis, or because of the application of State law to any such recipient relating to the availability for work, the active search for work, or the refusal to accept work on account of such training or attendance, unless the State agency determines that such training or attendance will not improve the opportunities for employment of the recipient."

Mr. QUAYLE. Mr. President, this amendment deals with the Federal supplemental compensation benefits and allows a different procedure for whether an individual may be available for work.

Under present law, these beneficiaries are disqualified from benefits unless their retraining has been previously approved by the State employment security agency. As a matter of record, these agencies have rarely approved training courses unless the agency has itself arranged for the training.

Under my amendment beneficiaries would not be disqualified from benefits if they took training unless the State agency determined that the training would not improve the beneficiary's prospect of employment.

So we are reversing the process on determining whether an individual would be available for work. The emphasis is to try to get individuals to seek training instead of waiting.

At the request of the Department of Labor, I have included some modifications from my original amendment in order to prevent potential misuse of this provision. First, I have provided that the beneficiary, the person receiving unemployment compensation, must submit appropriate documentation, as will be prescribed by the Secretary, concerning his retraining so that the State agency will have adequate evidence on which to base its determination. Second, I have made the provision applicable only to retraining that is taken on a substantially full-time basis to prevent the possibility of someone being excluded from job search requirements just because he is taking training for 1 hour a week.

With these modifications, I understand that this amendment will be acceptable. Let me summarize. What we

are doing is putting the burden on the employment security agency to determine that he is not receiving or she is not receiving adequate training. Right now the procedure is very cumbersome. Individuals find it very difficult at times, because of the administrative hurdles placed before them, to get certified that they are trying to receive training to enhance one's skills and, therefore, enhance one's employability.

I believe this amendment certainly is a step in the right direction. The employment security agency sees that the individuals are taking advantage of it or they do not provide proper certification, then, in fact, they would not be available for work and, therefore, they could not go ahead and seek this training.

Mr. President, I just want to emphasize one point. This amendment goes to what is going to be the second phase of the jobs bill. Later on tonight we are going to be debating the jobs bill. A number of people that supported that, including the Senator from Indiana, did that because it is a short-term solution. It is not a long-term solution. The Federal unemployment compensation is in there. It is a matter of dire necessity for every State, including my own, that we pass that.

But, beyond that, the real jobs legislation is not, first of all, going to mean economic recovery. Second, and this is the challenge that we have, how are we going to train and retrain our surplus labor in this country? How are we going to take those individuals that have been dislocated and displaced and match them up with future jobs? How are we going to take somebody that has been employed for a number of years and develop new skills and, therefore, new opportunities?

What this amendment does is to say: "Look, what we are going to do is encourage training and we are not going to deny benefits to somebody that is seeking proper training and trying to get ahead in life and to move a step forward."

It is not going to be open-ended because there is going to have to be certification. Just like under the GI program, certain certifications that if you were taking courses, to go ahead and you would be eligible for the GI program. This is the same requirement.

Once the individual shows that he or she is receiving training, then they are going to continue to get those unemployment benefits unless the agency determines that it is not going to enhance their employability.

I imagine, in most cases, they would not make that determination and, therefore, there would be a positive incentive and reward for those people to go out and to have training and there would not be a punitive liability or a disadvantage to those individuals where they would say, "Oh, no, you can receive training if you are going to continue to get your unemployment compensation."

Let us face it, if they can go ahead and receive that unemployment compensation and receive that training, they are going to be better off and the Nation is, too. So I hope that there will not be any dissent on this amendment.

It just reverses the present process. It has been printed in the RECORD. It has been discussed at the staff level. It has the administration's support and it should have the support of the entire Senate.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. QUAYLE. I am glad to yield to my distinguished chairman.

Mr. DOMENICI. Mr. President, first, I wish to compliment the Senator for the amendment. I think it is an excellent one.

Who will make the determination as to whether or not the training or retraining enhances one's employability? Let me tell the Senator why I ask that question. I have a pocket of unemployment attributable to copper mining. I have been down there a couple of times meeting with the working people. They told me that they are attempting to go to school there at the regional university and take the vocational course and that somebody at the State level made the determination that they qualified if they were learning to be a plumber but they did not qualify for unemployment if they were learning to be a carpenter. Will the amendment of the Senator change any burden of proof there?

Mr. QUAYLE. It certainly does. It changes the process, because under the current process your employment security agency sets up all of this criteria and then they have to fall into a certain category.

Under this amendment, the presumption, so to speak—and we will have to wait and see exactly how it will be carried out with the Secretary—the presumption is if they are certified and receive training, they are also certifying that they are going to elevate one's skills. There was a potential abuse we corrected.

Someone would say that maybe they will be able to certify they are only getting 1 hour a week and, therefore, that would not be right. So we put in substantially full-time employment; in other words, it has to be a basically full-time training that they are seeking. Therefore, once the employee or the recipient or beneficiary determines that they are going to enhance their employability, the burden of proof is now on the Department to say, "No, they are not."

Right now the Department can come up with arbitrary standards, as they have done in the Senator's State of New Mexico, and say if you do not do this you do not qualify. It simply reverses the process and reverses the presumption.

Mr. DOMENICI. I compliment the Senator. I ask him if I may be added as a cosponsor.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, again, we are waiting for the distinguished Senator from Louisiana (Mr. LONG) to come to the floor so he will have a chance to examine the amendment.

As I understand, the amendment has been modified, but it is still hard to determine that somebody is looking for work if they are in a training program.

I do not have any real objection, but I think it can be tightened up some more and we can do that in conference. However, I would want the distinguished Senator from Louisiana to clear the amendment.

The amendment that troubles me is the one the Senator has not offered yet. The more I heard about it, the less enthusiastic I am about the voucher. I would hope the Senator would not press that amendment. It is the same thing we have had hearings on, or essentially the same thing we have had hearings on, in the Finance Committee.

As I understand, there are still a number of questions to be resolved, and I would hope that we might delay that amendment for another time.

Mr. QUAYLE. Will the Senator yield?

Mr. DOLE. The Senator has not offered the amendment yet, but I understand he may do so. I just want to indicate I have no objection to the first two amendments. I feel after discussing the third amendment and learning more about it, I would prefer not to have to address that at this time.

The Senator is certainly at liberty to offer it.

Mr. QUAYLE. Let me tell the Senator that when we started out with the voucher proposal, there were a lot of people we had been working with who expressed the same concerns as the Senator from Kansas, that maybe we should not be doing that at this particular time, or they had certain questions on the amendment.

After working with particularly a number of people in the administration this past week and this week, the Department of Labor, the Department of the Treasury, and OMB have basically signed off on this amendment and they are now supporting it.

I would hope that we might be able to get the chairman of the Finance Committee, which has jurisdiction over this matter, as well as the Labor and Human Resources Committee, to work this out. Maybe as time goes on the Senator from Kansas might like

this amendment that I would like to offer later on. It does have the support of the administration. I think it is a good amendment. Nobody really knows how these vouchers are going to work.

This is an extension of the Federal supplemental compensation. This is a good place to offer it. There may be some debate on it, and there may be some questions that we could answer. We have taken a considerable amount of time and contacted a lot of people who had a lot of reservations to begin with. We have made a lot of accommodations on it and believe it is really a good amendment.

Mr. DOLE. As I say, I just happened to focus on it, and it may not be fair to the Senator to say that because I have really not had a chance to examine it.

I would hope, as a matter of fact, that the Senator would not offer it at this time and that we would temporarily set aside the other two amendments until the Senator from Louisiana comes to the floor. I do not see any problem with those two.

Mr. QUAYLE. I appreciate the Senator's comments. The other two amendments were definitely not controversial, and this one should not be too controversial. It may become a little controversial as we go on. I will certainly accommodate the chairman on that and work with him. I will also work with the ranking minority member as the evening goes on. We have the jobs legislation to pass yet tonight. Maybe by tomorrow we can get this worked out.

UP AMENDMENT NO. 112

I might say I do have an amendment which I believe has been worked out on all sides on section 1122. What I will do is offer that one, which I believe we have everyone signed off on, and then we can set those three aside as they are noncontroversial. Then when the Senator from Louisiana returns, we can perhaps accept those three en bloc.

Mr. DOLE. Mr. President, will the Senator describe the amendment which has been cleared all the way around?

Mr. QUAYLE. The amendment on section 1122 basically provides that on section 1122 hospital construction of over \$600,000 they simply submit for review to the section 1122 agency or to the State planning agency. My original preference was to have an actual approval of the submission, but that received strong objections from a number of people.

What we are doing is simply submitting it for review.

I think everybody knows there is a tremendous question on health care costs. This issue is one which has been debated before. It is one that will continue to be controversial.

Under this amendment, which I believe has been worked out to the satisfaction of everybody, it is not going to be that noncontroversial. It is going to be simply amending section 1122 to

provide for submission of the construction costs and capital expenditures of hospitals to either the section 1122 agency or the State planning agency.

I believe that amendment has been cleared, from what I have been told. If not, we will have to go back to work a little bit more, or we will just bring it up and debate it later sometime.

Mr. DOLE. The Senator from Kansas certainly has no objection. It may have been cleared at the staff level, but we do have to consult with the distinguished Senator from Louisiana. I do not see any problem at all with the third amendment offered. If it is satisfactory with the Senator, we will set aside the three amendments and take up another noncontroversial amendment by the Senator from Montana.

UP AMENDMENT NO. 112

(Purpose: To make changes in the provisions of section 1122 of the Social Security Act relating to capital expenditures and planning)

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WILSON). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an unprinted amendment numbered 112.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III add the following new section:

SECTION 1122 AMENDMENTS

SEC. 308. (a) Section 1122(C) of the Social Security Act is amended by striking out "the Federal Hospital Insurance Trust Fund" and inserting "the general fund in the Treasury".

(b) Sections 1122(g) and 1861(z)(2) of such Act are each amended by striking out "\$100,000" and inserting in lieu thereof in each instance "\$600,000".

(c) Section 1122 of such Act is amended by adding at the end thereof the following:

"(j) A capital expenditure made by or on behalf of a health care facility shall not be subject to review pursuant to this section if 75 percent of the patients who can reasonably be expected to use the service with respect to which the capital expenditure is made will be individuals enrolled in an eligible organization as defined in section 1876(b), and if the Secretary determines that such capital expenditure is for services and facilities which are needed by such organization in order to operate efficiently and economically and which are not otherwise readily accessible to such organization."

(c) Section 1861(z)(2) of such Act is amended by inserting "(A)" after "(z)" and by adding at the end thereof the following new subparagraph:

"(B) provides that such plan is submitted to the agency designated under section 1122(b), or if no such agency is designated, to the appropriate health planning agency in the State (but this subparagraph shall

not apply in the case of a facility exempt from review under section 1122 by reason of section 1122(j);”.

(d) The amendments made by this section shall apply only with respect to cost reporting periods beginning prior to October 1, 1986.

Mr. DOLE. Mr. President, I understand this is the amendment which the Senator from Indiana has just explained.

Mr. QUAYLE. Yes, and I have a further statement.

Mr. President, by the administration's own admission, there is a little more that needs to be done with regard to their medicare prospective payment legislation before it can really begin to make a dent on the rising cost of health care.

I believe that the proposed “pass through” for capital expenditures under the prospective payment proposal will stimulate unnecessary capital expenditures and defeat the cost containment objectives of the proposal. We must act carefully if we are to discourage capital expansion that has not demonstrated it is needed.

Medicare prospective payment offers an alternative to our present cost-based system, which has not provided incentives to hospitals to be efficient. Clearly, changes are needed in the way we pay for health care. While moving forward on a prospective payment system for hospitals is a step in the right direction, we should not take that step without attempting to link prospective payment systems with systems for restraining unnecessary capital expenditures.

As long as capital expenditures are passed through, there is the potential for the pass-through becoming a flood. Passing through capital costs will continue to inflate hospital costs because new capital expenditures will result in increased supply, utilization and cost. It is known that for every dollar invested in capital, it generates a 30-cent increase per annum in operating costs.

Not only does the current proposal allow for the unrestrained flow-thru of capital costs, it in fact will stimulate an already expensive component of health care cost escalation by encouraging hospitals to make new capital expenditures as quickly as possible. The administration is quite clear in stating that capital costs will eventually be included in prospective rates. Combined with the current pass through, it is an open invitation to invest now and build up a base of reimbursable debt before limits are placed on capital costs.

While I strongly support and recognize legitimate needs for capital expenditures, I also believe that a system which passes through new costs without checks and balances will pay for unneeded capital growth in the future. At a time in our Nation when funds are scarce, and in an industry that is volatile in its inflationary spiral, new capital expenditures should not be paid unless they have been carefully reviewed by the State to determine

the need for, and affordability of, the proposed expenditures.

For this reason, I intend to offer an amendment to that portion of the social security bill that addresses the medicare prospective payment proposal.

My amendment will do several things: It will require hospitals to submit their 3-year capital expenditure plan to either a designated State planning or section 1122 agency.

My amendment will also raise the threshold in the current 1122 legislation from \$100,000 to \$600,000—expected expenditures over \$600,000 will trigger the need for submission of the capital expenditure plan. In addition, section 1122C is amended to prevent medicare funds from being used to pay for any cost that the State may incur from implementation of 1122, rather the funds would be made available from the general revenues.

It is my feeling that these steps will insure that the States can continue to monitor the capital expenditures planned for their communities, and it is hoped the States will not approve those that are unnecessary.

Mr. President, I ask unanimous consent that the amendment be temporarily set aside with the other two Quayle amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 113

(Purpose: To modify certain provisions relating to the establishment of the Commission of independent experts)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 113.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 137, line 1, strike out “, at least every five years” and insert in lieu thereof “from time to time, and at least every three years”.

On page 137, line 6, strike out “adjustments to be made” and insert in lieu thereof “the need for adjustments”.

On page 142, line 15, strike out “Commission of independent experts,” and insert in lieu thereof “Prospective Payment Assessment Commission, composed of independent experts”.

On page 142, line 17, strike out “to review” and insert in lieu thereof a comma and “which Commission, in addition to carrying out its functions under subsection (d)(4)(D), shall review”.

On page 144, line 25, strike out “and” the first place it appears.

On page 145, line 1, strike out the period and insert in lieu thereof a comma and “and individuals having expertise in the research

and development of technological and scientific advances in health care.”.

On page 145, line 9, strike out “and”.

On page 145, line 10, strike out “(iii)” and insert in lieu thereof “(iv)”.

On page 145, between lines 9 and 10, insert the following new matter:

“(iii) national organizations representing manufacturers of health care products; and

On page 148, line 15, strike out “and”.

On page 148, line 19, strike out the period and insert in lieu thereof a semicolon and “and”.

On page 148, between lines 19 and 20, insert the following new matter:

“(iii) adopt procedures allowing any interested party to submit information with respect to medical and surgical procedures and services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and the Congress.

Mr. BAUCUS. Mr. President, this is a technical amendment in fact, not in theory. It has been cleared all around. It is a clean amendment.

Essentially, it establishes in the medicare portions of the bill two minor changes in that portion of the bill which deals with the prospective payment assessment commission. In the bill, that commission is established to make sure that the DRG's and the beneficiary payments are adequate, neither excessive nor insufficient.

These two amendments are simple. One is to make sure that the DRG's are reevaluated every 3 years instead of every 5 years, and, second, to make sure the commission can draw on other groups in its membership.

That is what it is. It is clear. I thank the chairman for letting me introduce my amendment.

Mr. DOLE. Mr. President, I can state in this case that the amendment has been cleared. It is technical in nature. I think it is an improvement. I am prepared to accept the amendment. There is no objection on the other side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 113) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 114

(Purpose: To require appropriations with respect to certain provisions of sections 143, 144, and 145)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of Senator STENNIS of Mississippi and myself and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Quayle amendment is laid aside.

The amendment of the Senator from Oregon will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) for himself and Mr. STENNIS, proposes an unprinted amendment numbered 114.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, line 5, before the period insert ", to the extent provided in advance in appropriation Acts".

On page 85, line 13, before the period insert ", to the extent provided in advance in appropriation Acts".

On page 85, lines 16 through 19, strike out "There are hereby appropriated into such Trust Funds such sums as may be necessary to reimburse such Trust Funds for the amount of currently unnegotiated benefit checks."

On page 87, lines 4 and 5, strike out "of the enactment of the Social Security Amendments of 1983" and insert "on which funds therefor are appropriated".

On page 87, line 9, strike out "not otherwise appropriated" and insert ", to the extent provided in advance in appropriation Acts".

Mr. HATFIELD. Mr. President, I wish to call the attention of the distinguished chairman of the Committee on Finance as well as other Members of the Senate to three troublesome provisions in the Finance Committee bill. These sections are 143, 144, and 145.

Section 143 of the committee bill appropriates "such sums as may be necessary" into social security trust funds to credit the amount of social security checks drawn on the Treasury but never negotiated. The committee report indicates that this provision would result in a one-time appropriation of about \$800 million. Under present law, such uncashed checks benefit the Treasury, not the trust funds. Further, the bill gives the Secretary of the Treasury extremely broad and vague authority to continue to credit unnegotiated Treasury checks to the trust funds. The committee report indicates this would be done regularly.

Sections 144 and 145 provide lump sum appropriations to credit the trust funds with an amount equal to the anticipated costs of military wage credits. Reimbursement to the trust funds is currently provided annually in the general appropriation bill for the Departments of Labor, Health and Human Services, Education, and Related Agencies. The committee provision does not change the formula for calculating these credits, but rather accelerates payment of anticipated credits to the present, so that the trust funds receive a one-time transfer from general revenues estimated in the committee report at \$18.4 billion.

I ask the chairman of the committee if he can inform us of the circumstances leading the committee to propose these extraordinary provisions.

Mr. DOLE. Mr. President, I thank the distinguished chairman of the Committee on Appropriations.

The extraordinary circumstances are simply the funding crisis facing the social security system. As the Senator knows, in 1981, the Congress permitted interfund borrowing to enable continued payments from the Federal old age and survivors insurance fund until Congress could work out a more durable solution to the OASI problem. The interfund borrowing authority expired in December 1982. We still face a serious funding shortfall, and the committee has endeavored to find funds for the system to prevent default in the near term. Sections 143 through 145 of our proposal would infuse the trust funds with a total of about \$19.2 billion, within 30 days of enactment of the bill.

The system of annual appropriations for the military wage credits has worked well in the past, and will continue to be the vehicle for adjustments to these credits. However, the crisis facing the system led the committee, as well as the Bipartisan Social Security Commission, to recommend a one-time change in the existing system.

Regarding the crediting of uncashed social security checks to the trust funds, this has been a longstanding anomaly in this system. Since the checks are drawn from the trust funds, it is only logical and proper that the trust funds, not the general fund of the Treasury benefit if the checks are not negotiated.

Mr. HATFIELD. Mr. President, I thank the chairman for his remarks. I certainly support the chairman's efforts to insure the solvency of the social security system. While I personally oppose the direct appropriations in sections 143, 144, and 145, and believe that a budget amendment for these funds should be submitted by the President for action by the Appropriations Committees, I understand the importance of immediately assuring our senior citizens that their benefits are secure. Therefore, my amendment does not touch section 145, which will infuse the system with \$13.2 billion within 30 days of enactment of this bill. Sections 143 and 144, however, add another \$6.6 billion to the trust funds, and there is no reason why these funds could not be provided in the normal manner in my opinion. I wonder if the Senator from Kansas would respond to that observation.

Mr. DOLE. The Senator is correct. With the almost immediate funds the social security system will gain from section 145, there will be no harm in providing the funds made available by sections 143 and 144 in the fiscal year 1983 supplemental appropriation bill. Therefore, I have no objection to the Senator's amendment.

The Finance Committee believes that the Congress should adhere to the conventional authorization/appropriation process whenever possible. Reluctantly, however, the urgency and

high priority of the social security crisis led the committee to recommend the departure from the normal procedure embodied in these sections.

I might say as an aside that I certainly understand, as chairman of a major committee, the importance of playing by the rules. I can assure the distinguished chairman of the Appropriations Committee that we do not intend to depart from the normal procedure. It was done in this instance only because of the urgency of the matter. I urge the adoption of the amendment.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 114) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I shall yield to the Senator from Mississippi if he has some comments.

Mr. STENNIS. I thank the Senator.

First, Mr. President, I want to commend highly the Senator from Oregon, the chairman of our Committee on Appropriations, for the scrupulous and diligent way in which he follows through these special duties that he has to keep the bill clean of legislation and keep other bills in line, and for maintaining that principle for the Appropriations Committee.

I know this was all done in the utmost good faith by the legislative committee. Nevertheless, there just has to be a standard and we have to have someone who will follow it up and see that that standard is maintained. This might be just ordinary moving along and not important to some, but this goes to the very heart of the principles upon which we operate. I am very proud to see him, again and again, maintain this balance of requirements and get results.

I am delighted to support him in all this endeavor and in the amendments, each one of them.

I thank the Senator.

Mr. HATFIELD. I thank the Senator from Mississippi.

Mr. President, the Senator from Mississippi is a valuable member of our committee and has certainly been stalwart in maintaining the integrity of the appropriations process. I have always appreciated his willingness to do battle at times when it is necessary.

I would also like to call the attention of the chairman of the Finance Committee to section 339 of H.R. 1900, as passed by the House of Representatives. This provision establishes a joint study panel on the Social Security Administration (SSA) to determine whether SSA should become an inde-

pendent agency. The panel is established under the direction of the Committee on Finance and the Committee on Ways and Means, and reports directly to the two chairmen.

While I do not want to take a position on whether such a study is needed, I do oppose the establishment of such a panel. The funding arrangement for the panel is most irregular. Section 339(b)(5) of H.R. 1900 appropriates "such sums as the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate shall jointly certify to the Secretary of the Treasury as necessary."

As the chairman knows, there are long-standing procedures in both Houses for expenditure of funds by congressional committees. In the Senate, these procedures include submission of an annual budget request by committees to the Rules Committee, and eventual adoption of specific funding levels for each committee by the full Senate. These expenses are then appropriated in an appropriation bill for the legislative branch. I see no reason to deviate from this procedure to establish such a panel. If such a study is essential, it can be funded through the normal process.

The Committee on Finance has not included a comparable provision in its amendment, and I would like to ask the chairman if he shares my deep reservations about this section.

Mr. DOLE. I do share the Senator's reservation, and as he pointed out the committee did not include a comparable provision in its bill. The Senate has adopted an amendment by the Senator from Pennsylvania (Mr. HELMS) which calls for such a study but without the irregular funding arrangements called for in H.R. 1900. I certainly will work in the conference to assure that the House provision is not adopted.

Mr. HATFIELD. Mr. President, I want to thank the Senator for this colloquy because I think it is well to make the record at this point so everyone has a clear understanding of exactly what we are doing and to take the action before the fact so that if we run into problems later, then at least we will have done everything we can to make the system work.

I congratulate the Senator from Kansas for he has really undertaken a monumental task, and I am sure that it is a no-win situation because anybody and everybody can find something to pick at in this type of comprehensive package. Sure, I do not agree with every section of it or every idea expressed in it, but I am going to support the Senator from Kansas right down the line as much as I can because I think he has brought to the floor an important piece of legislation. I did not raise these issues to harass him or to create problems for an already overburdened person, but I do want to thank him for responding to these issues.

Mr. DOLE. If the Senator will yield, I certainly appreciated, as did the Senator from Mississippi, the Senator from Oregon raising these questions. They are real questions that should be dealt with and it is not the intent—as I indicated in the statement—it is only because of the extraordinary circumstances, but it should have been called to our attention by the Senate Finance Committee. For that I apologize, but at least the Senator was alert to it and we have made a record. We do not intend to violate the comity between committees and we will continue to operate in that fashion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, it is my understanding that we were going to move on to the jobs bill, but I have now learned that they are not quite prepared to do that. There are a number of amendments that we would like to take up on the social security package in the meantime. I know the distinguished Senator from Michigan has an amendment, the Senator from Montana has two amendments, the Senator from New Hampshire has an amendment, the Senator from South Dakota (Mr. PRESSLER) has an amendment, the Senator from North Carolina (Mr. HELMS) has an amendment, the Senator from Kansas will have an amendment later, Senator LONG has two amendments.

I hope that would just about take care of most amendments. If there are Members within earshot, we might be able to squeeze in one more amendment while we are working out the final details on the jobs bill. It is still our hope that we could forge ahead this evening. It is still early. We would like to go to conference tomorrow afternoon on social security and bring the package back tomorrow night and finish up. That is probably not going to happen.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 115

(Purpose: To provide for the establishment of individual retirement security accounts)

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk which I call up.

The PRESIDING OFFICER. Without objection, the amendment of the

Senator from Indiana will continue to be set aside.

The amendment of the Senator from North Carolina will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 115.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . . (a)(1) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT SECURITY ACCOUNT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amounts contributed by the taxpayer to an individual retirement security account of the taxpayer during the taxable year.

"(b) LIMITATION.—The amount of any contributions taken into account under subsection (a) shall not exceed the amount of taxes paid by the taxpayer to the Federal Old Age and Survivors Insurance Trust Fund under section 3101 for the taxable year.

"(c) INDIVIDUAL RETIREMENT SECURITY ACCOUNT.—For purposes of this section, "the term 'individual retirement security account' shall have the meaning given to such term by section 130(c)(1)."

(2)(A) Subsection (b) of section 6401 of such Code (relating to excessive credit is treated as overpayments) is amended—

(i) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44H (relating to contributions to individual retirement security account)," and

(ii) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44H".

(B) Paragraph (2) of section 55(f) of such Code (defining regular tax) is amended by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44H".

(3) In prescribing the forms by which any individual liable for any tax imposed by subtitle A of the Internal Revenue Code of 1954 shall make a return for taxable years beginning after December 31, 1983, the Secretary of the Treasury shall ensure that any such individual who is eligible for a credit under section 44H of such Code may claim the credit allowable under such section on any such form.

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44H. Contributions to individual retirement security account."

(5) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(b)(1) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. INCOME FROM INDIVIDUAL RETIREMENT SECURITY ACCOUNT.

"(a) **IN GENERAL.**—Gross income does not include income which—

"(1) accrues on amounts contributed to an individual retirement security account, and

"(2)(A) remains in such account until the taxpayer attains age 62, or

"(B) is withdrawn from such account before the taxpayer attains age 62 for the purchase of life insurance, health insurance, or disability insurance for the taxpayer.

"(b) **ACCOUNT EXEMPT FROM TAX.**—Any individual retirement security account is exempt from taxation under this subtitle.

"(c) **DEFINITIONS.**—For purposes of this section—

"(1) **INDIVIDUAL RETIREMENT SECURITY ACCOUNT.**—The term 'individual retirement security account' means an account—

"(A) which is established by the taxpayer with a qualified fiduciary;

"(B) which by written agreement or applicable law provides that—

"(i) amounts may be withdrawn therefrom before the taxpayer attains age 62 only for the purposes specified in subsection (a)(2)(D), and

"(ii) the interest of the taxpayer in the balance of his account is not forfeitable; and

"(C) to which the taxpayer makes contributions, in order to ensure the taxpayer an adequate retirement income upon attaining age 62.

"(2) **Qualified fiduciary.**—The term 'qualified fiduciary' means a bank or other person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be consistent with the requirements of this section. An account shall not be disqualified under this paragraph merely because a person other than the fiduciary so administering the account may be granted, in the instrument creating the account, the power to control the investment of the account funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, and exchanges)."

(2) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(c) Section 215 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) For purposes of determining old-age and survivors insurance benefits based upon the wages and self-employment income of an individual with respect to whom contributions are made to an individual security retirement account, such primary insurance amount shall be reduced by an amount that bears the same ratio to such primary insurance amount (as determined without regard to this subsection) as the IRSA offset amount determined with respect to such individual bears to the present value of the OASI annuity amount determined with respect to such individual.

"(2) For purposes of this subsection—

"(A) The term 'individual retirement security account' shall have the meaning given to such term in section 130(c)(1) of the Internal Revenue Code of 1954.

"(B) The term 'IRSA offset amount' means, with respect to an individual described in paragraph (1), an amount equal to the sum of amounts—

"(i) contributed by such individual to the individual retirement security account established with respect to such individual, and

"(ii) taken into account for purposes of determining a credit allowed to such individual under section 44H of the Internal Revenue Code of 1954,

(compounded, for the period beginning with the date on which the return in which such

credit was claimed was required to be filed and ending with the date on which such individual retires, by the social security yield rate determined with respect to such individual);

"(C)(1) The term 'present value of OAST benefit annuity amount' means an amount that would, if invested at a rate of interest equal to the rate of interest payable on United States Treasury bills at the beginning of the period of entitlement determined with respect to the wages and self-employment income of an individual, produced by the end of such period of entitlement, an amount equal to the amount of benefits which would be payable under section 202 on the basis of such wages and self-employment income (but for the application of paragraph (1)) for such period of entitlement.

"(ii) In determining the amount of benefits which would be payable for the period of entitlement determined with respect to the wages and self-employment income of an individual, the rate of the cost-of-living increase under subsection (i) for the cost-of-living computation quarter immediately preceding the beginning of such period of entitlement shall be assumed to apply to each base quarter in such period of entitlement.

"(D) The term 'period of entitlement' means, with respect to the wages and self-employment income of an individual described in paragraph (1), the period beginning with the date on which such individual retires and ending with the date on which such individual would attain the expectation of life (determined in accordance with the official life table and in accordance with the applicable provisions of this Act as in effect on the first day of such period).

"(E) The term 'social security yield rate' means, with respect to an individual described in paragraph (1), the rate of yield that, if earned on the OAST tax amount determined with respect to such individual, for the period beginning with the date on which such taxes were paid and ending with the date on which such individual retires, would produce an amount equal to the present value of the OASI benefit annuity amount determined with respect to such individual.

"(F) The term 'OASI tax amount' means with respect to an individual described in paragraph (1), the amount of taxes paid to the Federal Old-Age and Survivors Insurance Trust Fund with respect to such individual under sections 3101(a), 3111(a), and 1401(a) of the Internal Revenue Code of 1954 during the 80 highest quarters of coverage for such individual.

"(G) The term 'cost-of-living computation quarter' shall have the meaning given to such term in subsection (i)(1)(B).

"(H) The term 'base quarter' shall have the meaning given to such term in subsection (i)(1)(A).

"(I) The term 'quarter of coverage' shall have the meaning given to such term in subsection 213(a)(2).

"(J) The term 'official life table' means the life table for total persons in the United States that is prepared decennially by the National Center for Health Statistics for the 3-year period centering around the year of the decennial population census."

Mr. HELMS. Mr. President, at the outset, let me pay my genuine respects to the distinguished Senator from Kansas, the chairman of the Finance Committee, and the members of the committee for the long and arduous work they have done in connection with this piece of legislation.

In particular, Senator DOLE, while carrying an enormous load in other

legislative matters, has devoted an unbelievable amount of time to this bill, which is about to be concluded tonight.

Senator DOLE has said many times that the bill now before the Senate is not satisfactory to everybody. I hope I may be able to make a suggestion that will offer material improvement, particularly regarding the young people just entering the work force but important for all citizens participating in social security.

Mr. President, millions of Americans have waited patiently for Congress to come up with a plan to rescue social security. They watched as a 15-member, blue ribbon commission studied social security's funding problems and then offered a solution that fell pitifully short of its mark. While the panel's plan might or might not have bridged the \$200 billion short-term deficit, it provided little relief for social security's whopping \$2 trillion long-range debt.

Then Americans looked on as Members of Congress debated solutions to the system's long-term funding crisis. Members of the House recommended we solve the problem by making working men and women stay in the work force beyond the present retirement age. Still others suggested we reduce future benefits to our senior citizens or enact standby tax increases in excess of those contained in the bill before us now.

Mr. President, these patchwork efforts just will not work. Fundamental problems with social security remain unsolved. They cannot be patched. We will be deceiving ourselves—and the American people—if we do not face up to the seriousness of the social security crisis and offer something better than the reform bill now before us.

Population growth patterns show that fewer than two workers will be supporting each retired person early in the next century. Is there any wonder so many Americans have so little confidence in social security? A recent Washington Post-ABC News poll revealed that 66 percent of workers under 45—and 70 percent of those under 30—believe social security will not even exist when they retire.

I, for one, believe Americans deserve more than the present bankrupt retirement system, which is subject to the whims of politicians. That is precisely why I am offering this amendment—to provide working men and women a supplement to the present system. It would establish a new kind of private savings plan which I call an individual retirement security account (IRSA). Unlike social security, which is not really a retirement insurance and savings program at all, these new accounts would allow each working American to save and invest for his or her own retirement security. For the first time ever, there would actually be a trust fund.

Mr. President, I propose these accounts be set up in banks, savings and loans, and other lending institutions approved under the Treasury regulations. The capital pool created in the private sector by these accounts would provide an enormous stimulus to our economy. These IRSA's would encourage savings and investment, create jobs, help lower interest rates, and in the process restore strength and vitality to our economy.

Some Senators perhaps are thinking that IRSA accounts sound quite a bit like the present IRA accounts. Well, they are very similar. There are some important differences, however. Instead of the income tax deductions allowed individuals who set up IRA's, my amendment provides a tax credit to encourage IRSA's. The tax credit would equal 20 percent of the amount an individual invests in an IRSA, subject to a limit of 20 percent of the individual's payroll tax liability for that year.

There would be no limit on the amount that could be deposited in IRSA's. Interest, dividends, and capital gains accumulated in the IRSA's would be tax exempt, and annuities and withdrawals from it upon retirement anytime after age 62 would be tax free. Funds held in an IRSA account could be used tax free by a worker before age 62 to acquire life insurance, health insurance, or disability insurance. The individual could participate with his fiduciary in managing the IRSA as a fully funded individual retirement program.

Mr. President, I ask unanimous consent that a table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED IRSA PARTICIPATION AND INVESTMENT

(Dollar amounts in billions)

| Year | Participation rate in IRSA's | Amount invested |
|------------|------------------------------|-----------------|
| 1984..... | 0.01 | \$0.894 |
| 1985..... | 0.03 | 3.072 |
| 1986..... | .07 | 7.802 |
| 1987..... | .10 | 12.050 |
| 1988..... | .13 | 16.926 |
| 1989..... | .16 | 22.432 |
| 1990..... | .19 | 31.037 |
| 1991..... | .24 | 42.288 |
| 1992..... | .30 | 57.000 |
| 1993..... | .38 | 77.900 |
| Total..... | | 271.401 |

Mr. HELMS. Mr. President, the preceding table reflects the huge amounts of money that will be invested in the private sector at various rates of IRSA participation.

For example, let us assume that 1 percent of social security participants set up IRSA accounts in 1984; \$894 million would be left in the economy for the creation of jobs and so forth.

If you will look down the table, 10 percent participation in 1987 would result in \$12 billion left in the private sector. Go all the way down to 1993 and the total amount of money with

38 percent of the work force participating would be \$271,401 million invested in the private sector.

For those who do not have a calculator handy the total amount invested over the next decade would be in excess of \$271 billion, which is one whale of a lot of money.

Mr. President, sooner or later, a plan such as the one I am proposing is going to be made mandatory in this country because as fewer and fewer workers support more and more retirees the system we now have will simply fold under the financial strain.

My plan, however, is completely voluntary, and I simply want to offer these IRSA's to the working men and women of this country as a supplement to social security.

Let me emphasize they certainly are not mandatory and more importantly they do not take one penny away from the payroll taxes so vital to the present beneficiaries.

Mr. DOLE. Mr. President, as I have indicated earlier, and I cannot remember which day—we have been on this bill sort of off and on—the distinguished Senator from North Carolina, Senator HELMS, was kind enough to come before our committee and discuss what I consider to be a very innovative idea and then he discussed it later in the Chamber when he offered his proposal, and now this is the so-called IRSA part of his total package. As the Senator pointed out earlier about 11 of the 20 provisions in the Senator's bill have now become a part of the package before the Senate. So there is more than 50 percent of what the Senator was trying to achieve in the package. The ERISA concept would provide some additional capital for the private sector. There is some question as to how many people will contribute to an IRSA if it will reduce their social security benefits.

As I understand the statement just made by the Senator from North Carolina it is intended to be supplemental.

Mr. HELMS. That is correct.

Mr. DOLE. Whether or not that would have any reduction the Senator from Kansas is not certain from a cursory reading of the amendment.

The problem that concerns the Senator from Kansas is whether or not there is any revenue impact, and we have not had an opportunity with the joint committee to make any revenue estimates. Maybe the Senator from North Carolina has some estimate.

Mr. HELMS. I do. If the Senator will yield, I perhaps moved too rapidly in putting too much in the RECORD, but it depends on how you look at it.

I choose to look at it from the standpoint of what this will generate in the private sector of our economy.

To answer the Senator's question, for fiscal 1984 it would cost \$179 million. That is assuming 1-percent participation.

Mr. DOLE. That would be a credit, as I understand, against taxes, so it

would be a loss to general revenues, if there is 1-percent participation. If participation were higher, say, the loss would be greater, but on the other hand the benefits that might offset a greater portion of that loss.

Mr. HELMS. Yes.

Mr. DOLE. Again, I do not know how far the Senator from North Carolina wishes to press the amendment. I would hope that he would permit us to continue to explore the possibility. It makes a great deal of sense, and the Senator from Idaho, I might add, has somewhat similar provisions that he has discussed and what we have done in that case, which we can also do in this case if it would satisfy the Senator from North Carolina, is to ask the Treasury Department and the Social Security Administration to take a look at this new concept and give us some definitive response within 6 to 9 months to determine whether or not this might be a good supplemental program because, as pointed out by the Senator before our committee and again in the Chamber tonight, this will provide opportunities not now available to those who will be retiring down the road.

I do not know whether the Senator wishes to have a vote on the amendment tonight or whether we can accommodate him in some other way.

Mr. HELMS. I want to work with the Senator from Kansas in any possible way.

Let me just say for the RECORD that whereas our calculations are that it will cost \$179 million in 1984 with that 1-percent-assumed participation, the total of \$894 million left in the private sector would, I think, more than offset that in terms of generating jobs.

Mr. DOLE. Mr. President, if the Senator will yield, I think the strength of the idea is that it would cause people to take more of an interest in their own retirement.

Mr. HELMS. The Senator is correct.

Mr. DOLE. I assume that more responsibility and more concern are probably the underlying bases for the amendment.

Again, I am not prepared to accept the amendment. I am certainly willing to work with the distinguished Senator from North Carolina. It is a good idea. If we could have some time I am willing to request the Treasury and any other appropriate agency to take a look at title I of the Senator's amendment and to give us some response as far as costs, what they think what percent of people might use it, what the impact might be on retirement, might be on individuals, and how it mixes with the private pension plans as well as the social security program and any other thing that the Senator thinks we might want to include in that request, and we are certainly most willing to do that.

Mr. HELMS. I think that is a good idea and I express my appreciation to the Senator from Kansas.

Let me make this suggestion: that his staff, and mine, and perhaps the staff of Senator SYMMS, because he is also interested in it, consider the production of a package of a number of things and submit them to the Senator. Then he can proceed with the Treasury Department. We can eliminate what is not workable, and pick it up from there. With that understanding, I would see no point in having a rollcall. I would rather work with the Senator because I know of his interest in trying to free this incentive for a private retirement system.

Mr. DOLE. I might say to the Senator there is a great deal of interest in our committee and pretty widespread in the Senate on both sides of the aisle in trying to beef up the IRA program, and this is another aspect you might consider. Our problem is where we find the revenue to offset the loss if we do that. But the Senator from Kansas is willing to do whatever he can because it is a good idea and it should be explored.

Mr. HELMS. All right.

Mr. DOLE. And it will be explored.

Mr. HELMS. Mr. President, I thank the Senator from Kansas. He is always thoughtful and always helpful, and I think we might be onto something, as the saying goes. Let us work in that direction.

With that in mind and with that understanding, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOLE. I thank the Senator from North Carolina.

UP AMENDMENT NO. 116

(Purpose: To index the base amount for the taxation of social security benefits)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Indiana is temporarily set aside. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an unprinted amendment numbered 116.

Mr. HUMPHREY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, strike out lines 4 through 14, and insert in lieu thereof the following:

"(c) **BASE AMOUNT.**—For purposes of this section—

"(1) **IN GENERAL.**—The term 'base amount' means—

"(A) except as otherwise provided in this paragraph, \$25,000,

"(B) \$32,000, in the case of a joint return, and

"(C) zero, in the case of a taxpayer who—

"(i) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) **INDEXING ADJUSTMENT.**—

"(A) **IN GENERAL.**—The base amount which applies for any calendar year beginning after December 31, 1984, shall be the amount determined under paragraph (1), adjusted by the appropriate index factor for such year.

"(B) **INDEX FACTOR.**—For purposes of subparagraph (A), the index adjustment factor for any calendar year shall be equal to the wage adjustment for such year.

"(C) **WAGE ADJUSTMENT DEFINED.**—For purposes of this paragraph, the 'wage adjustment' for any calendar year is the percentage (if any) by which—

"(i) the average of the total wages for the preceding calendar year, exceeds

"(ii) such average for 1983.

"(D) **DETERMINATION OF AVERAGE OF TOTAL WAGES.**—For purposes of subparagraph (C), the average of the total wages for any calendar year shall be the average determined—

"(i) for the 12-month period ending on September 30 of such calendar year, and

"(ii) in the same manner as such average is determined for purposes of section 215(b)(3)(A)(ii) of the Social Security Act."

Mr. HUMPHREY. Mr. President, as my colleagues know, the social security bill before the Senate contains a provision taxing social security benefits. The Finance Committee has constructed a system of thresholds above which beneficiaries will find their social security benefits, half of the benefits, subject to taxation. Those thresholds chosen by the Finance Committee are \$25,000 for a single taxpayer or \$32,000 on a joint return.

Completely divorced from the issue of the equity of taxing social security benefits is the matter of the thresholds themselves. This Senator has serious doubts at these relatively low levels of \$25,000 to \$32,000 that they represent an equitable threshold but even apart from that contention, Mr. President, I know a good number of my colleagues share the concern that because these thresholds are not indexed to inflation, in the language of the bill, that over a period of years, as inflation occurs, as undoubtedly it will, although we hope very much it will be at negligible levels, social security recipients and more and more recipients will be boosted above the thresholds and find their social security benefits subject to this taxation.

Mr. President, I have constructed a table which I have distributed to my colleagues showing the effect of inflation on the thresholds. This table makes a very modest assumption that inflation will average 4 percent per year over the next 10 years. I think we will count ourselves lucky if inflation remains that low over that span of time. But just basing it on the conservative projection of inflation at 4 percent per year, the \$25,000 threshold for single taxpayers is reduced to \$16,892 over a 10-year period. That is expressed in 1984 dollars. So it will go from \$25,000 to \$16,892 expressed in 1984 dollars, and the \$32,000 joint income go—joint return threshold will be reduced in value—to \$21,622 in 1984 dollars.

This is a very substantial erosion obviously of the value of the threshold,

and the upshot will be, of course, that many, many more social security beneficiaries will find their benefits taxed than anticipated by the Finance Committee.

We see the social security equivalent of bracket creep at work in the chart which I have constructed.

I know the Finance Committee will object to the amendment on the grounds that it would cost the Treasury some billions of dollars, I believe the figure the committee cites is about \$4 billion if the Senate adopts the Humphrey amendment to index these thresholds.

I suggest to my colleagues that whether the figure of lost revenue is \$4 billion or some other figure, higher or lower, those are ill-gotten dollars because they will be gained through, you might say, bracket creep in the social security system.

There are many who consider the taxation that occurs through raising of taxes, that occurs through bracket creep, to be a dishonest form of raising taxes and many say if Congress wants to raise greater tax revenues, it ought to have the courage to increase tax rates or tax increases directly and not permit bracket creep to work secretly, silently, and viciously. That is a great argument and that is why the Congress adopted indexation of the tax rates, IRS tax rates, for 1985, and that is why the President, including many others, including the chairman of the Finance Committee, I believe, are committed absolutely to retaining tax indexation as part of the President's tax package.

I wholeheartedly support them in that, and it is only fair to agree if we want to raise taxes we ought to have the courage to do it up front and in a straightforward fashion.

Likewise we should not seek to raise taxes through taxation of the social security benefits through the means of bracket creep and that is precisely what will occur if the Senate does not by some means or other index the tax on social security benefits. That is what the Senator from New Hampshire wants to do is to index the amounts so they will retain the value assigned to them by the Finance Committee in 1983.

Without indexation, as I have pointed out, the value of this threshold will steadily decline and more and more taxpayers of modest means, not well-to-do by any stretch of the imagination, but more and more taxpayers of modest means, will find their social security benefits subject to taxation.

Mr. President, I believe the amendment speaks for itself. It is simple, it is clear, it is a matter of fairness and equity, and a matter of doing things up front and straightforwardly, and I would urge my colleagues to adopt the amendment, and I will ask for the yeas and nays at this point, Mr. President.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **HUMPHREY**. I will relinquish the floor at this point, Mr. President.

The **PRESIDING OFFICER**. The Senator from Kansas.

Mr. **DOLE**. Mr. President, I want to thank the Senator from New Hampshire for bringing up this amendment. I just hope it does not pass. I know precisely what the amendment does. It is something we considered in the Commission, but as with all these other great ideas floating around, they cost a great deal of money. This one costs about \$6 billion between now and 1989 and I understand about \$4.2 billion every year thereafter.

Mr. **HUMPHREY**. Will the Senator from Kansas yield for a question at that point?

Mr. **DOLE**. Yes.

Mr. **HUMPHREY**. Let me back up. Is it not correct that the Senator from Kansas, along with the President, supports retaining indexation of the IRS tax brackets?

Mr. **DOLE**. Yes; I view that a little differently. Yes; I strongly support indexing.

Mr. **HUMPHREY**. Yes; I am glad to hear that and I find my understanding reconfirmed.

Does not the Senator from Kansas agree that any—the Senator from Kansas contends this amendment will result in a loss of revenue but is that revenue to be lost, is that not ill-gotten revenue in that it results from bracket creep with respect to these thresholds?

Mr. **DOLE**. You mean we lose revenue?

Mr. **HUMPHREY**. Yes; the committee contends in its opposition to this amendment that we will lose some billions of dollars in revenue and I do not count that is so, that revenue lost is ill-gotten revenue because it is derived from the bracket creep.

Mr. **DOLE**. Let me say to the Senator from New Hampshire so far as indexing the Tax Code the Senator from Kansas and the Senator from Colorado and the Senator from New Hampshire, and I hope the majority of the Senate, will do all we can to retain indexing starting in 1985. But again I do not see that as parallel to this.

Second, if, in fact we find that inflation is based on the Senator's "Dear Colleague" letter, and I do not quarrel with that, if it moves that quickly, we can adjust the threshold for inflation, and we can do it without risk to the trust funds.

Again, it is a matter we discussed. It is not a matter we did not think of in the Commission. In fact, as I recall, maybe the Senator from Kansas raised it in the Commission hearings, and other Senators did also. So when we got all finished up and added up how much revenue we were going to have between now and 1999 and how much we were going to need, we did

not have any more room. And whether it is \$6 billion in the next 5 years and then \$4.2 billion a year, I think it is a matter of some concern.

That does not suggest if we have more money in the trust fund we could not index the thresholds. Very honestly, there are some, this Senator not included, who believe there should not be any thresholds, that you should tax the benefits period. That is not the view of the Senator from Kansas.

So again I am sympathetic with the amendment. But if we index the threshold we will have to make payroll taxes or cut benefits to make up the difference. So I think we have a choice. If we want to index the threshold, which is probably maybe a good idea down the road, but I do not believe it is a good idea now, then we have to be prepared.

I hope the Senator would be willing to offer another amendment which would either raise taxes or cut benefits to pay for it, because we really are in a tight bind.

I do not quarrel with the Senator from New Hampshire. I think it is a great idea—do not misunderstand me—but we are just not prepared to do anything about it because we are out of money.

Mr. **HUMPHREY**. If the Senator would yield, of course he is aware, in the event the trust fund falls below a certain floor, that a mechanism comes into play that will reduce COLA's cost-of-living allowances, for beneficiaries while holding safe lower income, that is social security benefits with a lower range of values. So it is not absolutely correct to say that passage of this amendment is going to result in some kind of crisis because that COLA mechanism will come into play.

Mr. **DOLE**. I say to the Senator, he is correct. But I would also say when we adopted these fail-safe provisions, we were under the impression in our committee there would not be indexing of the threshold. Had we provided indexing of the threshold, we might have provided another fail-safe mechanism. The fact that we index the rate structure does not mean that we index every fixed dollar amount in the Tax Code.

I know the Senator wants a vote on this amendment. I hope we can persuade him not to have a vote. He is certainly entitled to a vote. It is an idea that deserves consideration and I appreciate the Senator offering it. I only wish we could accept it.

Mr. **HUMPHREY**. Mr. President, to conclude, briefly, let me state that I am perfectly willing to stack the vote or to handle it in whatever way it is convenient to my colleagues.

I find myself, unfortunately, in disagreement with the Senator from Kansas. Any revenue loss attributed to this amendment would be revenue dishonestly gained in the view of this Senator because it will result from bracket creep. It will result from more and more taxpayers of modest income

finding their social security benefits taxed.

As I pointed out, my table shows that with a 4-percent rate of inflation, which is modest, the \$25,000 threshold would fall in value to \$16,892 over 10 years, expressed in 1984 dollars; the \$32,000 threshold will fall to \$21,622. So more people will find their benefits taxed. Tax revenues will rise, of course, because of that, but those will be ill-gotten gains and not straightforwardly secured type of revenues. So it is a simple matter of equity, especially in light of the taxation of IRS tax brackets which should apply the same mechanism to these thresholds.

Mr. President, if the leadership wishes, I would be happy to stack the vote.

Mr. **BAKER**. Mr. President, if the Senator would yield to me, I think we are ready to vote. I believe that after this vote we will indeed be ready to go to the jobs conference report.

So if the Senator from New Hampshire wishes to vote, I have no objection to doing it at this time. I appreciate his offer, however.

The **PRESIDING OFFICER**. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from New Hampshire (Mr. **HUMPHREY**). The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Alabama (Mr. **DENTON**), the Senator from Arizona (Mr. **GOLDWATER**), and the Senator from Illinois (Mr. **PERCY**) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. **DENTON**) would vote "nay."

Mr. **BYRD**. I announce that the Senator from California (Mr. **CRANSTON**) is necessarily absent.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 22, nays 74, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—22

| | | |
|-----------|-----------|---------|
| Abdnor | Garn | Nickles |
| Armstrong | Hatch | Roth |
| Biden | Hawkins | Rudman |
| Boschwitz | Heflin | Symms |
| Bradley | Helms | Tribble |
| D'Amato | Humphrey | Wilson |
| DeConcini | Mattingly | |
| East | McClure | |

NAYS—74

| | | |
|----------|-------------|------------|
| Andrews | Dole | Jackson |
| Baker | Domenici | Jepsen |
| Baucus | Durenberger | Johnston |
| Bentsen | Eagleton | Kassebaum |
| Bingaman | Exon | Kasten |
| Boren | Ford | Kennedy |
| Bumpers | Glenn | Lautenberg |
| Burdick | Gorton | Laxalt |
| Byrd | Grassley | Leahy |
| Chafee | Hart | Levin |
| Chiles | Hatfield | Long |
| Cochran | Hecht | Lugar |
| Cohen | Heinz | Mathias |
| Danforth | Hollings | Matsunaga |
| Dixon | Huddleston | Melcher |
| Dodd | Inouye | Metzenbaum |

| | | |
|-----------|----------|----------|
| Mitchell | Quayle | Stevens |
| Moynihan | Randolph | Thurmond |
| Murkowski | Riegle | Tower |
| Nunn | Sarbanes | Tsongas |
| Packwood | Sasser | Wallop |
| Pell | Simpson | Warner |
| Pressler | Specter | Weicker |
| Proxmire | Stafford | Zorinsky |
| Pryor | Stennis | |

NOT VOTING—4

| | |
|----------|-----------|
| Cranston | Goldwater |
| Denton | Percy |

So Mr. HUMPHREY's amendment (UP No. 116) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENTS NOS. 110 AND 112

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, under a unanimous-consent agreement, there are three Quayle amendments that have been temporarily laid aside pending the return of the Senator from Louisiana to try to get his agreement. He has returned. We have an agreement on two of the three amendments. I ask unanimous consent that the first and third Quayle amendments, one dealing with IRA and one dealing with section 1122, be considered en bloc.

The PRESIDING OFFICER (Mr. JEPSEN). Is there objection?

Mr. DOLE. Mr. President, as I understand, that is the IRA amendment and the medicare amendment.

Mr. QUAYLE. The Senator is correct.

The PRESIDING OFFICER. Is there objection?

Without objection it is so ordered.

Mr. QUAYLE. I move adoption of the amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (UP No. 110 and UP No. 112) were agreed to en bloc.

Mr. QUAYLE. I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, there have been some questions by Senators on the two amendments adopted. They were discussed earlier. They were laid aside temporarily so they could be checked with the distinguished Senator from Louisiana. He had the conversation with the distinguished Senator from Indiana and two of the three were cleared. There is still one pending.

Mr. President, I ask unanimous consent to have the following materials printed in the RECORD: A list of members of the National Commission on Social Security Reform and a brief

statement of their past accomplishments, a brief summary of the activities of the Commission, a supplementary statement on the long-range financing of the social security program which was made jointly by eight other members of the Commission and this Senator, the supplemental views of this Senator and Congressman CONABLE, and a list of the staff members of the Commission.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPOINTED BY THE PRESIDENT

Alan Greenspan, Chairman—Chairman and President, Townsend-Greenspan and Company, New York, NY. Dr. Greenspan is a distinguished economist and a former Chairman of the Council of Economic Advisers (under President Ford).

Robert A. Beck—Chairman of the Board and Chief Executive Officer, Prudential Insurance Company of America, Newark, NJ. (the largest insurance company in the country). Mr. Beck has played an important role in developing the position on the Social Security program of the Business Roundtable and other important business groups.

Mary Falvey Fuller—Management Consultant, San Francisco, CA. (Ms. Fuller was a member of the 1979 Advisory Council on Social Security).

Alexander B. Trowbridge—President, National Association of Manufacturers, Washington, DC. Mr. Trowbridge was Secretary of Commerce under President Johnson.

Joe D. Waggoner, Jr.—Consultant, Bossier Bank and Trust Company, Bossier City, LA. Mr. Waggoner was a Member of Congress from Louisiana in the 87th to 95th Congresses and was active in Social Security legislation, as a member of the Committee on Ways and Means.

APPOINTED BY THE MAJORITY LEADER OF THE SENATE, IN CONSULTATION WITH MINORITY LEADER

William Armstrong—Senator from Colorado and Chairman of the Subcommittee on Social Security, Committee on Finance.

Robert Dole—Senator from Kansas and Chairman of the Committee on Finance.

John Heinz—Senator from Pennsylvania and Chairman of the Special Committee on Aging and a member of the Committee on Finance.

Lane Kirkland—President, American Federation of Labor-Congress of Industrial Organizations. Mr. Kirkland has, for many years played an active role in the development of Labor's position on Social Security.

Daniel Patrick Moynihan—Senator from New York and Ranking Minority Member of the Subcommittee on Social Security, Committee on Finance.

APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, IN CONSULTATION WITH THE MINORITY LEADER

William Archer—Representative from Texas and Ranking Minority Member of the Subcommittee on Social Security, Committee on Ways and Means.

Robert M. Ball—Visiting Scholar, Center for the Study of Social Policy, Washington, DC. Mr. Ball was Commissioner of Social Security in 1962-73 and held various positions with the Social Security Administration during the preceding 25 years.

Barber Conable—Representative from New York and Ranking Minority Member of the Committee on Ways and Means.

Martha E. Keys—Director of Educational Programs, The Association of Former Members of Congress, Washington, D.C. Ms.

Keys was a Member of Congress from Kansas, in the 94th and 95th Congresses and, as a Member of the Committee on Ways and Means, was active in Social Security legislation. Assistant Secretary of Health and Human Services, 1980-81.

Claude D. Pepper—Representative from Florida and currently Chairman of the Committee on Rules. Previously, he was Chairman of the House Select Committee on Aging and formerly was a Senator from Florida.

SUMMARY OF ACTIVITIES OF COMMISSION

On December 16, 1981, President Reagan promulgated Executive Order 12335, which established the National Commission on Social Security Reform. The National Commission was created as a result of the continuing deterioration of the financial position of the Old-Age and Survivors Insurance Trust Fund, the inability of the President and the Congress to agree to a solution, and the concern about eroding public confidence in the Social Security system.

The Executive Order provided that the National Commission should:

“... review relevant analyses of the current and long-term financial condition of the Social Security trust funds; identify problems that may threaten the long-term solvency of such funds; analyze potential solutions to such problems that will both assure the financial integrity of the Social Security System and the provision of appropriate benefits; and provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.”

In carrying out its mandate, the National Commission met ten times, on approximately a monthly basis. Because of the brevity of the time in which to complete its work, the National Commission held no public hearings. However, it reviewed the results of the many hearings, studies, and reports of other public bodies, including Congress, the 1979 Advisory Council on Social Security, and the 1981 National Commission on Social Security. The National Commission on Social Security Reform sought the advice of a number of experts and thoroughly examined a wide variety of alternative approaches.

The Commission agreed that there was a financing problem for the Old-Age, Survivors, and Disability Insurance program for both the short run, 1983-89 (as measured using pessimistic economic assumptions) and the long range, 1983-2056 (as measured by an intermediate cost estimate) and that action should be taken to strengthen the financial status of the program. The Commission recognized that, under the intermediate cost estimate, the financial status of the OASDI program in the 1990's and early 2000's will be favorable (i.e., income will significantly exceed outgo). The Commission also recognized that, under the intermediate cost estimate, the financial status of the Hospital Insurance program becomes increasingly unfavorable from 1990 until the end of the period for which the estimates are made.

The Commission studied a large number of options that would solve the financing problems of the Social Security program, both short-range and long-range. These are summarized in some 55 pages of its report.

The Commission was able to reach a consensus for meeting the short-range and long-range financial requirements, by a vote of 12 to 3.

The members of the Commission voting in favor of the “consensus” package agreed to a single set of proposals to meet the short-range deficit. They further agreed that the

long-range deficit should be reduced to approximately zero. The single set of recommendations would meet about two-thirds of the long-range financial requirements. Seven of the 12 members agreed that the remaining one-third of the long-range financial requirements should be met by a deferred, gradual increase in the normal retirement age, while the other 5 members agreed to an increase in the contribution rates in 2010 of slightly less than ½ percent of covered earnings on the employer and the same amount on the employee, with the employee's share of the increase to be offset by a refundable income-tax credit.

A more complete description and rationale for the solution of the long-range financing problem supported by the Senator from Kansas is presented in the next section. The second following section gives an overall statement of the achievements of the Commission, as developed jointly by Congressman Conable, a member of the Commission and the Senator from Kansas.

STATEMENT ON MEETING THE LONG-RANGE FINANCING REQUIREMENTS BY COMMISSIONERS ARCHER, BECK, CONABLE, DOLE, FULLER, GREENSPAN, HEINZ, AND TROWBRIDGE¹

The recommendations made in the "consensus" package fail to meet the long-range goal of providing additional financing equivalent of 1.8 percent of taxable payroll. The shortfall is an estimated .58 percent of taxable payroll. We believe that this should be derived by a delayed, slowly phased-in increase in the "normal" retirement age (the age at which unreduced retirement benefits are available to insured workers, spouses, and widower(s)—which is age 65 under present law).

The major reasons for this proposal are:

- (1) Americans are living longer.
- (2) Older workers will be in a greater demand in future years.
- (3) The disability benefits program can be improved to provide cash benefits and Medicare to those between age 62 and the higher normal retirement age who, for reasons of health, are unable to continue working.
- (4) Because the ratio of workers to beneficiaries is projected to decline after the turn of the century, younger generations are expected to pay significantly increased taxes to support the system in the 21st century. An increase in the normal retirement age will lessen the increase.
- (5) Given sufficient notice, coming generations of beneficiaries can adjust to a later retirement age just as earlier generations adjusted to age 65.

Although we believe that greater action in this direction may be desirable, we are suggesting only enough change to produce approximately the needed .58 percent of taxable payroll. The recommended change would apply only to the normal retirement age. Early-retirement benefits would continue to be available beginning at age 62 for insured workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors would be larger. The minimum age for eligibility for Medicare benefits would continue to be the "normal" retirement age for OASDI benefits. Disability benefits are now available under somewhat less stringent definitions for those aged 60-64. However, because some workers, particularly those in physically demanding employment, may not benefit from improvements in mortality and be able to work longer, we assume that the disability benefits program will be improved prior to the implementation of this recommendation to take into ac-

count the special problems of those between age 62 and the normal retirement age who are unable to extend their working careers for health reasons.

Under our proposal, the normal retirement age would be gradually increased—one month each year—to age 66 in 2015, beginning the phase-in with those who attain age 62 in 2000. Beginning with those who attain age 62 in 2012, the normal retirement age would be automatically adjusted (on a phased-in basis) so that the ratio of the retirement-life expectancy to the potential working-lifetime (from age 20 to the "normal" retirement age) remains the same over the years as it was in 1990. The estimated long-range savings of this proposal is 0.65 percent of taxable payroll.

ADDITIONAL VIEWS OF SENATOR ROBERT J. DOLE AND CONGRESSMAN BARBER B. CONABLE, JR.

When the National Commission of Social Security Reform was created on December 16, 1981, few people had real confidence in what the commission could accomplish. And little wonder. For the better part of a year, social security had been embroiled in political controversy. The system moved closer to insolvency as proposals for financial reform were subjected to partisan political attack. The 15 selected as commission members, moreover, embodied widely divergent views. At least to outsiders, these members probably seemed incapable of reaching any true bi-partisan consensus.

In the last several days, the commission accomplished what some said was impossible. With the cooperation and approval of President Reagan and House Speaker O'Neill, the commission forged a consensus reform package with broad bipartisan support. As detailed earlier in this report, the package is designed to close the short-term deficit identified by the commission, and go a long way toward closing the long-range deficit. It requires concessions from all of the parties who have a stake in social security—current and future beneficiaries, taxpayers, and government employees who do not now contribute to the system. While no one member is happy with every specific recommendation, the important fact is that a consensus was reached on how to save the system. The bipartisan reform package, which we plan to introduce into the Senate with Senators Heinz, Moynihan, and others, and into the House, merits speedy Congressional action.

Agreeing on the essential provisions of a social security solution was by no means the only accomplishment of the commission. It should be noted that the commission reached unanimous agreement on the size of the short- and long-term deficits in the social security cash benefit programs (old-age and survivors insurance and disability insurance). That is, in concrete dollar terms, the commission quantified the seriousness and the urgency of the financing problem. In our judgment, \$150-\$200 billion is the amount required to keep the system (excluding medicare) solvent through 1990. Over the very long term, the next 75 years, the needs of the system amount to about \$25 billion a year (in 1983 dollar terms) over and above currently scheduled tax income. Only a year ago, partisan lines were drawn between those who did and did not believe there was any financing problem at all before the year 2000.

In addition, the National Commission provided a valuable forum for the diverse views on social security. With the able leadership of Chairman Alan Greenspan and with the expert assistance of Executive Director Robert Myers, members of both political

parties were able to work together in studying the social security financing problem and options for financial reform. The interests of the elderly, organized labor and business, and the general taxpayer were all well represented. In recent weeks, we engaged in intensive negotiations which were, to a large extent, absent of the political partisanship that so seriously damaged efforts for responsible reform in 1981.

Finally, we believe the commission's recommendations are significant in that they narrowed the range of realistic options for closing the deficits. Realistic options were not judged to include, nor was there any support for, proposals to reduce or eliminate benefits for people now on the rolls. Options under consideration involved restraining the growth of benefits in future years and providing additional financing through some form of revenue increase. Current and future beneficiaries should be reassured by the unanimously held view that social security is an important and vital program that must be preserved.

With these accomplishments under our belts, we in Congress are in a strong position to hammer out the details of legislation in the early months of the 98th Congress. The expiration of interfund borrowing and the likely inability of the retirement program to pay full benefits in July make prompt action essential.

The financing problem

While the commission report accurately reflects the size of the social security financing problem, perspective may be provided by some additional facts. Most importantly, without prompt Congressional action, the social security retirement program will not be able to pay benefits on time beginning in July. In fact, were it not for "interfund borrowing," authorized by Congress in 1981 to permit the reserves of each social security trust fund (old age and survivors insurance, disability insurance, and hospital insurance) to be used to help pay benefits from another, the retirement program would have stopped meeting its monthly payments on time two months ago. With the authority for interfund borrowing now expired (as of December 31, 1982), July is when all of the money borrowed from the other two trust funds—\$17.5 billion in total—finally runs out.

Reauthorizing interfund borrowing can not help the retirement program for long. The retirement program is so large—accounting for 73 percent of all social security spending—and its borrowing demands are so heavy, the rest of the system could be insolvent before the year is out. The Social Security Board of Trustees, the Congressional Budget Office, and a wide variety of private actuaries and economists all agree that additional trust fund revenues must be provided or savings must be achieved if the social security system is to remain solvent through the remainder of this decade.

While it is the short-term financing problem that is immediately pressing, the long-term financing problem is equally serious, if not more so. The Social Security Board of Trustees reports that the combination of the baby-boom generation retiring and gradually lengthening lifespans will lead to a dramatic increase in the cost of social security—about 55 percent between 2005 and 2035 alone. In the year 2035, when the young people of today are beginning to retire, the actuaries expect that the elderly population will, account for 21 percent of the overall population (as compared to 11 percent today), and the typical 65 year old will have a life expectancy of 17 years (as compared to 14.5 years today). The effect

¹ Source: Report of the National Commission on Social Security Reform, January 1983.

will be to decrease the ratio of taxpayers to beneficiaries from just over 3:1 today to 2:1, helping to generate the enormous long-term deficits we now foresee.

According to the social security actuaries, the long-term deficit in the non-medicare social security programs is 1.8 percent of taxable payroll. This is the figure adopted by the National Commission. To translate, it means that over the next 75 years, the actuaries project that benefits will outstrip payroll tax income, in dollar terms, by about \$25 billion per year, or \$2 trillion in total (expressed in 1983 dollar terms). Including medicare, the long-term deficit has been estimated at 7.01 percent of taxable payroll, or nearly \$8 trillion in total.

How much does the system need?

How much the system needs in additional financing depends on how we expect the economy to perform in the years ahead and how much of a "safety margin" is accumulated in reserves. Each set of forecasts provides a different view of the needs of the system, as illustrated in the table below.

ADDITIONAL RESOURCES REQUIRED IN THE NEAR-TERM TO BRING OASDI RESERVES UP TO CERTAIN LEVEL ¹

| Calendar year | Additional resources required ² | | |
|------------------------|--|-----------------------------------|--|
| | CBO | 1982 trustees' intermediate (H-B) | 1982 trustees' pessimistic assumptions |
| 1990..... | 56.6 | 62 | 187 |
| 1995..... | 68.7 | 70 | 195 |
| 2000..... | 74.7 | 74 | 200 |
| 2010..... | 89.9 | 88 | 216 |
| 30 percent..... | 120.1 | 113 | 246 |
| 50 percent (6 mo)..... | 180.7 | 163 | 303 |

¹ Table includes the effects of the Tax Equity and Fiscal Responsibility Act of 1982. Target reserve levels are attained in even annual increments.
² CBO estimates and Trustees' estimates are not directly comparable because CBO numbers include added interest on larger trust fund balances, while Trustees' numbers do not.

The commission settled on \$150-\$200 billion as the amount required in the years 1983-89 to ensure the solvency of the system through 1990. This is roughly consistent with achieving a reserve ratio (reserves relative to annual outgo) of 15 percent by 1990, under the 1982 Board of Trustees' pessimistic assumptions.

Several points are worth noting in this regard. First, planning for a low growth decade is prudent in light of the experience during the 1970s. (The pessimistic assumptions in the 1982 Board of Trustees Report project the economy will perform much like in the past 5 years.) The failure to anticipate, both in 1972 and 1977, that prices would grow more rapidly than wages, and therefore benefits would grow more rapidly than tax income, is why we are in the situation we are in today. Second, a reserve ratio of 15 percent is not, in and of itself, a "goal". At this level, reserves would be lower than at any point in history. Accumulating considerably larger reserves is desirable, although this would be difficult to do very quickly. We believe we express the views of all members of the commission when we say that it is our hope that the economy will perform better than we assumed when we made our estimates and that a larger reserve cushion will accumulate. Finally, if the medicare program were under consideration as well, the reserve needs of the system would be considerably higher.

Not a new problem

Given the partisan debate that raged over social security in 1981, some people may

have lost sight of the fact that the financing crisis is *not* a new problem. Trust fund reserves have been on a down-hill course for years. As the table below indicates, prior to 1970, there were always reserves on hand capable of financing a year's worth of benefits of more—that is, reserves equal to 100 percent or more of annual outgo. By 1976, reserves had fallen to 57 percent of outgo, and today, the combined reserves of the system stand at about 15 percent of annual outgo, only 8 weeks worth of benefits. The situation is even worse, at least today, when medicare is excluded.

HISTORICAL OASDI RESERVE RATIOS, 1950-83

(Assets at the beginning of each year as a percent of outgo during the year)

| Calendar year | OASI and DI combined | Trust funds | | |
|-------------------------|----------------------|-------------|-------|-------|
| | | OASI | DI | OASDI |
| 1950..... | 1,156 | 1,156 | ..... | 1,156 |
| 1955..... | 405 | 405 | ..... | 405 |
| 1960..... | 186 | 180 | 304 | 186 |
| 1965..... | 110 | 109 | 121 | 110 |
| 1970..... | 103 | 101 | 126 | 47 |
| 1971..... | 99 | 94 | 140 | 54 |
| 1972..... | 93 | 88 | 140 | 47 |
| 1973..... | 80 | 75 | 125 | 40 |
| 1974..... | 73 | 68 | 110 | 69 |
| 1975..... | 66 | 63 | 92 | 79 |
| 1976..... | 57 | 54 | 71 | 77 |
| 1977..... | 47 | 47 | 48 | 66 |
| 1978..... | 37 | 39 | 26 | 57 |
| 1979..... | 30 | 30 | 30 | 54 |
| 1980..... | 25 | 23 | 35 | 52 |
| 1981..... | 18 | 18 | 21 | 45 |
| 1982..... | 15 | 15 | 17 | 53 |
| 1983 ¹ | 11 | 8 | 11 | 39 |

¹ Estimated using trustees intermediate (H-B) assumptions
 Source: 1982 OASDI and HI trustees' reports

HISTORICAL LEVELS OF OASDI TRUST FUND ASSETS, NUMBER OF MONTHS' WORTH OF BENEFITS ON HAND

| Calendar year | Number of months' worth of expenditures on hand at beginning of year | | |
|---------------|--|-------|-------|
| | OASDI | HI | OASDI |
| 1950..... | 138.7 | ..... | 138.7 |
| 1960..... | 22.3 | ..... | 22.3 |
| 1965..... | 13.2 | ..... | 13.2 |
| 1970..... | 12.4 | 5.6 | 11.5 |
| 1975..... | 8.0 | 9.4 | 8.3 |
| 1980..... | 2.9 | 6.2 | 3.5 |
| 1982..... | 1.8 | 6.3 | 2.6 |

Among other public groups to report in the last 5 to 10 years, the social security advisory councils of 1975 and 1979, an expert consultant panel of actuaries and economists, reporting in 1976, and President Carter's Commission on Pension Policy and the National Commission on Social Security, both reporting in 1981, all underscored the seriousness of the short- and long-term financing problem. Social security's financing problem dates to the early 1970s and even earlier, when Congress increased benefits and expanded eligibility without facing up to the cost of doing so.

The time for action is now

There is no denying that we have a big job ahead of us in Congress. We face many difficult decisions as to the details of the legislation, and the adequacy of the measures proposed. The balance of the long-term deficit will also have to be addressed. In our view, a balanced solution to this problem will involve bringing the cost of social security into line with the ability of our working population to finance the system. The tax burden is already heavy, and the confidence of young people critically low. As reflected in the additional views, a majority of commission members recommends increasing the retirement age, for people retiring in

another 20 or 30 years, as an equitable way of reducing long-range costs.

The American people—the 36 million people receiving benefits as well as the 116 million working people who support the system—deserve more than another "quick fix" that holds the system together until the next crisis comes along. They deserve the speedy consideration of this bi-partisan package of recommendations. Confidence in the long-term viability of social security will only be restored by enacting measures that put the system back on a sound financial footing and do so without imposing an unrealistic tax burden on present and future workers.

Within a matter of weeks, the House Ways and Means Committee and the Senate Finance Committee will begin the task of weighing the options and then drafting social security financing legislation. We feel confident that the essential elements of the reform package we now recommend, as endorsed by President Reagan, Speaker O'Neill, Majority Leader Baker and others, will be adopted by the Congress and enacted into law by May. Moving quickly to shore up the nation's largest domestic program is in all of our interests.

STAFF OF THE COMMISSION

Finally, in connection with the role of the staff of the Commission, the Senator from Kansas would, at this time, like to pay special tribute to Robert J. Myers, the Executive Director. Mr. Myers has been associated with the Social Security program from its very beginning in 1934. He was Chief Actuary of the Social Security Administration from 1949-1970, and Deputy Commissioner in 1981 prior to becoming Executive Director of the Commission.

Mr. Myers' extensive knowledge of social security was invaluable to the work of the Commission and contributed to its success in completing its assignment. The Senator from Kansas is pleased that Mr. Myers is continuing his service to social security by currently serving as a consultant to the Committee on Finance.

The Senator from Kansas also wishes to take this opportunity to express his appreciation to the professional staff of the Commission for their part in this great and successful endeavor. The staff labored long and excellently in providing the members with data and with comprehensive explanations of the complex issues involved and the possible methods of solving the financing problems.

The staff members were as follows:¹

Executive Director: Robert J. Myers.
 Professional Staff: Nancy J. Altman, Merton C. Bernstein, E. Annette Coates, Suzanne B. Diik, Renato A. DiPentima, Susan A. Dower, Elizabeth T. Duskin, Timothy J. Kelley, Eric R. Kingdon, Edward F. Moore, Virginia P. Reno, Bruce D. Schobel, and Carolyn L. Weaver.

Support Staff: Laurie A. Brown, Ercell C. Campbell, Elisabeth J. Darling, Wanda G. Moody, Edward E. Mosley, Tracey A. O'Donnell, Isable R. Paurowski, Carol J. Upperman, and Doris C. Washington.

Mr. BENTSEN. Mr. President, I think that it is important to bring to the attention of my colleagues that the provision of the social security reform legislation which raises the retirement age to 66 will widen the gap between when airline pilots retire and when they are eligible to receive their

¹ Some of these individuals were on the staff for only part of the duration of the Commission, and some were part-time employees.

social security benefits. Airline pilots are the only group in private industry that Federal regulations require to retire by the age of 60. The Federal Aviation Administration established this regulation in order to protect the safety of the American public, and I hope that my colleagues will bear this situation in mind as we are debating the social security reform measure before the Senate today.

Mr. JEPSEN. Would the distinguished chairman of the Finance Committee yield to me for a few questions about the self-employment section of the bill?

Mr. DOLE. I would be happy to do that.

Mr. JEPSEN. As the manager of the bill knows, there are many farmers who are very concerned about the increase in the self-employment tax. What with farm prices so low and interest payments so high, I have been contacted by many farmers who are worried that the proposed increase could put them out of business. Could the chairman just take a minute and briefly explain the increase and how the tax credit will work to offset some of the tax rate increase.

Mr. DOLE. Under the bill reported by the Finance Committee, the OASDI and HI taxes paid by the self-employed would be conformed to the combined rates already paid by employers and employees. This means that OASDI rates for the self-employed will rise from 75 percent of the employer-employee rate, and HI rates for the self-employed will rise from 50 percent of the employer-employee rate. The result of this will be in 1984, to increase the combined OASDIHI rate paid by the self-employed from 9.35 percent to 14 percent.

I would add that conforming the OASDI self-employed rates to the combined employer-employee rate was a major part of the bipartisan agreement set forth by the National Commission. In conforming the HI rate to the combined employer-employee rate, the Finance Committee was following the lead of the House-passed bill. The main difference in our bill is the amount of the credit against the self-employed taxes that we allow: Our credit is more generous in each year and goes further in offsetting the effect of the self-employment tax rate increases.

Mr. JEPSEN. Now, could you give us some idea of what the actual increase would mean for an individual farmer who has a net farm income of \$15,000? By this, I mean, could you tell us what the social security taxes would have been under current law, under the House-passed version of the bill, and under the Senate-passed version?

Mr. DOLE. Yes, and I think that comparison speaks well for our version of this legislation. Under current law, a self-employed individual with self-employment income of \$15,000 in 1984 would pay \$1,478 in self-employment taxes and \$1,801 in income tax. Under

the House-passed bill—which provides a 2.1-percent credit against self-employment tax in 1984—the net tax increase for that individual would be \$307 in 1984. But under the Finance Committee bill, the net increase would be only \$187. That is a significant difference, \$120, and it results from the fact that the Finance Committee provided a 2.9-percent credit for the self-employed in 1984.

Mr. JEPSEN. Now this tax credit, unlike the tax credit employees will get in 1984, it will continue, is that correct Senator? Can I have the assurance of the distinguished chairman that he will work in conference to make sure that the Senate's version of the tax credit is the one which is finally adopted?

Mr. DOLE. The Senator is correct. We have provided a permanent credit against self-employment taxes, defined as a percentage of self-employment income subject to those taxes. The credit amount does vary: 2.9 percent in 1984, 2.5 percent in 1985, 2.2 percent in 1986, 2.1 percent between 1987 and 1989, and 2.3 percent in 1990 and after.

I can assure the Senator that the members of the Finance Committee were very much concerned about the problems these higher tax rates cause for the self-employed. This package does call on everyone to sacrifice a bit, but we did not feel the self-employed should be asked to give up more than their share. I am confident that our Senate conferees will share that view, if our version is adopted here, and will work with me to preserve the Senate's position in conference.

Mr. JEPSEN. Suppose a farmer had no net farm income during the tax year, something that is all too common nowadays, would the farmer have to pay any social security taxes?

Mr. DOLE. No; the farmer would not have to pay any social security tax.

Mr. JEPSEN. A number of farmers have indicated to me that because of the tax break an employer gets with regard to his portion of the social security tax, there is a strong incentive in this bill for farmers to incorporate and operate their farms as corporations rather than as self-employed businessmen and women. Could the chairman comment on this. Is it your opinion that the proposal with regard to the self-employed constitutes a strong incentive to incorporate?

Mr. DOLE. It may be true that farmers who pay taxes in the upper brackets—where the deduction for the employer's share becomes most meaningful—there may be some reason to prefer corporate status. With regard to lower and moderate income farmers, this should not be much of a problem. In fact, the reason both the House bill and our bill adopted the SECA credit approach was to equalize the tax relief among different income groups, which the deduction proposed by the National Commission would not have done. In any event, I would say to the Senator, if there is such an in-

centive it already exists under present law: I do not know that there would be many situations where the increase in self-employment taxes per se would provide a strong additional incentive to incorporate. Certainly that is not the intention of our committee, nor was it the intention of the National Commission.

Mr. JEPSEN. What about the tax break an employer receives relative to his portion of the social security tax. Does that not have a tendency to discriminate against the self-employed businessman because he cannot take advantage of that tax break?

Mr. DOLE. As the Senator may know, the original proposal by the National Commission was to allow the self-employed a deduction for half of the social security taxes they pay, to be taken for income tax purposes. We, like the House, have provided a credit instead of a deduction that is more equitable and more generous to the self-employed. Therefore, I would not agree that the Finance Committee bill, in this regard, is less generous to the self-employed than it is to employers. After all, employers do not get the credit against social security tax that we have provided for the self-employed.

Mr. JEPSEN. I appreciate the responses of the distinguished chairman of the Finance Committee. I believe his answers will help many farmers have a better understanding of what this proposal will mean for them so they can plan accordingly.

Mr. GRASSLEY. Mr. President, I take this opportunity to comment on a small and perhaps little noticed provision of the social security bill. The provision, which embodies a bill I introduced earlier this year, disallows social security benefits to incarcerated felons. My thanks go to Chairman DOLE of the Senate Finance Committee for his efforts to incorporate my bill in the finance committee package.

Section 123 of S. 1 places limitations on social security payments to prisoners by making inmates of penal institutions ineligible for social security benefits. It should be noted that an individual's right to the benefits would be restored upon parole, pardon, or completion of the sentence. Furthermore, benefits for any eligible dependents would continue to be paid. It is not my intent to take such dependents off of social security's role, and place them on welfare roles.

This measure is an extension of legislation adopted by the 96th Congress which tightened up eligibility requirements for prisoners receiving disability insurance. However, it goes a step or two further by eliminating the loophole whereby incarcerated felons could receive disability insurance if they were enrolled in a rehabilitation program; and also by halting retirement payments to prisoners.

The basic goal in adopting such a law is not to generate revenues. While

we cannot become so accustomed to talking about billions of dollars that we forget to pick up a million or two when given the opportunity, the thrust of this provision is to restore confidence in the social security system. Such public confidence is sorely lacking among today's workers and retirees. I am sure all of my colleagues have heard comments from their constituents maligning the fact that prisoners are receiving social security benefits. Such a discovery does not set well with Americans who are already paying hard-earned dollars though their taxes for the support of such prisoners. It is inconceivable that Congress can consider increasing taxes, or can consider slowing the growth in benefits for future retirees, without addressing such an obvious inequity in the current system.

The inclusion of this change will send a much-needed signal to Americans that Congress is serious about preserving the integrity of social security. One issue that has surfaced again and again throughout the consideration of social security reforms is the lack of public confidence in social security. We can begin to restore such confidence and a sense of fairness with provisions such as this.

Again, I thank the chairman for his assistance in seeing this provision included in the final Finance Committee report. Our efforts to eliminate similar aberrations in the social security system should not stop here. We should continue in this vein to halt the draining of scarce social security funds to such unintended recipients.

● Mr. PACKWOOD. I would like to ask clarification of a point raised by S. 1, the social security bill. Section 150 of S. 1 adds to the Internal Revenue Code new sections 3121(r)(1)(B) and 3306(v)(1)(B) which include in the definition of wages for social security and unemployment tax purposes any employer contribution to a cafeteria plan which includes a qualified cash or deferred arrangement to the extent the employee had the right to choose cash, property, or other benefits which would be wages for those purposes. I understand this to mean that, if a cafeteria plan does not include a qualified cash or deferred arrangement, employees who elect benefits such as day-care assistance, which are not otherwise subject to social security tax or unemployment tax, will not be subject to those taxes solely because they could have chosen cash, property, or other benefits that would have been subject to those taxes.

Mr. DOLE. That is also my understanding of the intent and meaning of these provisions.

Mr. DURENBERGER. Regarding these same provisions mentioned by Senator Packwood, I understand that a cafeteria plan will not be considered to include a cash or deferred arrangement unless the cafeteria plan contains provisions whereby contributions to the plan may be applied to provide

benefits under the cash or deferred arrangement or vice-versa. In other words, these provisions will not apply solely because an employer offers a cafeteria plan with cash as one of the benefits and also offers a separate qualified cash or deferred arrangement.

Mr. DOLE. That is also my understanding of the meaning and intent of these provisions.●

**SOCIAL SECURITY ACT
AMENDMENTS OF 1983**

The **PRESIDING OFFICER**. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the social security trust funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Senate resumed consideration of the bill.

The **PRESIDING OFFICER**. The question is on the Baucus amendment. Mr. **BAKER** addressed the Chair.

The **PRESIDING OFFICER**. The majority leader.

Mr. **BAKER**. Mr. President, Senator **BAUCUS**, I understand, is on his way to the floor and has not yet reached the floor. I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. **SPECTER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, will the Senator yield to me?

Mr. **SPECTER**. Yes.

LEVIN has an amendment. I think Senator LONG wanted to get into one of his amendments, or maybe all of his amendments. Senator BOREN may have an amendment.

ADDITIONAL COSPONSOR OF AMENDMENT NO. 512

Mr. LONG. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to my amendment No. 512 relating to social security coverage for Federal employees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as the Senator from Kansas has indicated, I am hopeful we can move very quickly on this measure. I hope that Senators who have amendments will come to the floor and maybe we can, on an amendment-by-amendment basis, if there is any indication or inclination, have a time agreement. Otherwise, maybe we can move very quickly without time agreements. It is the hope of the Senator from Kansas that Senators will not spend a great deal of time on their amendments. We understand their amendments.

UP AMENDMENT NO. 120

Mr. DOLE. Mr. President, I see the Senator from New York (Mr. MOYNIHAN) is on the floor. I wonder if we might take up his amendment while we await the Senator from Montana.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It will take unanimous consent to set aside the Baucus amendment.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the Moynihan amendment.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 120.

Mr. MOYNIHAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SOCIAL SECURITY CARDS

Sec. . (a) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited."

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, the distinguished majority leader indicated earlier that we still have a number of amendments. It is my hope to move very quickly on the amendments. Members have been on notice that the pending amendment was laid down last evening. I am told Senator Baucus has two amendments and Senator

(b) The amendment made by this section shall apply with respect to all new and replacement social security cards issued more than 193 days after the date of the enactment of this Act.

(c) Within 90 days after the date of the enactment of this Act the Secretary of Health and Human Services shall report to the Congress on his plans for implementing the amendment made by this section.

Mr. MOYNIHAN. Mr. President, this is an amendment identical in language to that which the Senate passed 2 years ago which was, unfortunately, rejected in the conference. It simply provides that, 193 days after the enactment of this legislation, which is to say half a year, the Social Security Administration begin to issue social security cards on banknote paper which, to the maximum extent practicable, cannot be counterfeited. The costs involved are modest but the cost of the failure to do this, according to the General Accounting Office, is enormous. They have estimated that fraud, involving fraudulent identification papers issued by the Federal Government, most particularly the social security card, costs upwards of \$3 billion a year.

The card we use today, if I may say, is still the same pasteboard card of 50 years ago. Just recently, I asked for a card I had lost to be replaced. It is no more than a simple bit of cellophane paper, readily counterfeited; indeed, available on street corners in most parts of entry of the United States of America. Banknote paper would cost very little more and last much longer. It would not be counterfeitproof. At great cost and effort, you can counterfeit them as you counterfeit hundred-dollar bills, but in the main, it is not a successful venture and does not very much occur.

This is a modest amendment, Mr. President, a matter long overdue. The Social Security Administration has indicated its intent to do it but has never done it.

Mr. DOLE. Mr. President, this Senator has no objection to the amendment. In fact, I believe it is a good amendment and should have been adopted before. I am prepared to accept the amendment. I know it has been cleared with the Senator from Louisiana.

Mr. LONG. I have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 120) was agreed to.

AMENDMENT NO. 535

(Purpose: To provide a credit against the Old-Age, Survivors, and Disability Insurance Tax to small business employers for 1984)

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Montana (Mr. BAUCUS).

The amendment is as follows:

On page 68 of the matter proposed to be inserted, beginning with line 19, strike out

all through page 71, line 9, and insert in lieu thereof the following:

SEC. . ACCELERATION OF INCREASES IN FICA TAXES: 1984 TAX CREDITS.

(a) ACCELERATION OF INCREASES IN FICA TAXES.—

(1) TAX ON EMPLOYEES.—Subsection (a) of section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

| "In cases of wages received during: | The rate shall be: |
|-------------------------------------|--------------------|
| 1984, 1985, 1986, or 1987..... | 5.7 percent |
| 1988 or 1989..... | 6.06 percent |
| 1990 or thereafter..... | 6.2 percent." |

(2) EMPLOYER TAX.—Subsection (a) of section 3111 of such Code is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

| "In cases of wages received during: | The rate shall be: |
|-------------------------------------|--------------------|
| 1984, 1985, 1986, or 1987..... | 5.7 percent |
| 1988 or 1989..... | 6.06 percent |
| 1990 or thereafter..... | 6.2 percent." |

"(b) TIME CREDIT ALLOWED.—The credit under subsection (a) shall be taken into account in determining the amount of the tax deducted under section 3102(a).

"(c) WAGES.—For purposes of this subsection, the term 'wages' has the meaning given to such term by section 3121(a).

"(d) APPLICATION TO AGREEMENTS UNDER SECTION 218 OF THE SOCIAL SECURITY ACT.—For purposes of determining amounts equivalent to the tax imposed by section 3101(a) with respect to remuneration which—

- "(1) is covered by an agreement under section 218 of the Social Security Act, and
- "(2) is paid during 1984,

the credit allowed by subsection (a) shall be taken into account. A similar rule shall also apply in the case of an agreement under section 3121(1).

"(e) CREDIT AGAINST RAILROAD RETIREMENT EMPLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.—

"(1) IN GENERAL.—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes an amount equal to 3/10 of 1 percent of such compensation.

"(2) TIME CREDIT ALLOWED.—The credit under paragraph (1) shall be taken into account in determining the amount of the tax deducted under section 3202(a) (or the amount of the tax under section 3211(a)).

"(3) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given to such term by section 3231(e).

"(f) SMALL BUSINESS CREDIT AGAINST FICA TAXES.—

"(1) IN GENERAL.—In the case of a qualified small business, there shall be allowed as a credit against the tax imposed by section 3111(a) with respect to wages paid during 1984 with respect to employment an amount equal to 0.3 percent of such wages.

"(2) LIMITATION.—The aggregate amount of the credit allowable to any qualified small business under paragraph (1) shall not exceed \$500.

"(3) QUALIFIED SMALL BUSINESS.—

"(A) IN GENERAL.—The term 'qualified small business' means an employer who employs no more than 50 employees in employment at any time during 1984.

"(B) AGGREGATION OF EMPLOYEES.—In determining the number of employees of an employer for purposes of subparagraph (A), all employees of—

"(i) any trade or business (whether or not incorporated) which is under common control with such employer (within the meaning of section 52(b)), or

"(ii) any member of any controlled groups of corporation of which such employer is a member.

during any period of 1984, shall be treated as being employed by such employer during such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, employers who employ employees through partnerships, joint ventures, and corporations.

"(C) CONTROLLED GROUPS OF CORPORATIONS.—For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(4) TIME CREDIT ALLOWED.—The credit allowable under paragraph (1) shall be taken into account in determining the amount of any deposit or payment of the tax imposed by section 3111(a) which the employer is required to make to the Secretary with respect to any period.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) WAGES.—The term 'wages' has the meaning given to such term by subsections (a) and (t) of section 3121.

"(B) EMPLOYMENT.—The term 'employment' has the meaning given to such term by section 3121(b).

"(6) RETURNS.—Any return of the tax imposed by section 3111(a) made with respect to wages paid in 1984 shall include a statement which identifies the maximum number of employees employed by the employer at any time during the period to which such return relates.

"(g) COORDINATION WITH SECTION 6413(c).—For . . .

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate called the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, when the Baucus amendments are disposed of, the Senator from Kansas will offer a series of technical amendments. We believe that they have been at least explored by staff on both sides. They are important. It is important that they be adopted. When we conclude work on the Baucus amendments, the Senator from Kansas will then offer the technical amendments.

Mr. President, I believe the Senator from Montana is prepared to proceed.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I have an amendment prepared which I am going to offer, but I will wait just a few minutes while the amendment is being modified in accordance with an agreement that we have just reached with the chairman of the committee.

Let me just say a few words about the amendment while it is being modified. The modification should not take more than a few minutes.

The general thrust of the amendment is to provide a credit to small businesses for the increase in social security payroll taxes in 1984 that employers will have to pay under the committee's bill.

As you will recall, Mr. President, the national commission recommended, and the House and the Senate Finance Committee have agreed, that the payroll tax increase scheduled to go into effect in 1985 will be accelerated to 1984. In addition, employees will get a full credit against their income taxes for that increase in 1984. The amendment that I am offering will provide a similar credit to small businesses.

The Senator from Colorado (Mr. ARMSTRONG) yesterday offered an amendment to repeal the proposed acceleration of payroll tax increases in this decade. This body did not agree with that amendment. This Senator, in fact, voted against that amendment because such an amendment would, in my judgment, jeopardize the national commission's package, which I think in the main most of us want to support.

AMENDMENT NO. 535, AS MODIFIED

Mr. BAUCUS. Mr. President, at this time I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an amendment numbered 535, as modified.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

MODIFICATION TO BAUCUS AMENDMENT NO. 535

On page 4 line 17 substitute the following line:

(1) Shall not exceed \$300.

Mr. BAUCUS. Mr. President, I do not know if the version of the amendment at the desk contains the modification or not. I will read the modification if it is so appropriate:

On page 4, line 17, substitute the following line: (1) shall not exceed \$300."

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. BAUCUS. I do so, Mr. President.

Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the amendment.

Mr. BAUCUS. Mr. President, I will not take much time because we have reached agreement on this amendment with the chairman of the committee.

Let me say at this point that the amendment I originally planned to offer would have provided for a \$500 cap on the tax credit. That is, no employer would be entitled to receive more than \$500 in credits during the year.

The amendment also provides that the credit would go to only those firms with 50 or fewer employees.

In discussing the amendment with the chairman of the committee, we were somewhat concerned about the cost of this amendment. The estimates are approximately \$900 million with a \$500 cap. Like the credit being given to workers in 1984, this money comes from general revenues, not from the Social Security trust funds. Employers will simply take this credit into account when they make their regular FICA payments.

It seems to me, Mr. President, that because this amendment is designed for small business it is reasonable to lower the cap to \$300.

This is a small business amendment. It is especially targeted to provide full relief for our very smallest businesses—those with 10 or fewer employees. We all know the importance of small business in our country. We also know that increased payroll taxes tend to adversely affect small business more compared to big business. Even though all businesses as employers will have to pay the increase in payroll taxes, big business is more easily able to accommodate those increases because bigger businesses generally can more easily pass on those costs in terms of the products they sell. In contrast, the nature of small business is such that it generally is in less of a position to pass on increased costs.

Mr. President, small business is our most productive and, at the same time, most hard-pressed economic sector. They need this relief. Although this proposal represents a modest draw on the Treasury, we believe that this amendment will encourage and assist small businesses as they begin to expand production and employment during what we hope will be a period of economic recovery in 1984. This amendment is all the more important since we look to our small business community as a key force in creating new jobs. According to recent studies, small business accounts for more than half of all new jobs in America. It would be counterproductive for us to impose higher regressive payroll taxes on the same employers we are depending on to hire our unemployed.

If any sector of our economy deserves special consideration within the context of the social security debate, it is the small business community. These employers ought to be given at

least the same relief that we have extended to their employees.

The value of this credit to our small business community is immense. In fact, the National Federation of Independent Business has called this amendment "The most important small business vote of the 98th Congress to date."

I favor the National Commission's package. I think most of us do. I do not want to offer an amendment or support an amendment which, in my judgment, will break open the package. This amendment does not do so. It does not break open the package. The revenue loss, not to the trust funds but to the general fund, will be significantly lower than \$900 million. We do not have the estimates. It will certainly be much lower than \$900 million.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a moment?

Mr. BAUCUS. I am delighted to yield.

Mr. BOSCHWITZ. Will the Senator add me as a cosponsor?

Mr. BAUCUS. I would be very happy to.

Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. BOSCHWITZ) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, this amendment has broad support from many Members and from many small business groups. In addition to Senator QUAYLE and Senator BOSCHWITZ, cosponsors of this amendment include Senators NUNN, SASSER, GORTON, PRYOR, HUDDLESTON, and ABDNOR.

I want to compliment particularly the Senator from Indiana (Mr. QUAYLE) who has worked with this Senator in drafting this amendment. He has made many very helpful suggestions. We have included those in this effort, and I think this body should be aware of his help.

I also want to pay particular tribute to the chairman of the committee, the Senator from Kansas, who has worked with us and suggested this compromise, which I will agree with, which is to lower the cap from \$500 to \$300 per employer.

Mr. President, I ask unanimous consent that the following four letters from supporting small business organizations be included in the RECORD, as if read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**NATIONAL ASSOCIATION OF
WHOLESALE-DISTRIBUTORS.**

Washington, D.C., March 22, 1983.

HON. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: This is to express the strong support of the National Association of Wholesaler-Distributors' 121 member national associations and their 45,000 member companies for your proposed

amendment to include a one-year employer tax credit for 1984 to offset the substantial increase in FICA payroll taxes mandated by the social security bill now on the Senate floor.

Increased payroll taxes are not only a disincentive to job creation, they are a significant drain on the cash flow of closely-held wholesaler-distributors at a time of economic recovery.

Moreover, the social security compromise includes a one-year tax credit for employees and self-employed for 1984 to alleviate their increased tax burden.

Parity dictates employers should also be given the same consideration.

Sincerely,

JOHN H. FITCH, Jr.,
Vice President,
Government Relations.

NATIONAL AUDIO-VISUAL
ASSOCIATION, INC.,
Fairfax, Va., March 22, 1983.

HON. MAX S. BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: On behalf of the 800 members of NAVA, the International Communications Industries Association, I am conveying to you our support for your amendment to S. 1, the Social Security Refinancing bill, which will give small employers a credit for the 1984 increase in FICA.

The sharp increases in Social Security payments by both employees and employers have been burdens which have fallen most heavily on small firms. In our case, the combination of the severe economic downturn, high interest rates, the steep rise in FICA taxes, and the rise in the cost of doing business have resulted in losses for many firms. Companies which would have been contributing to the Federal government through taxes are unable to pay due to losses. Capital that could have been invested has been drained away.

We share your concern for strengthening the Social Security System. We are well aware of the need to ensure that the burdens are carried in an equitable way along the path to restored stability in the system.

With most of our member firms having well under 50 employees, we strongly support your amendment which will ensure that the burden of the 1984 increase will be lightened for small businesses in a very modest but effective way. We are pleased to join with the National Federation of Independent Business and other associations in supporting your amendment.

We wish you every success in getting this amendment passed.

Sincerely,

KENTON PATTIE,
Senior Staff Vice President.

SMALL BUSINESS UNITED,
Waltham, Mass., March 22, 1983.

HON. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: Small Business United, a coalition of sixteen regional, state and metropolitan trade associations representing over 50,000 small businesses nationwide, supports your amendment to the Social Security reform package, providing a tax credit for payroll taxes paid by any business with fewer than 50 employees.

We believe your amendment puts the nation's small businesses on equal footing with their employees, and as such it is a fair amendment. Payroll taxes are a tax on jobs and can only work to inhibit productive small firms from hiring the nation's unemployed. We would have preferred the amendment be applicable to small concerns

with 500 or fewer employees (the Small Business Administration's size standard for small firms), but we believe the amendment as currently drafted still represents a significant improvement in the reform package.

Thank you for offering it.

Sincerely,

G. THOMAS CATOR,
Washington Counsel to SBU.

NATIONAL SMALL
BUSINESS ASSOCIATION,
Washington, D.C., March 23, 1983.

HON. MAX BAUCUS,
Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR BAUCUS: The National Small Business Association strongly supports your efforts to provide a one-time tax credit for small business employers who are being subjected to a speed up in Social Security payroll tax payments.

Your amendment, which limits the credit to a maximum of \$500 per employer with 50 or fewer employees, will certainly assist these smaller firms who are already paying inordinately high payroll taxes.

We thank you for your efforts on behalf of the small business community.

Sincerely,

JEROME R. GULAN
Vice President,
Government Affairs.

Mr. QUAYLE. Mr. President, the amendment I offer today with Senator Baucus would provide small business with some tax relief in 1984, a year in which we hope that these businesses will be able to provide our people with expanded job opportunities as we enter a period of economic recovery. While the amendment involves a short-term, 1-year cost, it represents an investment that will be greatly appreciated by small firms now trying to expand their production capacities.

Mr. President, the current social security system places a very heavy burden on small business. A vast number of businesses pay more in social security tax than they pay in income tax. The cost of social security taxes to small employers is one factor which makes it difficult for them to consider expanding their levels of employment; the employer payroll contribution per employee is a high cost to small profit, small work force businesses.

I think we should not forget that small businesses in America are just emerging from their most difficult year since the 1930's. Bankruptcy rates reached their highest levels since those difficult times 50 years ago. New hires are at anemic levels, and profit margins are very low. Now is clearly not the time to increase the tax burden on our small businesses. Small business is historically the sector where most new jobs are created, and we should not do anything to discourage the growth and expansion which will take people off the unemployment rolls.

Mr. President, the purpose of this amendment is to assist small business out of its recent and current state of decline. The cost of adding capacity and new employment for small business is made worse by the operation of

our social security system which requires employers to pay significant amounts of tax for every employee they hire. Small business, which can be expected to generate a very large proportion of new jobs in the current recovery, is particularly sensitive to increases in the social security payroll tax rate. Every employee added is a more expensive investment for the employer.

We hope and trust that fiscal year 1984 will be a year of expansion and prosperity for all Americans. For this to happen, small business must be able to expand and provide new job opportunities. New positions must be made available for young people and for mature workers who have lost jobs in older industries. A tax credit of \$300 is a small investment, that would counteract the proposed tax increase; it is a 1-year (fiscal year 1984), one-shot expense—but would go into effect at the right time—when business is expanding and creating new jobs.

Our amendment would provide employers with 50 or fewer employees a tax credit in the amount of \$300 for the year 1984. This would offset the 0.3 percent OASDI tax increase scheduled to go into effect for employers next year.

We have decided to target this benefit to employers with 50 or fewer employees because of economic and equity considerations. We do not believe it is economically useful to extend this credit to firms with a greater number of employees. The potential job creating or preserving impact of this measure will be, as I mentioned earlier, among smaller businesses. Many large firms may not even bother to claim the credit in the first place. Additionally, we do not believe the positive impact of the savings will be felt by firms with more than 50 employees. Such firms would probably not alter their hiring plans, nor see their profit margins eroded in any significant degree, because of the schedule increase.

All told, over 95 percent of all employers in the country would qualify for this credit. This represents over 4 million of the 4.2 million firms in the United States. Only very large companies, which do not need the relief, will be ineligible for this 1-year credit.

Mr. President, the cost of this amendment will be approximately \$600 million from the General Treasury. This represents a very small cost, in view of the other major changes we are now considering for our social security system. The effect of this amendment will be to relieve, for 1 year only, a burden on a part of the business community which really needs tax relief. Furthermore, it provides this relief at a crucial time in the economic recovery when the potential job-creating impact should be uppermost in our minds.

Let me just add one point to clarify our intent in offering this amendment.

As we have repeated several times, we are advancing this idea as a small measure to ease the burden of the increase in the employer contribution next year on this Nation's small businesses. We all know that the economic and regulatory burden on small business because of Federal statutes can often make the difference between success and failure.

Our amendment allows qualified businesses to take a \$300 credit against their tax liabilities, and defines qualified small businesses as those with fewer than 50 employees. It is not our intent to generate a new set of reporting requirements or forms for certifying eligibility for this credit. For a credit this size, especially for very small businesses which often have no more than one or two employees, such an addition to the paperwork and reporting requirement would be contradictory to the intended purpose of the amendment. So let me just insist that we intend that a simple self-certification mechanism be used to establish eligibility for this credit, and that no new reporting requirements be imposed as a result of this amendment.

Mr. President, I urge all of my colleagues to support this amendment as a small yet much needed measure of relief to the small businesses which are leading us in the emerging economic recovery.

Mr. BAUCUS. Mr. President, I have no other points to make at this time, since we have reached an agreement. Therefore, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I appreciate the distinguished Senator from Montana modifying the amendment to lower the cap to \$300. I would point out that this was not part of the recommendation of the National Commission. We felt employers could already deduct their payroll tax contributions against income tax. Employees do not have this benefit, so there was not much reason to give a double benefit to employers. However, I think we have now been able to reduce the cost, and I am certainly prepared to take the amendment. As I have indicated privately to the Senator from Montana, I will do what I can to keep the amendment in conference.

I think it does provide some equity. The Senator has limited it to 50 employees or less. It is directed toward small business. I know that a lot of small business groups, including NFIB and others, have a strong interest in this amendment.

I hope the Senator will let us accept it without a rollcall vote, because I will not be impressed by that. The rollcall will be 99 to 0—I will stipulate that.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BAUCUS. I appreciate the confidence of the Senator. Obviously, a rollcall vote would help persuade the House conferees of the seriousness of this amendment. The basis of my concern is that it would represent to the other body the opinion of this body.

If the chairman will fight hard for this amendment in conference, I will not ask for a rollcall vote.

Mr. DOLE. We did some checking in advance and found there was a lot of support for this. So I can safely say that had it not been modified, in my view, it would have 60 or 65 votes; and with the modification, I think it has substantially every vote.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. BAUCUS. I think the Senator from Kansas has the floor.

Mr. MOYNIHAN. I just want to say that a 99-to-0 vote is trivial compared to the good will and energetic advocacy of the Senator from Kansas. So I congratulate the Senator from Montana on his prudence.

Mr. BAUCUS. I thank the Senator.

Mr. SASSER. Mr. President, I rise today as a cosponsor to the Baucus/Quayle amendment which provides small business relief from the 1984 payroll tax increase contained in this bill.

This amendment is rather modest in its scope but provides the type of relief that is urgently needed in the small business community. The increase of social security costs to employers contained in this package will prove most burdensome to our Nation's small firms. This amendment decreases the economic shock of this increase without jeopardizing the basic funding structure set forth in the social security package.

We need to take this type of action Mr. President because of the role small businesses play in our economy. This is our most productive segment of our economy, it is the major source of innovation in our country and unfortunately it is the hardest hit segment of the economy during this recession.

In Tennessee, 58,922 firms out of a total of 77,328 firms have fewer than 10 employees. The amazing fact about these small establishments is the impact they have had on employment in Tennessee. Between 1979 and 1981 overall employment in the State decreased by 0.2 percent. However, those firms with fewer than five employees saw a 16.8-percent increase in employment for this same period.

In addition, firms with less than 100 employees constitute 80 percent of the manufacturing companies, 99 percent of the construction firms, 61 percent of the wholesale operations, 98 percent of the service companies and 99 percent of the finance, insurance, and real estate business in Tennessee. These small firms contributed about 45 percent of the State's total payroll last year while producing roughly half of Tennessee's \$59 billion in goods and services.

The sad truth of the situation Mr. President is that these firms, which mean so much not only to the economy of Tennessee, but also to our Nation's economic well-being, are not receiving their fair share of tax breaks. The Internal Revenue Code is full of items that benefit our large businesses, but there is little in the Tax Code that serves as an incentive to or comes to the assistance of small business.

The amendment we offer today seeks to rectify that situation at least in regard to this social security bill. The small business men and women of this country are willing to support the social security compromise so long as it is an equitable solution. The Baucus/Quayle amendment takes a large step in that direction, and I strongly urge my colleagues to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 535), as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, before the Senator from Montana offers the next amendment, I wonder if we might take up a couple of noncontroversial amendments. It will take about 1 minute.

The PRESIDING OFFICER. The question recurs on the Quayle amendment.

Mr. DOLE. I ask unanimous consent that that amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the Baucus amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 121

(Purpose: To provide that payments to PRO's shall be treated the same as payments for benefits for purposes of transfers from the trust fund)

Mr. DURENBERGER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes an unprinted amendment numbered 121.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 154, line 12, strike out "budget approved" and insert "rate per review established".

On page 154, line 10, strike out "but" and insert "and (i)".

On page 154, line 12, after "Secretary" insert "(i) shall be transferred from the Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and (iii) shall be not less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs, adjusted for inflation.

On page 141, line 10, before the comma insert "(excluding payments made under section 1866 (a)(1)(F))".

On page 141, line 17, before the semicolon insert "(excluding payments made under section 1866 (a)(1)(F))".

On page 142, line 6, before the comma insert "(excluding payments made under section 1866 (a) (1) (F))".

On page 142, line 13, before the period insert "(excluding payments made under section 1866 (a)(1)(F))".

Mr. DURENBERGER. Mr. President, the amendment I offer goes beyond setting out our intent to establish utilization and quality control peer review. Our intent was made clear when the Congress adopted the peer review provision contained in TEFRA last year. This amendment goes as far as possible to insure that the TEFRA provision is implemented.

With this amendment, it is possible to fund peer review organization activities without the uncertainty associated with the appropriation process. The costs of peer review, both direct and administrative, are deemed to be costs incurred in providing inpatient services under part A. While not included in the prospective rates, the Secretary, on behalf of the hospital, would be required to pay for these costs out of the hospital insurance trust fund. In addition, as a minimum, hospital insurance trust funds would be paid to PRO's at no less than the rates per review established in fiscal year 1982 for both direct and administrative costs adjusted for inflation.

Mr. DOLE. Mr. President, as I understand it, the amendment has not been cleared with the distinguished Senator from Louisiana. I know of no objection to the amendment, but I do want to clear it with the Senator from Louisiana.

Mr. MOYNIHAN. Mr. President, I suggest that the Senator be kind enough to have the amendment laid aside, and I am sure we can clear it up within the next 45 minutes. The Senator from New York is in full agreement.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that this amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 122

(Purpose: To require that all new State waivers must comply with the unbundling provisions)

Mr. DURENBERGER. Mr. President, I send an unprinted amendment

to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes an unprinted amendment numbered 122.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 120, line 7, strike out "and".

On page 120, line 14, strike out the period and insert "; and".

On page 120, between lines 14 and 15, insert the following:

"(E) the Secretary determines that the system requires hospitals to meet the requirements of sections 1862(a)(14) and 1866a(1)(G)."

On page 121, line 15, insert "and (E)" after "(D)".

On page 123, line 2, strike out "and (D)" and insert "(D), and (E)".

Mr. DURENBERGER. Mr. President, this amendment closes a loophole in the situation where States are granted a waiver to establish their own hospital cost control systems. That loophole makes it possible for hospitals under a State system to shift costs by unbundling their services. For example, laboratory tests for hospital inpatients can be billed by an outside lab and paid as part B services, thereby allowing a hospital to circumvent the cost controls imposed by a State system.

Except for a provision already incorporated in the bill by the Finance Committee, this same loophole would have been available under the prospective payment system. It is necessary to take the same action with respect to State systems established under the waiver authority contained in this bill. As long as we allow the States to establish cost control systems we must see to it that those systems do not allow hospitals to game the system.

Mr. President, with the understanding we had on the previous amendment, I ask unanimous consent that this amendment be temporarily laid aside.

Mr. DOLE. Mr. President, before that order, the Senator from Kansas has no objection to the amendment. They are both good amendments, but they have not yet been cleared with the distinguished Senator from Louisiana. We will do that; and if he says they are satisfactory, is it appropriate to proceed without the Senator from Minnesota being present?

Mr. DURENBERGER. Under those circumstances, it would be appropriate for the Senator from Kansas to proceed with these amendments.

The PRESIDING OFFICER. Without objection, the amendment is laid aside.

UP AMENDMENT NO. 123

(Purpose: To make technical corrections)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 123.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 24, strike out "or members of the Uniformed Services" and insert "(other than for members of the Uniformed Services)".

On page 7, line 15, strike out "or members of the Uniformed Services" and insert "(other than for members of the Uniformed Services)".

On page 12, line 20, strike out "(i)" and insert "(C)".

On page 12, line 23, strike out "(ii)" and insert "(D)".

On page 13, line 4, strike out "(iii)" and insert "(E)".

On page 13, line 16, strike out "taxable" and insert "calendar".

On page 14, lines 1 and 2, strike out "clauses (i) and (ii)" and insert "subparagraphs (C) and (D)".

On page 14, line 9 strike out "clauses (i) and (ii)" and insert "subparagraphs (C) and (D)".

On page 17, line 11, before the period insert "and by striking out '1974' and inserting in lieu thereof '1982'".

On page 17, line 17, strike out "201" and insert "111".

On page 17, line 19, before the period insert "the first place it appears".

On page 18, line 14, strike out "was not" and insert "first becomes".

On page 18, line 15, strike out "for" and insert "after".

On page 18, line 19, strike out "or" and insert "including".

On page 18, line 19, after "(D)" insert "but excluding a payment under the Railroad Retirement Act of 1974 or 1937".

On page 19, line 3, after "becomes" insert "concurrently".

On page 19, line 3, after "benefits" insert "and such periodic payment".

On page 19, lines 4 through 6, strike out "at such times as the Secretary determines there has been a significant change in the amount of such periodic payment" and insert "under subsection (f)(9)(C)".

On page 19, line 7, strike out "(ii)" and insert "(i)".

On page 19, strike out lines 22 through 24, and insert "for which the individual is eligible (or deemed to be eligible) for the initial month for which he becomes concurrently eligible for such old-age or disability insurance benefits and such periodic payment. For purposes of the preceding sentence,".

On page 20, lines 16 and 17, strike out "or who die (before becoming eligible for such benefits)".

On page 20, strike out "or die" each place it appears on lines 19, 21, 23, and 25.

On page 21, strike out lines 15 through 22.

On page 21, line 23, strike out "(iv)" and insert "(iii)".

On page 22, strike out lines 21 through 24, and insert "individual who has 30 years or more of coverage (as defined in paragraph

(1)(C)(ii)). In the case of an individual who has more than 24 years of coverage but less than 30 years of coverage (as so defined), the percent specified in subparagraph (B)(ii) shall, if larger, be".

On page 23, strike out lines 1 and 2.

On page 23, line 3, strike out "(ii)" and insert "(i)".

On page 23, line 4, after "years" insert "of coverage".

On page 23, line 5, strike out "(iii)" and insert "(ii)".

On page 23, line 7, strike out "(iv)" and insert "(iii)".

On page 23, line 9, strike out "(v)" and insert "(iv)".

On page 23, line 11, strike out "(vi)" and insert "(v)".

On page 23, line 15, strike out "was not" and insert "first becomes".

On page 23, line 16, strike out "for" the second place it appears and insert "after".

On page 23, line 20, strike out "or" and insert "including".

On page 23, line 21, after "(D)" insert "but excluding a payment under the Railroad Retirement Act of 1974 or 1937".

On page 23, line 24, strike out "for purposes of" and insert "during".

On page 23, line 25, after "benefits" insert "and effective with the initial month for which the individual becomes concurrently eligible for such benefit and such periodic payment".

On page 24, line 11, strike out "entitled" each place it appears and insert "eligible".

On page 24, line 12, after "his" insert "concurrent".

On page 24, line 13, before the period insert "and such periodic payment".

On page 24, line 19, before "bears" insert "(but only counting any such months occurring after 1956)".

On page 24, strike out lines 22 through 24, and insert "recomputed under subsection (f)(9)(C)".

On page 27, line 3, strike out "In" and insert "Notwithstanding paragraph (4), in".

On page 27, line 8, insert after "payment" the following: "effective with the month of such change".

On page 27, line 9, strike out "202(e)(2)(B)(i) and 202(f)(3)(B)(i)" and insert "202(e)(2) and 202(f)(3)".

On page 27, line 21, after "60" insert "(or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection)".

On page 28, line 5, after "60" insert "(or after attaining age 50 if he was entitled before such marriage occurred to benefits based on disability under this subsection)".

On page 28, line 25, after "individual" insert "who died before attaining age 62 and".

On page 29, line 1, strike out "would" and insert "could".

On page 29, line 3, after "individual" insert "(including any increases in such primary insurance amount under subsection (i))".

On page 29, lines 6 and 7, strike out "became eligible for such benefits" and insert "meets the requirements of subparagraph (B) of paragraph (1) of such subsection".

On page 29, line 9, after "died" insert "but in no case earlier than the actual year of death".

On page 29, line 11, strike out "(ii)(II)" and insert "(iii)".

On page 29, strike out lines 12 through 21 and insert the following:

"(B) Notwithstanding subparagraph (A), the primary insurance amount of such deceased individual, for purposes of determining the benefit amount under section 202 (e) or (f)."

On page 30, strike out lines 1 through 4, and insert the following:

(b) Section 215(i)(2)(A) of such Act is amended in clause (ii)(II), by inserting after "title" the following: "(including the primary insurance amount of a deceased individual which is computed pursuant to subsection (a)(8)(A) solely for purposes of determining the amount of the benefit under subsection 202 (e) or (f))".

(c)(1) Section 202(e) of such Act is amended in paragraph (1)(D) and in the matter following subparagraph (F)(ii), by inserting "(as determined after application of section 215(a)(8))" after "primary insurance amount".

(2) Section 202(f) of such Act is amended in paragraph (1)(D) in the matter following subparagraph (F)(ii), by inserting "(as determined after application of section 215(a)(8))" after "primary insurance amount".

(3)(A) Section 202(e)(2)(A) of such Act is amended by striking out "(as determined)" and inserting in lieu thereof "(as determined after application of section 215(a)(8) where applicable and".

(B) Section 202(f)(3)(A) of such Act is amended by striking out "(as determined)" and inserting in lieu thereof "(as determined after application of section 215(a)(8) where applicable and".

(d) The amendments made by this section shall apply with respect to monthly insurance benefits for months after December 1984 for individuals who first meet all criteria for entitlement (other than making application) to benefits under section 202 (e) or (f) of the Social Security Act after December 1984.

On page 33, between lines 3 and 4, insert the following:

(7) Section 202(m)(2)(B) of such Act (as applicable after the enactment of section 2 of Public Law 97-123) is amended by striking out "subsection (q)(6)(A)(ii)" and inserting in lieu thereof "subsection (q)(6)(B)".

On page 40, line 23, strike out "2014" and insert "2011".

On page 41, strike out lines 17 through 23 and insert "duction factor applicable shall be the same as under paragraph (1) for the first 36 months included in either the reduction period (as defined in paragraph (6)) or the adjusted reduction period (as defined in paragraph (7)), and shall be five-twelfths of one percent for all additional months included in such period; and".

Beginning on page 41, line 24, strike out through page 42, line 6, and insert the following:

"(B) for widow's insurance benefits and widower's insurance benefits—

"(i) the amount of the reduction at early retirement age (as defined in section 216(a)) shall be 28.5 percent of the full benefit; and

"(ii) the amount of the reduction for each month in the reduction period (as defined in paragraph (6)) or the adjusted reduction period (as defined in paragraph (7)) shall be established by linear interpolation between 28.5 percent at the month of attainment of early retirement age, and 0 percent at the month of attainment of retirement age".

On page 43, strike out lines 19 through 22 and insert the following:

(b) Section 215(a)(7)(B)(ii)(V) of such Act (as added by section 112(a) of this Act) is amended to read:

"(V) with respect to individuals who become so eligible or die in 1988 or thereafter, the applicable percentage determined under paragraph (8) for purposes of clause (ii) of paragraph (1)(A)".

On page 43, line 25, strike out "113" and insert "112".

On page 44, lines 2 through 4, strike out "and the applicable percentage" for purposes of the first sentence of paragraph (7)(B)".

On page 44, in the heading to the chart, strike out "and the first sentence of paragraph (7)(B)".

On page 45, line 21, strike out "the age of" and insert "age."

On page 47, between lines 21 and 22, insert the following:

(m) The second sentence of section 223(d)(4) of such Act is amended by inserting immediately after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Social Security Amendments of 1983)".

On page 47, strike out lines 22 through 24.

On page 48, strike out lines 14 through 17, and insert the following:

(b) The amendments made by this section shall apply only with respect to individuals who initially become eligible for old-age or disability insurance benefits, or who die before becoming eligible for such benefits, after December 1983.

On page 51, strike out "such" on line 9 and all that follows through line 16, and insert in lieu thereof the following: "benefits payable on the basis of the wages and self-employment income on which such benefits are based (excluding amounts withheld from such benefits under section 1441 of the Internal Revenue Code of 1954) equals the total amount of taxes payable under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or the corresponding provisions of prior law) with respect to such wages and self-employment income (as determined by the Secretary on the basis of".

On page 51, strike out lines 22 through 24, and insert in lieu thereof the following: "Secretary shall take into account all benefits payable on the basis of such wages and self-employment income before such determination is made (wherever and to whomever payable)".

On page 53, lines 17 and 18, strike out "Aliens Not Permanent Residents" and insert "Certain Aliens".

On page 54, line 8, strike out "(5)" and insert in lieu thereof "(6)".

On page 55, line 22, strike out "\$250" and insert "the amount to which a primary insurance amount of \$250 is increased".

On page 56, line 20, strike out the end parentheses.

On page 56, line 23, insert an end parentheses before the period.

On page 57, line 11, insert "(other than payments of interest on, and repayments of loans from, such Trust Funds, and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfer to such account from any such Trust Fund)" after "calendar year".

On page 58, line 25, strike out "and 931" and insert "931, and 933".

On page 66, line 14, strike out "first" and insert "forty-fifth".

On page 75, beginning with line 2, strike out through line 24 and insert the following: "before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (N) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.30 per centum of the wages (as so defined) paid after December 31, 1999, and so reported".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following:

"(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1988, (N) 1.06 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (O) 1.20 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P)".

On page 77, line 7, insert a hyphen between "Old" and "Age".

On page 78, line 1, insert a hyphen between "Old" and "Age".

On page 78, line 9, insert a hyphen between "Old" and "Age".

On page 78, line 15, strike out the close parentheses the second place it appears.

On page 78, line 19, insert a close parentheses before the period.

On page 79, line 4, strike out "equal to one twenty-fourth of" and insert "not less than an amount equal to (I)".

On page 79, line 6, strike out "period" and insert "month".

On page 79, line 8, before the first period insert ", divided by (II) the number of months elapsing after the preceding month and before January 1990".

On page 79, line 8, insert "The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence." after the period the first place it appears and before the end quotation marks.

On page 81, line 10, insert a hyphen between "Old" and "Age".

On page 82, line 9, insert a hyphen between "Old" and "Age".

On page 82, line 17, insert a hyphen between "Old" and "Age".

On page 83, line 8, strike out "equal to 1/24 of" and insert "not less than an amount equal to (I)".

On page 83, line 10, strike out "period" and insert "month".

On page 83, line 12, before the first period insert ", divided by (II) the number of months elapsing after the preceding month and before January 1990".

On page 83, line 12, insert "The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence." after the period the first place it appears and before the end quotation marks.

On page 83, lines 15 and 16, insert a hyphen between "Old" and "Age".

On page 83, line 23, insert a hyphen between "Old" and "Age".

On page 84, line 8, insert a hyphen between "Old" and "Age".

On page 85, line 8, after "shall" insert "periodically".

On page 86, strike out lines 1 and 2.

On page 91, line 23, strike out all beginning with "indebtedness" through line 24 and insert in lieu thereof "an indebtedness or obligation of the United States for purposes of sections 1305(2) and 3101 of title 31, United".

On page 93, line 23, strike out all beginning with "indebtedness" through line 24 and insert in lieu thereof "an indebtedness or obligation of the United States for purposes of sections 1305(2) and 3101 of title 31, United".

On page 95, line 24, strike out all beginning with "indebtedness" through line 25 and insert in lieu thereof "an indebtedness or obligation of the United States for purposes of sections 1305(2) and 3101 of title 31, United".

On page 99, line 12, strike out "member of the public" and insert "person".

Beginning on page 99, line 21, strike out through page 100, line 2, and insert the following:

Sec. 148. (a) Section 218(e)(1)(A) of the Social Security Act is amended—

(1) by striking out "sections 3101 and 3111 of the Internal Revenue Code of 1954" and inserting in lieu thereof "such sections";

(2) by striking out "within the thirty-day period immediately following the last day of each calendar month" and inserting in lieu thereof "within the time prescribed under regulations promulgated by the Secretary of the Treasury for payment of the taxes imposed under sections 3101 and 3111 of the Internal Revenue Code of 1954"; and

(3) by striking out "in such month".

On page 100, line 4, insert "wages paid on" after "due on".

On page 104, line 14, strike out "deferred".

On page 104, line 16, strike out "or".

On page 105, line 6, after "under" insert "or to".

On page 107, line 21, after "under" insert "or to".

On page 110, line 21, after "under" insert "or to".

On page 111, between lines 10 and 11, insert the following:

(4) Section 203(f)(5)(C) of the Social Security Act is amended by adding at the end thereof the following new sentence: "The term 'wages' does not include—

"(i) the amount of any payment made to, or on behalf of, an employee or any of his dependents (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement, or

"(ii) any payment or series of payments by an employer to an employee or any of his dependents upon or after the termination of the employee's employment relationship because of retirement after attaining an age specified in a plan referred to in section 209(m)(2) or in a pension plan of the employer."

On page 115, line 17, after "(A)" insert "of section 211".

On page 116, line 4, after "amended by" insert "redesignating the subsection (c) added by Public Law 97-377 as subsection (d) and by".

On page 116, line 6, strike out "(d)" and insert "(e)".

On page 116, line 11, after "(b)" insert "of this Act and section 211(a)(1)(A) of Public Law 93-66".

On page 116, line 16, after "(b)" insert "of this Act and section 211(a)(1)(A) of Public Law 93-66".

On page 117, line 24, strike out "reorting" and insert "reporting".

On page 118, line 5, strike out "1985" and insert "1983".

Beginning on page 119, line 18, strike out through page 120, line 2, and insert:

"(6) In the case of any hospital which becomes subject to the taxes under section 3111 of the Internal Revenue Code of 1954, with respect to any or all of its employees, for part or all of a cost reporting period, and was not subject to such taxes with respect to any or all of its employees for all or part of the 12-month cost reporting period referred to in subsection (b)(3)(A)(i), the Secretary shall provide for an adjustment by increasing the base year amount referred to in subsection (b)(3)(A)(i) for such hospital by an amount equal to the amount of such

taxes which would have been paid or accrued by such hospital for such base year if such hospital had been subject to such taxes for all of such base year with respect to all its employees, minus the amount of any such taxes actually paid or accrued for such base year".

On page 122, line 20, after "test" insert ", at the option of the Secretary,".

On page 122, line 21, strike out "hospitals" and insert "State systems".

On page 126, line 17, after "(A)" insert "but determined without the application of subsection (a)".

On page 130, line 8, before the comma insert ", and the most recent case-mix data available".

On page 131, line 7, strike out "established by the Secretary".

On page 132, line 14, strike out "or" and insert "and".

On page 133, line 1, strike out "or" and insert "and".

On page 134, lines 8 and 9, strike out "by the applicable percentage increase under subsection (b)(3)(B) for that particular fiscal year" and insert "for fiscal year 1985 by the applicable percentage increase under subsection (b)(3)(B), and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available".

On page 135, lines 18 and 19, strike out "(and, if applicable, in a census division)".

On page 137, line 21, strike out "changes" and insert "charges".

On page 138, line 6, after "payments" insert "projected or estimated to be".

On page 138, lines 7 through 9, strike out "and the DRG rates shall be reduced to compensate for any payments under this subparagraph in excess of such 6 percent".

On page 140, strike out lines 7 through 9.

On page 142, line 14, strike out "Secretary" and insert "Director of the Congressional Office of Technology Assessment".

On page 142, line 20, strike out "increase" and insert "change".

On page 142, line 22, strike out "1985" and insert "1986".

On page 143, line 7, strike out "1985" and insert "1986".

On page 143, strike out "increase" each place it appears on lines 8, 14, and 16 and insert "change".

On page 143, line 21, after "published" insert "for public comment".

On page 143, line 24, strike out "1985" and insert "1986".

On page 144, line 1, after "year" insert "after such consideration of public comment on the proposal as is feasible in the time available".

On page 148, line 3, strike out "efficiency" and insert "efficacy".

On page 148, line 17, after "research" insert "and experimentation, including clinical research,".

On page 148, line 23, before the period insert the following: "in accordance with the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), except that disclosure of such information may be made to the Secretary and to the Director as may be necessary to carry out the functions of the Commission".

On page 150, between lines 16 and 17,

insert the following:

"(L) The Commission shall be subject to periodic audit by the General Accounting Office."

On page 150, line 17, strike out "(L)" and insert "(M)".

On page 151, line 18, strike out "(d)" and insert "(e)".

On page 153, line 25, strike out "accuracy" and insert "validity".

On page 153, line 25, and page 154, line 1, strike out "on such hospital's bills" and insert "provided by such hospital".

On page 154, strike out lines 13 through 19.

On page 154, line 21, strike out "(H)" and insert "(G)".

On page 154, line 23, strike out "section 1886(d)" and insert "this title".

On page 158, line 3, strike out "(H)" and insert "(G)".

On page 158, line 5, after "practice" insert ", since prior to October 1, 1982."

On page 159, lines 15 and 16, strike out "legislative recommendations".

On page 159, strike out line 19, and insert "DRG type classification of the discharges of those inpatients, and legislative recommendations thereon."

On page 160, line 24, strike out "also reports" and insert "shall also report".

On page 161, line 2, insert "report" after "also".

On page 161, lines 7 and 8, strike out "whether hospitals located outside of the fifty States and the District of Columbia should be included" and insert "a method for including hospitals located outside of the fifty States and the District of Columbia".

On page 162, strike out lines 1 and 2 and insert "point for the contract year that begins in 1983, by an additional one-half of one percentage point for the contract year that begins in 1984, and by an additional one-fourth of one percentage point for the contract year that begins in 1985."

On page 162, line 23, strike out "continue" and insert "conduct".

On page 164, line 6, strike out "The DRG prospective payment" and insert "Payment on the basis of the prospective".

On page 164, line 13, strike out "DRG".

On page 179, line 3, strike out "they".

On page 179, line 4, before the period insert "for the calendar year following the year for which the deferral is requested".

On page 179, line 12, strike out "granted" and insert "requested and subsequently granted".

On page 179, line 24, strike out "base year" and insert "year for which the deferral is sought".

On page 180, line 10, strike out "deferred".

On page 181, lines 6 and 7, strike out "described in subparagraph (A)" and insert "which meets the requirements of subparagraphs (A) and (B) of paragraph (2) and".

Beginning on page 181, line 22, strike out through page 182, line 2, and insert the following:

SEC. 413. (a) Section 3302(d)(4)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

"(B)(i) for purposes of subparagraph (B) of subsection (c)(2), the total of the wages (as determined without any limitation on amount) attributable to such State subject to contributions under this chapter with respect to such calendar year, and

"(ii) for purposes of subparagraph (C) of subsection (c)(2), the total of the remuneration subject to contributions under the State unemployment compensation law with respect to such calendar year."

On page 182, line 3, strike out "sections 3302(c)(2)(B)(i) and 3302(c)(4)" and insert "section 3302(c)(2)(B)(i)".

On page 182, line 4, strike out "are each" and insert "is".

On page 182, line 6, insert "U.S." after "estimated".

On page 182, between lines 8 and 9, insert the following:

(c) Section 3302(c)(2)(B) of such Code is amended by inserting after "(if any)" the

following: ", multiplied by the ratio of the State's average annual wage in covered employment to the wage base under this chapter."

Mr. DOLE. Mr. President, this is purely a technical amendment and clears up a lot of drafting errors. This has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 123) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRESSLER). Without objection, it is so ordered.

UP AMENDMENT NO. 121

UP AMENDMENT NO. 122

Mr. DOLE. Mr. President, pending are two amendments offered by the distinguished Senator from Minnesota (Mr. DURENBERGER). They were temporarily laid aside while we cleared the amendment with the distinguished ranking minority member, Senator LONG.

I am now authorized to announce that these amendments have been cleared and we are prepared to proceed to the adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Minnesota.

The amendments (UP No. 121 and UP No. 122) were agreed to en bloc.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc and also move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 534

(Formerly UP Amendment No. 111.)

Mr. DOLE. What is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Indiana (Mr. QUAYLE) is the pending business.

Mr. DOLE. Mr. President, I know the Senator from Montana is about ready to offer an amendment, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Kansas has been looking over a list of amendments. I hope that it is the complete list. We have disposed of five amendments this morning, so we are making some progress.

Senator BAUCUS will be returning in a moment to take up his second amendment. I also have on the list at least one amendment by Senator LEVIN, an amendment by Senator LONG to exclude tax-exempt income in the determination of taxable benefits; an amendment by the distinguished Presiding Officer, Senator PRESSLER, liberalizing the earnings limitation for the blind. We have been trying to determine some way to accommodate the Senator on the amendment, but we have not been able to do that as yet.

There are two or three amendments on the coverage of Federal employees which, in the view of the manager of the bill, should be treated or discussed all at about the same time.

There will be an amendment by the Senator from Colorado (Mr. ARMSTRONG) covering nonprofits and the Senator from Hawaii, Senator MATSUNAGA, may have an amendment dealing with certain people who retire in the next 10 years who are now included in the aliens provisions.

There may be an amendment offered by the Senator from Kansas with reference to health care coverage. But so far as the Senator from Kansas knows, there are no other amendments. If we do not go to conference this afternoon and complete the conference sometime between now and tomorrow morning, then I assume it will be most of tomorrow in conference. I know many Members would like to have the conference report up by some time early tomorrow afternoon.

So we are prepared, where we can, to try to accommodate Senators. We can negotiate their amendments. If not, we certainly would like to have them offered and brought to a vote.

I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, for those who may be listening to us in their offices, might I on behalf of our side of the aisle say, without in any way reaching for the melodramatic, we have been 2 years working to bring a resolution to a problem that started, you might say, with us shouting at the top of our collective voices. There was great fear, great anxiety, a sense of impending crisis, and, worse, a near paralysis of will that accompanied the dimension of the crisis as it was represented to us.

Somehow seemingly the 2 years of labor we have put into this matter have proved therapeutic as well as instructive and even somewhat sedative.

We are in the last hours of this enterprise, and the sense of urgency about it seems all but to have effervesced. That could create a real crisis where, perhaps, others had been created, if I may make that play on words.

May I offer my gentle encouragement to the chairman's more firm request that Members come to the floor with their amendments so that we might conclude this matter in good time?

Mr. BYRD. Mr. President, I wish to say to the managers that Senator BOREN is on his way to the floor.

One of the problems we have is we have committee meetings and we should have objected to committees sitting today. But Members are torn between their responsibilities to go to committees and their responsibility to be here, and I have seen this happen before.

Mr. BOREN is on his way, and we will soon have a Senator who will have an amendment.

I was asked if I should put in a quorum. I said it was not necessary, we will just let the Senate roll along. But it may not be a bad idea if I suggested the absence of a quorum.

Mr. BAKER. We could yield back all the time.

Mr. BYRD. Those words have a familiar ring to them.

I suggest the absence of a quorum unless the majority leader has something else in mind.

Mr. BAKER. No, I support that request.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It would take unanimous consent to set aside the Quayle amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the Quayle amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 124

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment No. 124.

On page 116, in line 7 strike "\$25,000" and insert in its place "\$20,000."

On page 116, in line 8 strike "\$32,000" and insert in its place "\$36,000."

Mr. BOREN. Mr. President, this is a very simple and straightforward amendment. It really is an issue of philosophy more than anything else

because it is revenue neutral. In other words, the provision does not change at all the amount of money that is being raised in terms of benefits and additional revenues for the social security system. It simply eliminates the marriage penalty imposed by the thresholds for the taxation of social security benefits.

H.R. 1900 sets the threshold for taxation of social security benefits at \$25,000 for individuals and at \$32,000 for couples. In other words, we will begin to tax one-half of the social security benefit after an individual has income of \$25,000 or more and after a couple has income of \$32,000 or more. This approach imposes a very significant penalty upon married couples.

It is clear that if you had two single individuals living in the same household, they would be able to jointly have \$50,000 of income before any of their social security benefits would become taxable. But in the case of a married couple, they would only be allowed, under the present package, to have \$32,000 of income. So we are dealing with a very significant marriage penalty.

To alleviate this problem, the amendment which I have offered proposes to set these thresholds at \$20,000 for individuals and \$36,000 for joint filers, for married couples. This change, as I have said, will generate the same amount of revenue as would the thresholds in H.R. 1900, and the amendment is thus revenue neutral. But, more importantly, however, eliminating the marriage penalty will remove the disincentive for marriage among recipients of taxable social security benefits.

Mr. President, I realize that this amendment is not totally without some controversy. It would mean lowering the threshold for individuals if we are going to keep it revenue neutral, and I believe that is the only responsible way to do it so that we do not upset revenue figures of this package. We have set the figure at \$20,000 for individuals. With the changes that have been adopted by the committee to avoid the notch problem, it is possible that there would be some very slight amount of taxation at levels slightly below the \$20,000 under the sliding scale which has been adopted.

I simply think that we should not have another area of law where we again write in a marriage penalty. We worked for many years now to try to remove the marriage penalty as much as possible from the income tax law. In fact, this suggestion came to me in a series of public meetings which I held in my own State shortly after the first of the year. They were the best attended meetings that I have ever held. I held them in all geographical areas of the State. Many hundreds of people attended each meeting, representing a cross-section of those communities. And at every single meeting that I held, when I asked the audience for suggestions that they themselves

might offer, suggestions from the citizens in terms of trying to improve this package, in every single meeting someone raised the issue of the marriage penalty.

They said, "We do not think it is fair for a married couple to only have \$32,000 of income exempt and for two single people to have \$50,000."

In every one of these meetings I took an informal poll of the audience in regard to this suggestion and in every case there was a unanimous support for changing the figures so that we could do away with the marriage penalty.

There are other advantages that couples have in sharing a single household that individuals do not have, so we have not made it exact. The \$20,000 figure and the \$36,000 figure were selected to approach, at least approach, neutrality as far as any potential marriage penalty is concerned. It is not exact. Those figures were selected because we wanted, as much as possible, to avoid going below the \$20,000 figure as a threshold for the taxation of benefits, and also those figures were chosen so that we could be sure that we wrote this amendment in a form that would make it revenue neutral; it would not impose an additional revenue burden on the taxes which have already been worked out.

I think that pretty well explains it, Mr. President. There is certainly room for a difference of opinion on this point. But philosophically, I simply think it is important that we not go into another area of law and begin by having the marriage penalty as a part of it. I think this is a matter appropriately that the Senate should at least consider and make its own judgment upon.

I believe I have adequately explained the provision. There should not be any necessity, at least on my part, for a prolonged debate on this matter.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Oklahoma. He did discuss this in the committee and he did indicate that this question had been asked in a number of meetings. He raised a very serious philosophical question. I think the problem that we had at the committee level, and also when we discussed this problem at the National Commission level, was that the amendment would create wide differences between the benefit taxation threshold for singles and couples in order to reduce the marriage penalty effect while still raising the same amount of revenue for the trust funds.

The Senator is correct, this revenue is neutral. This does not do anything to upset the rather delicate balance we have in the trust funds. However, we are advised that the effect for singles is to begin taxing at income levels of around \$16,000, significantly lower than the \$20,000 threshold recommended by the National Commission.

We are also advised that because of the differences in demographics between the group affected by the benefit taxation and the group affected by the general income tax marriage penalty that there will be more single-filing widows or widowers under this provision.

While I certainly think, as the Senator has indicated, it should be considered by the Senate, we struggled with the thresholds for a long time. The present threshold, as the Senator outlined, is \$25,000 for singles and \$32,000 for couples. Under his proposal, it would be \$20,000 for singles and \$36,000 for couples.

While this Senator can understand the reason to try to correct the marriage penalty, which we focused on in the 1981 tax bill—we did not do it all but we did go part way—I would hope that the amendment would not be accepted, though I understand the problem, because it would create this rather wide variance between singles and couples and would, as I have indicated, probably permit or authorize the tax benefits for singles at income levels around \$16,000.

For those reasons, I hope the amendment will not be accepted.

Did the Senator want a rollcall?

Mr. BOREN. Mr. President, I would like to have a rollcall vote on this amendment.

I appreciate the comments of the distinguished chairman of the committee. I do understand the argument he makes. The truth of the matter is that neither way is the right way. We cannot be exactly perfect. I do hope that if for any reason this amendment is not accepted, we will come back to this point at a later time and try to work on it. I do think this is an important enough philosophical question in terms of the taxation benefits that we should vote on it.

I would point out that any taxation on income below \$20,000 would be very minimal because it is simply a phase into the \$20,000 figure to avoid the problem.

Mr. President, I think the issue has been pretty well clarified.

I do ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR) and the Senator from Alabama (Mr. DENTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "nay".

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr.

HOLLINGS) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay".

The PRESIDING OFFICER (Mr. KASTEN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 34, nays 62, as follows:

(Rollcall Vote No. 46 Leg.)

YEAS—34

| | | |
|-----------|-----------|----------|
| Andrews | Goldwater | Nunn |
| Armstrong | Hawkins | Pryor |
| Bentsen | Heflin | Randolph |
| Bingaman | Helms | Roth |
| Boren | Humphrey | Sarbanes |
| Burdick | Kassebaum | Stennis |
| Byrd | Kasten | Symms |
| Chiles | Long | Thurmond |
| DeConcini | Mattingly | Tsongas |
| Eagleton | McClure | Zorinsky |
| East | Melcher | |
| Exon | Nickles | |

NAYS—62

| | | |
|-------------|------------|-----------|
| Baker | Grassley | Murkowski |
| Baucus | Hart | Packwood |
| Biden | Hatch | Pell |
| Boschwitz | Hatfield | Percy |
| Bradley | Hecht | Pressler |
| Bumpers | Heinz | Proxmire |
| Chafee | Huddleston | Quayle |
| Cochran | Inouye | Riegle |
| Cohen | Jackson | Rudman |
| Cranston | Jepsen | Sasser |
| D'Amato | Johnston | Simpson |
| Danforth | Lautenberg | Specter |
| Dixon | Laxalt | Stafford |
| Dodd | Leahy | Stevens |
| Dole | Levin | Tower |
| Domenici | Lugar | Trible |
| Durenberger | Mathias | Wallop |
| Ford | Matsumaga | Warner |
| Garn | Metzenbaum | Welcker |
| Glenn | Mitchell | Wilson |
| Gorton | Moynihan | |

NOT VOTING—4

| | |
|--------|----------|
| Abdnor | Hollings |
| Denton | Kennedy |

So Mr. BOREN's amendment (UP No. 124) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 125

(Purpose: To prevent double payment of Social Security taxes on compensation paid to medical school faculty members)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the Quayle amendment?

Without objection, the Quayle amendment is laid aside.

The amendment of the Senator from Washington will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and Mr. JACKSON, Mr. STEVENS, Mr. MURKOWSKI, Mr. SYMMS, and

Mr. McCURE, proposes an unprinted amendment numbered 125.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . Professors of Clinical Medicine—Section 3121 (s) (relating to concurrent employment by two or more employers) is amended to read as follows:

(S) CONCURRENT EMPLOYMENT BY TWO OR MORE EMPLOYERS.—

(1) IN GENERAL.—For purposes of sections 3102, 3111, and 3121 (a)(1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.

(2) UNIVERSITIES AND EXEMPT ORGANIZATIONS.—For purposes of this subsection—

(A) the following entities shall be deemed to be related corporations:

(i) a state university which employs health care professionals as faculty members at a medical school, and

(ii) a faculty practice plan qualified as an exempt organization under section 501(c)(3) which employs faculty members of such medical school: *Provided, however*, That 30 percent or more of the employees of such plan are concurrently employed by such medical school; and

(B) remuneration which—

(i) is disbursed by such faculty practice plan to an individual employed by both such entities, and

(ii) when added to remuneration actually disbursed (prior to the application of this paragraph) by such university, exceeds the contribution and benefit base (as determined under section 230 of the Social Security Act),

shall be deemed to have been actually disbursed by such university as a common paymaster and not to have been actually disbursed by such faculty practice plan.

Mr. GORTON. Mr. President, on March 18, last Friday, this body adopted an amendment numbered 85, offered by myself and the Senators from Alaska, Washington, and Idaho, relating to the common paymaster doctrine and the joint employees of State medical schools and faculty practice plans.

That amendment was technically deficient in one or two minor respects and did not cover the situation of the University of Colorado, which I had represented it was designed to cover at that time.

I ask unanimous consent that the amendment I have just proposed be substituted for amendment No. 85.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 126

(Purpose: To provide coverage for newly hired Federal workers when a supplemental pension program is in place)

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 126.

Mr. LONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the Quayle amendment is laid aside, and the Senator from Louisiana is recognized.

The amendment is as follows:

On page 9, strike out lines 13 through 15 and insert the following:

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983, if, prior to such date, there has been enacted into law, a supplemental pension program for Federal workers hired after such date which the Congress may determine to be appropriate to coordinate coverage under the Federal Civil Service Retirement System with the coverage of such Federal workers under title II of the Social Security Act. If no such program has been enacted by such date, the amendments made by this section shall not become effective until (and with respect to remuneration paid after) the last day of the first month ending at least 20 days after the date of enactment of legislation described in the preceding sentence, and all references to "December 31, 1983" in section 210(a)(5) of the Social Security Act and section 3121(b)(5) of the Internal Revenue Code of 1954 shall be deemed to be references to the last day of such later month. Notwithstanding the preceding provisions of this subsection, the amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983 in the case of service described in clauses (i), (ii), or (iii) of section 210(a)(5) of the Social Security Act as amended by this section and the preceding sentences of this subsection shall not apply to such service.

Mr. LONG. Mr. President, the amendment I have at the desk is the same amendment, with a modification, in which I have been joined by more than 20 cosponsors, and I invite other cosponsors to add their names to this amendment.

Mr. CRANSTON. Mr. President, will the Senator add my name, please?

Mr. LONG. Mr. President, I ask unanimous consent that the name of the Senator from California (Mr. CRANSTON) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, if other Senators would like their names added, I will do so.

The reason why I have not included the names of the cosponsors of my original amendment at this point is that I have modified the amendment to make clear that Members of Congress, in voting for this amendment,

are not seeking any advantage for themselves.

As first drafted, the amendment would simply have postponed the section that would have put new Federal employees under social security until such time as Congress can see what the supplemental civil service program will be. In order that there can be no misunderstanding about our intentions, I have modified the amendment so that any postponement in social security coverage would not apply to Members of Congress, to the President of the United States, to the Vice President of the United States, or to the National Commission on Social Security.

That being the case, Mr. President, Senators who vote for the amendment can understand that they are not voting anything for themselves, or any advantage so far as Members of Congress are concerned. They are voting to do justice to the Federal employees as the good Lord gives us the light to see it.

Mr. President, I am proposing an amendment to the social security financing bill which will assure Federal employees that the stated purposes of that bill are carried out. The Finance Committee bill states in its title that it is a bill to implement the consensus recommendations of the National Commission on Social Security Reform. In recommending that Federal employees be covered under social security, the Commission said that "an independent supplemental retirement plan should be developed for the Federal new hires, which would be part of the civil service retirement system."

My amendment makes the coverage of new employees dependent upon accomplishing both parts of the Commission's recommendations.

Dr. Alan Greenspan, the Chairman of the Social Security Commission, explained what the Commission intended when he testified before the Finance Committee. Senator BRADLEY asked whether the Commission intended that Congress should devise a civil service retirement system that would supplement the social security benefits of new employees when they retire, so that their benefits would attain total levels equivalent of the civil service benefits present employees receive. Dr. Greenspan's response was:

That's implied in much of our recommendations, although we do not specifically stipulate in any considerable detail what the Congress should do; but I think a large number of us could have very explicit assumptions which pretty much go in that direction.

Mr. Robert Ball, former Social Security Commissioner and member of the National Commission, stated in a letter his intention on this matter:

The combination of social security coverage and newly designed benefit provisions within the civil service retirement system for new employees should be set up in such a way that, overall, the combination will provide as good protection as the present

civil service system does alone. There is no intention to diminish the protection of these new employees as compared to the presently employed.

Mr. Robert Myers, the Executive Director of the Commission, told the committee that such a plan could be easily developed.

The pending amendment simply assures Federal employees that what we now say should be done, and what we now say can be done, will be done. It says that the coverage of new Federal employees under social security will become law. But it will take place only when we live up to our part of the bargain—when we put in place for those new Federal employees a supplemental retirement system which will make them also participants in a modified version of the civil service retirement program.

HOW CURRENT EMPLOYEES ARE AFFECTED

Those who oppose this amendment have argued that current Federal employees are not affected by the committee bill. They say that the bill before us covers only new Federal employees and should not be of concern to those already in the system.

There is much confusion on this matter, but the heart of the matter is simple. There is a clear community of interest between current and future Federal employees. The fate of the civil service retirement program for future employees is intimately tied to the fate of that system for current employees. Federal employees are well aware of that.

If there were any doubt that current Federal employees have grounds for concern, that doubt has been removed by the testimony of the administration. If the printed record of hearings were available to Senators, I doubt that any Member of this body could read the administration's testimony without concluding that Federal employees rightly feel that the security of the existing program is threatened.

Mr. Donald Devine, the Director of the agency responsible for the civil service system, appeared before the committee on February 23. He used the occasion to spell out the administration's plans in detail.

This is not the legislative context to debate the substance of what administration proposes, but their testimony leaves no room for doubt that Federal employees have grounds for concern. Mr. Devine spelled out plans for benefit reductions of such a magnitude that they would cut the costs of the civil service program by 37 percent. Moreover, the administration further plans to require an increase of over 50 percent in what Federal employees pay to support that reduced program. Changes of that order are clearly a matter for Federal employee concern.

The administration proposals relate to both present and future Federal employees.

Why is it that Federal employees are not satisfied with depending on the

expressed good will of Congress? The answer is that once this bill is enacted we may not be in a very good position to make good on our intentions.

In a letter from the chairman of the subcommittee that deals with the civil service program, Senator STEVENS acknowledges the validity of their concern by stating:

The Civil Service Retirement Trust Fund could eventually experience serious financing problems if new Federal employees no longer participate in the Civil Service Retirement System.

The Senator from Alaska goes on to assure that he does not intend to cut their benefits.

No one doubts Senator STEVENS' sincerity, but Congress cannot ordinarily enact laws without the consent of the President. The President has already announced his position on how he would cut back the civil service retirement program for both present and future Federal employees.

If new Federal employees are covered under social security before a supplemental plan has been enacted, the President will have considerably more say about what that legislation does to existing employees. This is precisely the situation that worries Federal employees.

This situation is not of the Federal employees' making. It is not their fault that Congress feels constrained to act on social security before it is ready with its plan for civil service. It is not the Federal employees who wield the threat of a veto—it is the President. My amendment maintains their ability—and the ability of the Congress—to work out this matter in an atmosphere of legislative neutrality.

This amendment does not change the basic thrust of the bill. It endorses the concept of covering new Federal employees under social security. It provides that such coverage can be effective as early as the bill now proposes—January 1 of next year. It does not undermine but rather reaffirms the commitment of the Congress to this important change in public policy. But it recognizes that this policy change is part of a bargain. One side of the bargain is social security coverage; the other side is a new supplemental retirement plan. This amendment links the two sides.

My amendment as originally drafted simply provided that the committee provisions relating to coverage of Federal employees would take place at such time as the promised supplemental plan is enacted. I have modified the amendment to provide that the coverage of Members of Congress will not be contingent upon further legislation but will go into effect on January 1, 1984, even if the supplemental plan has not yet been enacted. This change would also apply to the committee provisions which cover the President, Vice President, and Commissioner of Social Security on that date.

Mr. LONG. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors: the Senator from Maryland (Mr. SARBANES), the Senator from Ohio (Mr. GLENN), the Senator from Michigan (Mr. RIEGLE), the Senator from Montana (Mr. BAUCUS), the Senator from Tennessee (Mr. SASSER), the Senator from South Carolina (Mr. HOVLINGS), the Senator from Virginia (Mr. WARNER), the Senator from Arkansas (Mr. PRYOR), the Senator from Maryland (Mr. MATHIAS), and the Senator from Kentucky (Mr. HUDDLESTON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG. I yield.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that I be listed as a cosponsor of this amendment.

Mr. LONG. I am happy to ask that the Senator be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I further ask unanimous consent that the Senator from Arizona (Mr. DECONCINI), the Senator from Oklahoma (Mr. BOREN), the Senator from Illinois (Mr. DIXON), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Hawaii (Mr. MATSUNAGA) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, if the Senator will yield, I wish to commend the Senator from Louisiana for offering this amendment.

I think there was great confusion as was expressed in the committee when this matter was first taken up relative to how much the new Federal employees would be paying into this system and how much into the civil service retirement system.

I think the initial amendment which the Senator had intended to offer would have met that objective. The supplemental plan for new civil service employees needed to be formulated before they came under the coverage of the civil service system was a sound one.

I think the modification which the Senator has made even improved the amendment, and I congratulate the Senator.

Mr. LONG. I thank the Senator.

Mr. President, let me make it clear that I favor bringing the civil service employees under social security coverage. I do not and will not favor or support an amendment that would prevent them from coming under that coverage. I know that some do not wish to come under social security, but I do not share that view. I do think that it is unfair to ask these employees to buy a pig in a poke. I think it is unfair to ask them to agree to an arrangement whereby they would lose

this financial support that flows into their present retirement program, meaning that the program could wither and die without additional funding, and also the new employees would be separated from the old employees so that their strength would be diluted and they would be less potent in defending their position—and then to proceed then to provide them with some reduced program.

Most of us have told the employees that we are not in favor of reducing what they have, but that is not what the administration testified for. It testified for cutting that program and making them pay more for reduced benefits.

Just to be sure this does not work out that way, it seems to me we should try to maintain legislative neutrality.

Mr. MATSUNAGA. Mr. President, if the Senator will yield further, it is my understanding that the Senator's amendment will not in any way adversely affect present civil service employees or present retirees under the civil service retirement system.

Mr. LONG. No, it would not.

I thank the Senator.

Mr. MATSUNAGA. I thank the Senator.

Mr. CRANSTON. Mr. President, will the Senator yield to me to make a brief statement in behalf of the amendment?

Mr. LONG. I yield the floor at this point.

Mr. CRANSTON. Mr. President, I rise in support of the amendment offered by Senator LONG—I am delighted to join as an original cosponsor of the new version; I was a sponsor of the old version—to delay bringing new Federal employees into the social security system until such time as Congress has provided a modified Federal retirement system which coordinates benefits with the social security system and protects the integrity of the Federal retirement system.

Because I believe that existing and future Federal employees should receive reasonable assurances that their retirement will be adequately guarded, I have withheld my support from the social security reform package until those of us concerned about Federal employees have had an opportunity to seek to defend their interests.

I think it is unfair to present employees of the Federal Government to ask them to risk their civil service retirement system and unfair to future employees to ask them to give up their retirement system without an opportunity to participate in the design of a new system to supplement social security.

That is what is involved here—simply fairness.

And that is why I am very pleased to cosponsor the pending amendment. It is a serious, realistic effort to provide Federal employees a fair opportunity to share in the design of a revamped retirement system.

The amendment retains the compromise worked out in the Commission on Social Security Reform. It does not violate the terms of that very important accord. Rather, it responds to the Commission's recommendation that Federal employees be afforded the protection of a supplemental civil service retirement system and the assurances to the Finance Committee by both the Commission Chairman, Alan Greenspan, and its Executive Director, Robert Ball, that such a supplemental plan could be easily designed.

I say "fine, let us get on with that job;" but it is totally unfair to ask present and future Federal workers to buy a pig in a poke.

What is more, the pending amendment leaves intact the decision that new Federal employees will indeed be covered by social security. No one is trying to reverse that decision by this amendment.

What is provided by the amendment is a reasonable amount of time, under conditions which are fair to Federal employees and postal workers, for Congress to act to put in place a coordinated supplemental retirement program before coverage under social security begins.

Federal workers' retirement benefits are part of the incentive offered to encourage talented people to pursue careers with the Federal Government.

Many aspects of the Federal retirement program are not duplicated in social security. The two are not equivalents and were never intended to be. Rather, civil service retirement is the counterpart to the pension program of a private enterprise.

Placing Federal employees under social security would have the effect of drastically reducing the total benefits they now earn under the terms of their retirement system.

Why does social security coverage of new Federal employees affect existing Federal employees? Let us explore that question—for there is far more at stake here than just what kind of supplemental package, if any, will be designed and enacted.

First, as the numbers of Federal employees investing in civil service retirement declines, it becomes more and more easy to reduce the benefit structure and increase the worker contribution.

Second, this administration has demonstrated its tremendous hostility to Federal employees in a variety of ways—layoffs, RIF's, pay freezes, health insurance reductions, expropriated medicare contributions—and now has zeroed in directly on civil service retirement.

The President has made controversial recommendations for very harsh cutbacks in Federal retirement. Into the middle of this controversy has stepped the recommendation of the Social Security Commission to bring new Federal employees under social security. The Commission could not be expected to solve the problem of co-

ordination of Federal benefits with social security benefits; that is a job for Congress.

And there is an enormous risk that this anti-Federal worker President, this anti-Federal worker administration, will try to ram through these kinds of major cuts in the Federal civil service retirement system in which so many millions of Americans have a vested, earned interest—ram them through without full and fair consideration—as the price for administration support of any kind of supplemental package.

Given these circumstances, it is perfectly understandable why Federal and postal employees have resisted the recommendation of the Commission and strongly support the pending amendment.

This is a situation in which good faith is called for.

The Senate has an opportunity by approving the Long amendment to demonstrate to employees of the Federal Government that it wishes to deal fairly with Federal workers and give them a fair chance to negotiate on supplemental and existing benefits without both arms being tied behind their backs.

Finally, Mr. President, the support of Federal workers' unions for this amendment constitutes a tacit recognition—although certainly not an endorsement—that the Senate will approve bringing new Federal workers into the social security system, as recommended by the Social Security Commission.

Theirs is a realistic and most constructive concession. It gives us an opportunity to move forward fairly, by adopting the Long amendment and then approving the social security reform package in a manner that avoids a totally coercive decision.

I urge the Senate to adopt our colleague's sensible and fair amendment. It will greatly enhance the opportunity for a successful outcome on the matter of revising the Federal retirement systems.

I thank the Senator, Senator LONG, for his leadership in this matter.

Mr. STEVENS. Mr. President, will the Senator yield for just one question?

Mr. CRANSTON. Yes.

Mr. STEVENS. Does the Senator know of any Government employees union that has endorsed the statement he just made that they would support inclusion under social security? If the Senator has led the Senate to believe that Senator LONG's amendment is carrying out the recommendation of the Social Security Commission and that Government employee groups have welcomed coverage under the social security system, assuming the Long amendment passes, I would ask the Senator directly, does he know of any Government employees organization that has endorsed coverage under social security for Government employees?

Mr. CRANSTON. No, and I did not say that. I said they have even given tacit support to this amendment as a better approach than what is presently proposed for them.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. LONG. Let us just make a good faith proposition. If those who sponsor this bill will bring their supplemental plan in here, I will withdraw the amendment—just being the plan in here as to what the new Federal employees are going to get, and add it to the bill right here.

Mr. STEVENS. I would be happy to bring the bill I introduced last year, and we will have it in 5 minutes. It was opposed by every employee organization because they were assured the Long amendment was going to pass, and they will not be included.

Let us just say Government employees will not be included in social security. That is the effect of your amendment. But you are leading the Senate to believe that somehow if we pass the amendment Government employees are going to be happy to be included under social security.

I have been involved in this thing—and I have respect for the Senator with regard to the Finance Committee's operations—more so, with the exception of the Senator from North Dakota, who left the Civil Service Subcommittee just 2 years ago. I have been dealing with this thing more than anybody in the Senate.

I want you to know, my good friend, if your amendment passes, Government employees will never come under social security, and we ought to just pass that amendment instead of yours because we are leading the Senate to believe we are going to accept the Social Security Commission's recommendations.

Mr. LONG. Mr. President, basically what the Senator from Alaska is saying is that he needs to separate the Federal employees from their existing program so as to have the leverage over them to make the kind of 50 percent increase in contributions or 35 percent benefit cuts the administration is recommending.

If he will bring in a program that would be as favorable to the employees as the one they have now, so far as this Senator is concerned, we should add it to this bill. But that is not what the Senator is talking about. He is talking about offering an amendment to say something different from that. If someone will come up with an amendment that will assure the Federal employees are going to have as good a supplemental program as they have right now, as far as this Senator is concerned, I will not insist on my amendment.

Mr. STEVENS. Mr. President, if the Senator will yield again, I would be happy to offer my bill as an amendment to this bill. I would be happy to

have it become law. It is a better system than we have now because today, whether we realize it or not, the Civil Service Retirement System's unfunded liability is over \$500 billion. We formed a Presidential commission, and we are dealing with social security that will have an immediate liability of \$179 billion.

The trouble is the Senate and Congress are not ready to tinker with the civil service retirement system as part of the social security reform. I have opposed that from the very beginning. But what the Senator is doing is assuring that we will never deal with it because until the employee organization groups—and I have great respect for them—are willing to accept the fact that they are going to be covered under social security—new employees will be—there will be no new system, and I think the employees have won the fight already, I say to the Senator from Louisiana, by virtue of the fact that the proposal that came out of the Commission did not include existing Government employees.

The original proposal was all Government employees would come under social security, including those now employed by the Federal Government. The proposal is that new Federal employees be covered in the system. My amendment, which I will discuss later, I will say to the Senator, would go further than the Senator's amendment does. But the Senator should not—and I do not disagree with the statement the Senator from Louisiana made, but the Senator from California led the Senate to believe that if the Long amendment is adopted we will be carrying out the Social Security Commission's recommendations, and that is not true. It cannot happen and we will not have a new system until we do decide that question of should new Federal employees be included in social security.

I oppose it, I will tell the Senate. I do not think they should. But until we decide whether they should or not we will not have a new system.

Mr. SARBANES. Will the Senator from Louisiana yield?

Mr. LONG. First let me say this, Mr. President. Let me just read the amendment.

The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983, if, prior to such date, there has been enacted into law a supplemental pension program for Federal workers hired after such date which the Congress may determine to be appropriate to coordinate coverage under the Federal Civil Service Retirement System with the coverage of such Federal workers under title II of the Social Security Act.

So by the very terms of the amendment, if you amend the bill to include a plan that does set up a supplemental civil service program, then the amendment would not be operative.

I yield to the Senator from Maryland.

Mr. SARBANES. I wish to commend the Senator from Louisiana for offer-

ing this amendment, and I am pleased to join him as a cosponsor. What the amendment seeks to assure is that if the employees are brought into the social security system, the supplemental retirement system to be provided will be a fair one; it seeks to accomplish this by linking those two actions together. Without this amendment the employees will have no notion what the supplemental retirement system will be for the new people.

How can we be certain that the new supplemental retirement system will not be completely transformed from the current system—benefits sharply cut, contributions significantly increased. That is the proposal the administration, has submitted to the Congress with respect to the current retirement programs. It is not therefore as though there is not some reason to be concerned about this matter.

The amendment of the Senator from Louisiana makes extremely good commonsense. Anyone would ask for the same fair treatment—ask to know what it is that is being done to them before it happens. There is nothing unreasonable about that. In fact, just to the contrary: It is extremely reasonable.

The Long amendment simply says that their inclusion under the social security system will occur—is it 20 days after the enactment?

Mr. LONG. It will occur in the month after the enactment of a supplemental civil service program. Or, for that matter, if Congress between now and the first of the year will adopt the supplemental program—and I do not object to that—social security coverage will go into effect on the day the committee had in mind to begin with.

But why would you want to put the Federal employees in a position where you are legislating to destroy their existing program? And that is going to take place. Then they are in a position where they are going to be left without the protection that they had before and they will be in a position of trying to seek a supplemental plan where the administration might oppose it. For all we know, the President would veto it and say, "Well, until you cut those benefits by a third and raise the taxes by 50 percent, I am not going to sign anything." We all know how tough the President can be. And I am not criticizing him for that. I respect him for it.

But these employees will have much less opportunity to defend their position and defend their members, one, when you separate the new ones from the old ones so that their numbers diminish, and two, when you cut off the money coming into the fund from the new hires who would be contributing to help support the program and put their money into the social security program instead.

Mr. SARBANES. It is constantly asserted that, since the committee's pro-

posal is only going to apply to new hires, it will not have an effect on existing employees. I think there are two ways that it can have an effect on existing employees. One way it can affect them is if the supplemental retirement system developed for new employees represents a sharp cutback in benefits and then the continued support for the retirement system is going to be diminished with respect to the existing employees.

The other thing is, if you set up a separate supplemental retirement system for new employees which contrasts sharply with what existing employees have, it will not be long down the road before there will be pressure to conform the existing system to what the new system is if the new system represents a savings to the Government in terms of what it is contributing toward the retirement of its employees.

Having a good retirement system for Federal employees is an important part of having a quality Federal service. But if the administration comes in, and there is every indication that this administration wants to do so, with a greatly reduced and diminished retirement system and puts that into place for new employees, in a few years there will be pressure to conform the retirement system of the existing employees to that lower benefit retirement system. You mark my words. I make that as a prediction.

Now what the Senator's amendment at least would insure is that before any of this goes forward the supplemental plan has to be in front of everybody, it has to be passed so everyone knows what it is and can provide for contingencies. People can have a sense that they are being dealt with fairly and justly, instead of being put in the position where they are, in effect, going to have a pig in a poke imposed upon them. Who knows what this supplemental retirement system is going to look like? No one knows what it is going to look like. We should not move down this path without establishing that up front.

The Senator's amendment simply requires that it be established up front and that everyone know exactly what is happening. It gives us the opportunity to deal with a whole range of potential problems and contingencies.

Mr. LONG. Mr. President, I say to the Senator from Maryland that if I wanted the Senator to sell his home and I asked him to sign a contract to sell his home, he would like to know what he is going to get for it. No lawyer would advise a client to sign a contract unless it says what the person gets or what he is losing. And the Federal employees, certainly in good faith, regardless of whether they are part of social security coverage or not, have a right to ask that we show them what they would get in return for what they are giving up. To me, that is only just simple justice.

Mr. CHAFEE. Mr. President, I would like to make a couple of points here. The Senator from Maryland has spoken with eloquence, as usual. This point has been brought up several times, and that is the threat that the lack of new funds coming into the civil service retirement system might have on the pensions of those present employees of the civil service. In other words, despite what might have been said around here, we want to make it very, very clear that we are only talking new hires, people who come into the Federal service starting January 1, 1984. But the concern has been raised by the Senator from Maryland and others that that will stop the flow of funds going into the civil service retirement.

Well, let us get something straight right here. It is great to talk about the civil service retirement fund as though somehow there is a pool of money that the civil service retirees have set up and that is where their pensions are coming from. The truth of the matter is that the pensions of civil service retirees are coming from \$4 billion contributed by the civil service employees, \$4 billion by matching funds of the Federal Government matching their employees, and \$14 billion from the General Treasury of the United States.

That fund is bankrupt and we might as well acknowledge it. That fund is dependent upon the votes of this Congress from the general appropriations to provide for the retirement benefits of present retirees from the civil service.

There is no question but what the U.S. Congress will continue those appropriations, just like we have the appropriations every year for the military retirees. Does anybody suggest that somebody in this Congress is going to vote to cut the benefits of those retirees who are receiving pensions? Of course not.

Mr. SARBANES. Will the Senator yield?

Mr. CHAFEE. So that is good oratory and it flies well, but the trouble is the facts are not there to support it.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CHAFEE. I will be glad to yield.

Mr. SARBANES. The Senator has, in effect, misstated my contention. I am not asserting that the current system is completely self-financed. But as the Senator himself indicated there are significant employee contributions into the system that help to provide some of the money needed to pay the benefits. If you diminish that flow and you are going to maintain the benefit levels, then you are going to have to find the additional money from somewhere else or else the pressure to diminish the benefits will increase.

The Senator asserts no one proposes to cut the benefits. The administration has submitted a proposal to the Congress that represents sharp cuts

with respect to the existing retirement system.

I am not saying there will be no money coming in from the newly hired, but if you set up a system that is more restricted and limited, and no one knows what that system is going to be, then the flow of revenues will be diminished.

If you are going to maintain the benefits, the need for a general fund payment will be increased. If you do not want to increase those general fund payments, the pressure to cut the benefits will be increased.

That is what the problem is. The fact remains that it would still have an impact as we look down the road.

Mr. CHAFEE. I have presented the analogy, and we do not need to dwell on it all afternoon, of the military retirees. There is no fund for the military retirees. The military retirees from the military service are paid by appropriations made by the U.S. Congress. Those appropriations are made every year and so they will be for civil service retirees.

Mr. WARNER. Will the Senator yield on that point? I would like to take issue on it.

Mr. CHAFEE. I will let the Senator take issue in a moment.

Mr. WARNER. On that point, if the Senator will yield, I would like to clarify the point on using the analogy of military retirees. The military retirees as a group is, by and large, treated the same way, and is thus an ever constant number. However, under this proposal for other Federal employees, there would be a steadily diminishing number of Federal employees in the currently structured civil service retirement system. The new Federal employees will be under a different system if this proposal passes. Consequently, the Congress of the United States has an additional responsibility to insure the solvency of the civil service retirement program.

Mr. CHAFEE. I am not sure I get the point.

Mr. WARNER. I will clarify it later.

Mr. CHAFEE. If I might continue, we have all met with Federal groups. They have come in and they have been eloquent. But I do not think anybody needs to kid themselves. They do not want to come into the social security system. They do not want the new hires in it. If this proposal, the package that we have here, does not include future hires of the civil service, I seriously question—and there are a good number of others who question—whether they will ever be included.

I know the Senator from Louisiana has a program that as soon as the supplemental package is passed then they will come in. That supplemental package will be fought tooth and nail every inch of the way. I think this is the floor of the amendment of the Senator from Louisiana. The floor, as I see it, it will never happen. The civil service new hires starting in 1984 will never come in under social security if

we do not include them now. This is what we might call a last clear chance.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CHAFEE. Yes.

Mr. SARBANES. The Senator does not know whether it will be fought tooth and nail because the Senator does not know what the program will look like. Can the Senator tell me now if the Long amendment is not accepted, what the retirement package for a new hire will be?

Mr. CHAFEE. We know perfectly well that the specifics of that program are not here.

Mr. SARBANES. They sure are not.

Mr. CHAFEE. The Senator has a great vehicle to ride. I know the State he comes from. Judging from the people who have flocked into my office, I was wondering who was tending the store. Every single one of us have undergone the same thing. The Federal employees just do not want future hires to come under this system.

Mr. SARBANES. Will the Senator yield?

Mr. CHAFEE. As I say, this is our last chance to accomplish this. If we do not, then I think we can clearly say it just plain will not happen. I think the prospects of this total package becoming unraveled become very imminent.

Mr. SARBANES. I simply say to the Senator if it is not fair it ought not to happen. The amendment of the Senator from Louisiana would assure that everyone would know exactly what was being done and be able, therefore, to make the judgment as to whether indeed it was fair. The Senator from Rhode Island has just admitted that he cannot tell us what the package is going to be because the package is not here.

The Senator from Louisiana is saying, "Let us have the package, so we know exactly what is being done before you move ahead."

Mr. CHAFEE. The Senator from Maryland knows perfectly that once this horse is out of the barn we will not see that social security cover for those new hires. We are not affecting anybody who is in the present Federal service. If we do not pass the package, then people do not have to come to work for the Federal Government. Who is representing the people of the United States of America? Those of us in this body and in the other body. If we do not pass a package that is satisfactory enough to attract to the banner of service in the U.S. Government, we will not get people. So there is an incentive on us to pass an adequate supplemental program.

Who are we affecting? We are not affecting a single person who now works for the Federal Government. If, by January 1, 1984, we do not have on the books a satisfactory supplemental program to go with the social security coverage, then nobody has to come

and work for the Federal Government. That will get our attention if nothing else does.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I rise in opposition to the amendment of the Senator from Louisiana. I do so with great respect for my friend and colleague and the ranking minority member of the Finance Committee. But notwithstanding that fact, I must tell my colleagues, having been a member of the National Commission and involved in the Finance Committee deliberations on this matter, that in this Senator's judgment we would be making three mistakes if we adopted the Long amendment.

The first mistake would be that we would not fulfill the agreement among the Speaker, the President, the majority leader of the Senate, and the members of the National Commission, to make this a balanced package and we would run the grave, indeed in my judgment the almost certain, risk of destroying the fragile consensus that took us over a year to put together.

Mr. President, I submit that if we lose this fragile consensus, it would be like trying to put Humpty Dumpty back together again to get any agreement again.

Among those who agreed to the package, which explicitly included social security coverage for new Federal hires, were a number of people with very good credentials looking out for the working people, including Mr. Lane Kirkland, the president of the AFL-CIO.

He supports this package. He is a friend of the working man. I doubt seriously that he would support a package that he felt was detrimental in any way, shape, or form to a very significant membership group of his organization.

Mr. President, the second reason I believe the amendment before us is dangerous is that it will have the effect of insuring substantively that we never bring new Federal employees under social security. There is broad public support for covering new Federal employees. Look at any public opinion poll and it will say, universal coverage makes sense. It is good enough for 115 million working people, it ought to be good enough for everybody else, including Members of Congress, they tell me. I agree with that.

If the Long amendment is adopted we shall never succeed in bringing the new Federal hires under social security. And Mr. President, I must say, I believe that would be a mistake. As chairman of the Senate Aging Committee with responsibility for assuring adequate retirement incomes, I am convinced that providing social security coverage for new Federal hires will improve retirement incomes for most of them.

Let me explain why. Of all the people who go now into Federal serv-

ice as civil servants, the fact is that only 26 percent—about one out of every four—get a retirement benefit out of the civil service retirement system. Sixty-two percent of the people who enter get absolutely nothing in the way of a benefit out of the civil service retirement system. They do not get a disability benefit, they do not get a retirement benefit if they die; their survivors do not get a benefit. So two-thirds of the people who are covered under this system today end up with zero, zip, nothing. When we make an effort to cover existing employees under social security, what we are doing is giving a good deal more security to nearly three-quarters of all the new Federal hires of the future. That is why it is a good idea. I have not heard anybody today explain why coverage is a good idea.

The third reason why the Long amendment, in my judgment, is a bad idea is that the revised retirement system we are proposing—social security and a supplemental program for the new Federal hires—along with the solvency package for social security is going to make it easier, not harder, for the Federal Government, to meet its commitments to the Civil Service Retirement System for present Federal employees and to make a meaningful commitment in the way of a supplemental pension plan to the new Federal employees. It will be easier because the Federal Government is going to be financially better off.

We are going to be financially better off in a number of ways. The most obvious way we are going to be better off is by passing the social security solvency package. As we know, it saves \$165 billion between now and the end of 1989. As I argued yesterday on a different amendment, it will build up a surplus of \$2.5 trillion by the year 2015 if our projections are not totally wrong.

Mr. MOYNIHAN. Will the Senator yield?

Mr. HEINZ. Not yet. I shall yield in a minute.

It will put the entire social security system in a solvent position for the next 75 years. That all represents, to my way of thinking, Mr. President, a tremendous relief to all the other areas of government. If the social security system were to run out of money, we would either have to borrow it or we have to raise taxes someplace else or take it out of the general fund.

So what we are doing is strengthening the general Treasury by passing the social security solvency bill. I suspect most of my colleagues realize that.

The other thing that we are doing in creating a different retirement system is we are going to have a fairer retirement system for those new Federal employees, the vast majority of them, and we are going to have a more equal retirement system.

So there is no misunderstanding on this point, I am a strong supporter of the Federal employees and the postal workers and the other people who are covered by the civil service retirement system. It is my view that they have been picked on time and again, that they have been used as scapegoats by irresponsible people. We have a really draconian proposal sent by the administration this year which would both change the rules in the middle of the game on their retirement system and require them to make a 9 to 11 percent contribution rate ultimately for their retirement.

I do not support that, Mr. President. I think that is just out of the question and I hope my colleagues do not support it, either. I make those comments because I want everyone to understand what I am about to say about what we plan for new employees and how I view our commitment to existing civil servants and their retirement system.

I think we all have to realize that, under the existing system, the 26 percent who do retire, a lot of them, retire after 30 years of service at age 55. Under social security, people retire right now at between 62 and 65. That difference is a very large difference, a very expensive difference. It is the reason that the social security system costs about 14 percent of payroll totally and the civil service retirement system costs about 37 percent of payroll. In other words, it costs better than 2½ times the social security system.

In addition to that, about three quarters of all Federal retirees work a sufficient number of quarters to qualify for full social security benefits in addition to their civil service retirement.

I think that they have earned it; they are entitled to it. I do not choose to take it away from them. But I think we ought to recognize that those people have not paid into social security anything like the amount somebody in the private sector covered by social security pays in up to the time that they receive retirement benefits. The result is that the current system is a very costly system to the Federal Government—to the taxpayers.

That does not mean we should gut it. I oppose gutting it. It does mean that we have an opportunity for the new Federal hires to design a system that is more economical to the Government and makes more sense for most Federal employees. In making that new system free from the rather excessive per-employee costs of the existing system, we will save the Federal Government a considerable amount of additional money on top of what the social security package generates.

You add the two together, Mr. President, and what you have is a Federal Government that is in a better position to do something that I think most Senators in this body want to do: No.

1, meet our commitments to our existing civil servants under the civil service retirement system. I intend to see to it, speaking for myself, that we meet those commitments and we do not go around changing the rules in some draconian fashion in the middle of the game. But, second, we will be better able to afford the supplemental pension package that we all are so concerned about, that Senator Long is concerned about. We will be better able to afford it and, therefore, we are going to have a better package if we defeat the Long amendment. And we are going to insure that the three out of four Federal employees of the future that do not retire in that system, will have something more tangible than they have today.

Now, one of our colleagues, Mr. President, made the point that no one could predict what the retirement package to be designed is going to look like. I would be the first to say that I cannot predict exactly what it is going to look like. But I can tell you this: It would be very shortsighted, indeed, for us to design a package that was not fully competitive with the kinds of packages provided to those who have good jobs in the private sector.

The fact is, Mr. President, that we are going to have a supplemental pension program for the new Federal employees which will be a competitive package. It will be a good package. The demands of the employment marketplace will insure that we have one.

In conclusion, the sooner we pass the social security package, the sooner we begin to focus on how to set up a more rational, a fairer and more economical system of covering our new Federal employees, and the better that supplemental package is going to be. We will not get the Congress and the Federal employees to focus on a supplemental plan until the coverage issue is settled. So I join with my colleagues who are so minded in hoping that the Senate will reject the Long amendment.

Mr. SARBANES addressed the Chair.

Mr. HEINZ. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, while the Senator from Pennsylvania is still on the floor—

Mr. HEINZ. I will not be able to stay.

Mr. SARBANES. I just want to say that I think the position of Lane Kirkland was misstated on the floor, and I am going to read into the RECORD the first part of his supplementary statement. The Senator from Pennsylvania asserted Kirkland's support on this issue, the very issue that is now before us. I quote a part of his supplementary statement on mandatory coverage of public employees:

I cannot support the Commission's recommendation for mandatory social security coverage of newly hired federal and postal employees. The many complex issues in-

involved make it difficult to protect federal and postal employee rights under the best of circumstances. This is even more difficult at the present time since the proposal is being put forward in the context of a search for additional sources of revenue and Congress is not likely to decide the issue solely on its own merits.

I could not support coverage unless all of the following conditions were met:

1. No reduction in the level of pension benefits now available to government workers.

2. No additional financial burden on government employees without a commensurate adjustment in benefits.

3. Preservation of the identity for government workers' retirement plans.

4. No diminution in the opportunity for these employees to improve their retirement systems.

The Commission cannot know in advance whether the pension rights of present and future employees will be adequately protected if Congress enacts mandatory coverage. Federal and postal employees should have the right to know and evaluate in advance the details of any proposal before they are asked to take this step.

Discussions are going forward to try to develop a solution to this problem which will strengthen and reinforce both the Social Security System and the Civil Service Retirement System. Those discussions ought not to be hampered by untimely and imprecise recommendations of this Commission. The Commission should not recommend nor should the Congress act when the coverage details are unknown. Otherwise, there can be no assurance that they meet criteria essential for assuring equity to those affected.

It seems to me the Long amendment is seeking to assure equity for those affected by being certain that the coverage details will be known, not unknown. That is the essential thrust of the amendment. It is a fairness and equity amendment, and I hope the Members of the Senate will support the amendment.

Mr. WARNER. Will the Senator yield for a question?

Mr. SARBANES. I yield to the Senator from Virginia.

Mr. WARNER. I join the distinguished Senator from Louisiana in his amendment, and I commend my colleague from Maryland for a very succinct series of observations on behalf of a very valuable class of employees for the United States, our Federal employees.

I have been researching the report of the Commission and, indeed, have been conversing with persons who were active in the preparation of that report. It seems to me the report envisioned that the Congress would act, hopefully, in a timely way to provide for a new supplemental retirement system should Federal employees be required to enter social security as well as continue in civil service. Timing is of the essence, and that is the essence of the Long amendment.

I am sure the Senator likewise studied the Commission report, and my suggestion to my colleague from Maryland, and it seems to me the suggestion of the distinguished Senator from Louisiana, along with the rest who are helping him, is that the Long amend-

ment is comporting with the objectives of the Commission.

The Commission, of course, presumed that Congress would act in the time remaining before next January, but those of us who have been in the Senate awhile, my colleague from Maryland somewhat longer than I, recognize that this might not be an eventuality that will come to pass. Therefore, what we are doing is acting within the framework of the legislative history of the intention of the Commission to protect the Federal employees.

Would my colleague care to comment?

Mr. SARBANES. Mr. President, I really do not want to get into an attempt to define the intention of the Commission. What we are seeking to do here with the Long amendment is practice fairness. I quoted at length from the Kirkland statement simply because the Senator from Pennsylvania had represented, in opposing the Long amendment, that Lane Kirkland had taken a position that would be contrary. Obviously, that is not the case. It seems to me, whatever the intention of the Commission, that what we are seeking to do here is an eminently reasonable and commonsense proposal.

Mr. WARNER. I concur with the Senator from Maryland. I can find nothing in the Commission's record that indicates that at any time they wanted the Federal employees to pay approximately 6.75 percent of their salary into the social security system and at the same time 7 percent into the civil service retirement program. It is that double penalty that, in effect, we are trying to avoid with the amendment of the distinguished Senator from Louisiana.

Mr. President, perhaps the distinguished Senator from New York, who was very active in the Commission's preparation of this recommendation, will respond.

Does he think that at any time the Commission envisioned that an employee should pay both of these fees?

Mr. MOYNIHAN. No. The Commission envisioned that the Federal employees would come into a dual system such as is common in private employment, which is social security as the first tier of a retirement system, plus a supplementary system.

Mr. WARNER. I understand that. But, in effect, that supplementary system will not happen until Congress acts. What guarantee can be given that Congress will act in a timely fashion?

Mr. MOYNIHAN. No guarantee, any more than a guarantee that Congress next year will appropriate money to pay for the retirement benefits of Federal employees. We cannot guarantee it. We do it.

Mr. WARNER. But it seems to me that the Long amendment is insurance against the absence of action by Con-

gress, and in that sense it is a perfectly reasonable amendment. I hope our colleagues will support it.

Perhaps the distinguished member of the Finance Committee would—

Mr. MOYNIHAN. I am a member of the Finance Committee. Does the Senator mean the chairman?

Mr. WARNER. I meant the chairman. Would he be kind enough to respond to my inquiry? Does he think that at any time the Commission envisioned that the Federal employees should pay the dual fees of the social security system and the civil service retirement, totaling almost 14 percent?

Mr. DOLE. No. As I recall the Commission's discussion, we expect that the supplemental program will be worked out and be in place.

Mr. WARNER. I infer that from the minutes, but we cannot guarantee that the supplemental program will be enacted in time. In a sense, the Senator from Louisiana and I and others are insuring against this double-payment situation.

Mr. DOLE. My view is that nothing will ever happen, because if we do not have a supplemental program that is satisfactory, we will not have the Federal employees under social security.

I know the frustration. I have met with a number of representatives of the employees' unions to see if there was some way to address the real concerns they have, and they do have real concerns. They represent Federal employees in every State of the Union. I have just visited with a number of leaders of the Federal unions to see if there is a middle ground providing some way to protect them.

We believe that the amendment that will be offered by the distinguished Senator from Alaska will address some of those concerns. I am not certain whether the Senator from Alaska has had a chance to discuss it with the Senator from Virginia. It is a tough call.

It is my view that we should get on with this matter and finish it. We have only four or five amendments after this one.

Mr. WARNER. I share the chairman's view that we should finish. We are in a debate, historically, that is vital to the continuation of a strong Federal employee service to this country; and in fairness to that large group of citizens, both those in retirement and those in active service, we should take whatever time is necessary to address this issue.

Mr. President, I am pleased to be a cosponsor of Senator Long's amendment. This amendment prevents an inequity from occurring to the people who will be hired to serve the public.

Unless this amendment is adopted, new Federal employees will be obligated to pay 6.75 percent of their salary into the social security system and 7 percent to the civil service retirement program—nearly a 14 percent total.

I am aware of no other employer, public or private, that demands such a high payment.

In fairness, Congress should first make provision for a supplemental retirement to cover new Federal employees. This is in keeping with retirement packages for employees in the private sector.

Without this amendment, do you think equity can ever be established for new employees without at least a supplemental retirement plan which is routinely offered in the private sector?

I do not think it is the objective of the National Commission on Social Security Reform to punish new Federal employees by forcing 14 percent of their salaries to be deducted. I do not think it is the objective of the Commission to damage in any way the fiscal integrity of the civil service retirement program.

I do think it is the objective of this amendment to address both concerns.

We all want to promote efficient and effective Government service. We want to continue to attract and retain good, qualified people to serve the taxpayers.

Yet, there is a plethora of recommendations by both the executive and legislative branches of the U.S. Government which, taken together, can have far-reaching and perhaps unintended effect on the civil service system.

Before we attempt to enact varied recommendations on the Federal personnel system dealing with different issues—from procedures for reductions in force, to pay, to COLA's, to retirement benefits—for example, let us examine the impact of these proposals to the civil service system as a whole.

Several colleagues and I introduced legislation to direct a centennial review of the civil service. A commission, appointed jointly by the President and the Congress, would be charged with making recommendations to the Congress which would address problems with civil service, while insuring the provision of a strong, viable Federal work force.

I hope that, in the near future, Congress will establish this commission, so we can resolve the issues which are keeping Government employees in constant turmoil and uncertainty.

In the meantime, however, we are faced with the problem of new Federal employees paying 14 percent of their salaries to both civil service retirement and social security beginning in January 1984.

This amendment says that new Federal employees will contribute to the social security system no sooner than the Congress enacts a supplemental retirement program for these public servants.

I believe this amendment is a reasonable and fair way to resolve an inequity, and I urge its adoption.

Mr. MOYNIHAN. Mr. President, there are only three or four Members of the Senate on the floor and not

many persons paying attention, so I will indulge a few moments of reflection on what is involved here.

What is involved, in my view, is a very painfully evolved conflict between two of the great traditions that we associate with the New Deal. On the one hand is the tradition of trade union organization and labor organization and the recognition thereof by employers, and the other tradition of social insurance which, independent of organizations, provides Government guarantees against the kinds of events that the human condition is exposed and susceptible to.

Mr. President, without asking too much of an indulgence from the Senate, I say that there is a personal poignancy I feel in this matter. I have been much involved with trade union matters over a lifetime. I am one of the few Members of this body who last year had a 100-percent COPE voting record. It is ironic and pleasing to see how many people with 20-percent COPE voting records are rising to the defense of organized labor.

With particular regard, I have been involved with the provision of union recognition for the Federal employee union which organized, in the case of postal workers, in the late 19th century and had to wait until almost the late 20th century to become recognized.

In 1961, I was made staff director of the Task Force on Employee-Management Relations in the Federal Service, a task force appointed by President John F. Kennedy. I was at the time assistant to the Secretary of Labor. I later became Secretary of Labor.

I know of no one else in this body who has ever served in the Department of Labor.

On November 30, 1961, we issued our report which resulted in Executive Order 10988 signed by President Kennedy on January 17, 1962, which gave union recognition, checkoff dues, and recognition of exclusive bargaining rights to Federal employees.

Mr. President, I was staff director of that task force and in the largest measure I wrote that Executive order.

That was the beginning of union recognition for Federal employees. It came a generation after the Federal Government mandated it for employees in private service.

So I think I need not assert further my commitment to and concern for these persons. I am not only committed to them, I think I can say I did something for them. I helped transform their condition from that of an unrecognized group of persons to those who have a formal negotiated bargaining contractual relationship with their employers, without which a trade union is only a protest movement.

Yet social security is as much a concern of mine as it would be of anyone in this Chamber. And perhaps more than that, in the Federal Government

I have been involved with efforts to extend the social security program.

I think a piece of legislation that I was instrumental in having proposed by the President ended up as supplementary security income, SSI.

I do not know that there are many others in this body who have such a relationship with an actual extension of the system.

But here we are in conflict, and I have a sense how this conflict is going to come out.

But I would like just for my own memoirs to conclude that as the classic condition that Lowi of Cornell University called interest group liberalism which he has declared is a system of government that cannot function and will ultimately collapse in a condition of stasis.

We are not going to include Federal employees in this bill today in the Senate and if this is the way the bill ends up they will never be included in social security. I put that down as part of my record. Perhaps it is not a perfect forecast, but they will not be included in my time. It will not happen, and they know it will not happen.

The consequences of this are, among other things, that two-thirds of the persons who enter Federal employment will never gain any social security protection nor will they have in retirement any Federal civil service retirement system benefits.

More than a third, 37 percent, will never be covered at all, even by disability or death benefits, survivor benefits, because they leave the Federal employment before 5 years of service, during which time they might acquire almost half the time in the quarters, as we say, that would be required to give them social security benefits and during which time very quickly they get disability benefits, and very quickly they get survivors benefits.

Social security is in its early period for a person in his beginning years of coverage a more generous system than the civil service retirement, which is not generally known but is a fact.

If this bill passes and if this amendment passes and becomes part of the final legislation, we will be almost 0.3 percent of payroll short on our long-term requirement to reach actuarial balance and, as the Senator from Pennsylvania has observed, we will have an ongoing fiscal crisis of the sort we seem to be entering where we cannot balance the budget and cannot balance the retirement system. This is a quality of interest group liberalism as Lowi has described. It involves an incapacity to govern out of a theory of governance that seemed to work. There comes a time when you try to harmonize the interests of all groups with the only interest that ends up not being served being the general public interest which, while a somewhat abstract proposition, nonetheless does exist. It can be perceived. There is not a person in this Chamber today who does not know what the public in-

terest is here, but what they will mostly respond to is the special interest, a legitimate special interest. All special interests, or almost all, have legitimacy that can be associated with them.

It is simply that their interests are not harmonized with a more general public interest, absent which as a dominant theme of Government, Government become impossible. This lovely bunch of gentlemen who came in on the opposite side, committed to balancing the budget and doing all those things, cutting taxes, find themselves doing just the opposite as did their predecessors. There is not a prospect for a balanced budget in a decade. Our retirement systems are hopelessly underfunded. Our capacity to do what we know should be done is weakened by a pernicious thought that if you respond to the interests of every legitimate group that comes along the sum total of those responses equals a response to the public interest. It is demonstrated that this is not so.

I would not be carrying on such save there are only five Members of the Senate in the Chamber, and we are waiting for something to happen. Anytime anyone wishes me to sit down I shall be happy to do so.

But I wish it recorded that this is an example of our inability to govern. If word ever gets out that the most stable democracy in the world, the oldest organized constitutional government on Earth really cannot govern, we will lose all that matters most to us, more from that reputation than from anything we might say to the effect that we are all equitable, we do try to look after everyone, we seek the common good or a denominator that accommodates most interests. That will not work. If you cannot govern your system of governance loses its reputation and when that happens you soon lose that system of governance. Have no mistake. It is a point conservatives have made to liberals and liberals have not understood, partly because the conservatives have not made it with perhaps a sense of recognizing the legitimacy of liberal interests.

This is interest group liberalism producing stasis and the prospect eventually of a political civilization collapsing.

For what it is worth, it is an increasing situation, something of consequence that it will be seen as worth noting, such as the decline in confidence that goes with the paralysis that we see.

Title I of this act says with respect to the current employees of the Federal Government "Nothing in this act shall reduce the accrued entitlements to future benefits under the Federal retirement system of current and retired Federal employees and their families."

Nothing could more state the will of Congress, the intent of Congress and nothing could more describe the de-

cline of the prestige of this institution and the competence of our Government than that this statement of law will not be regarded as having any significance whatever.

We have heard in this Chamber the proper distress expressed by Members that the word of the majority leader and the minority leader, once a binding commitment, is no longer seen by people or by Members as sufficient.

Well, statutes are no longer seen to represent good faith commitments that will be kept. The whole structure of government that depends utterly on confidence in the behavior of others collapses so readily. The history of the world is the history of confidence in governments collapsing.

The rarest thing in the history of the world is the onset of stability, which happened in our country two centuries ago. The easiest thing is the onset of its opposite, and we contribute to that today. We do not know that we are doing it.

May Madison and Hamilton forgive us and may we thank our stars they are not here to watch us conduct ourselves in the manner that we have followed today.

Mr. STEVENS. Mr. President, this is an extremely difficult and complex issue, and I would again say to my good friend from Louisiana that I have great respect for his service in the Senate and for his intentions here. But there is a basic incompatibility in what the Senator's amendment seeks to do, in my judgment, and the best interests of the people who do work and will work for the Federal Government. That incompatibility comes from the fact that through a period of years there has been a substantial change in the relationship between actual pay while working for the civil service, for the Federal Government in a civilian capacity, and retirement benefits.

One has to really study the total ramifications of the system, I think, to understand my objections to the Senator's amendment. Let me point out for the Senate just, for instance, in the period since 1970 there has been a consumer price index change of 164 percent, there has been a change in Federal civilian pay of 118 percent, there has been a change in private sector pay of 139 percent, in Postal Service pay there has been a change of 163 percent, in the military 172 percent, and we see that the Federal civil servant has been really left behind in terms of pay adjustments. Congress, in compensating for that, has built a civil service retirement system that is very generous.

I happen to believe in that system. I do not believe that the Social Security Reform Commission should have brought to us a recommendation that Federal employees be covered into social security in order to solve the solvency problem of social security, but they have.

The Long amendment will break down the offered solution for social security not because of any desire of the Senator from Louisiana to accomplish that, but because of the fact that those who are in the business of representing Government employees do not want social security coverage to ever take place.

As I say, I do not really either. I think we should have been given the opportunity to reform the civil service system as those people who have worked on the social security system have, with reforms for that system, and to blend them together, in my opinion, was a mistake. The social security system is the new system. The older system, the civil service retirement system, is basically a good system that could have been salvaged. I think it still could be salvaged if the political clout throughout the country still existed to do that.

But the thing my friends in the Government employee unions and the representatives of Government service do not realize is the record shows every time an issue has come before the Congress since 1976 that has affected the civil service, civil servants have lost.

Now they want to put off the solution to the civil service retirement problem. But the people who are putting it off assume that they will not be covered under social security. They will be. That is basically the dichotomy that exists here, which is whether or not civil servants will go under social security. I am sure the Senator from Louisiana would be the first one to say, "Of course, they are going to get there, that is the recommendation of the Social Security Commission that is before us." One of the basic tenets is that all new Federal employees should be under social security. So I assume he thinks it will happen. I assure you and I assure the Senator from Louisiana that is not the intention of those people for whom he is articulating this point.

The National Association of Postal Supervisors' letter says this—and this is dated March 18—and I will read it:

At the time this newsletter went to press the Senate was debating the social security package. The Senate, unlike the House, does not limit amendments to any bill. Senator RUSSELL LONG (Dem. of La.), ranking minority member of the Senate Finance Committee, intends to offer an amendment that would make the coverage provision become effective either January 1, 1984, or 30 days after a supplemental retirement program for new employees has been approved, whichever is later.

Federal and postal employee organizations have been lobbying long and hard for the Long amendment and, at this point, the vote is just too close to call. If the amendment is approved we still have a shot at defeating the social security coverage issue because we may be able to persuade the Congress next year, an election year, that social security coverage for Federal and postal employees is not a good idea.

It goes on. I think we should put the whole story in. I do not want to be ac-

cused of quoting something out of context. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NAPS LEGISLATIVE CONFERENCE A REAL SUCCESS

The largest legislative conference in NAPS history got underway at 7:30 a.m. on Wednesday, March 9. Participants received a "shot in the arm" and some expert advice from Senator Jim Sasser and Representatives Michael Barnes, Steny Hoyer, Bill Clay and Mary Rose Oaker.

Following the breakfast meeting the over 1,200 NAPS delegates headed off to Capitol Hill to present their views on mandatory social security coverage of new federal and postal employees, budget proposals from the Reagan Administration that would destroy the present Civil Service Retirement system, proposals to change the Federal Employee Health Benefits program, and attempts to abolish the Private Express Statutes.

When the dust had cleared, NAPS delegates can take pride in a job well done despite a vote in the House of Representatives on the social security question.

COURTEOUS RECEPTION

The majority of NAPS delegates were received courteously, pleasantly and sympathetically when they met with their Senators or Representatives. Some members of Congress were unable to be there personally so delegates met with a senior staff member. Unfortunately, as in all things, some Representatives and Senators did not keep confirmed appointments which we realize is a disappointment to those first-time lobbyists.

Although it was not planned this way, the NAPS conference coincided with the vote in the House of Representatives on H.R. 1900—the social security package. H.R. 1900 mandates social security coverage for all new federal and postal employees effective January 1, 1984 and also includes a change in the formula for computing Social Security benefits which eliminates the so-called "windfall" benefit.

PACKAGE DEAL

NAPS members have had experience with legislative packages in the past, i.e., the budget reconciliation package of 1981 and the tax package in 1982 which included the Medicare tax. In the case of Social Security, Members of the House never had an opportunity to vote separately on the issue of Social Security coverage for federal and postal employees.

Coverage was recommended by the National Commission on Social Security Reform in a compromise package agreed to by the President, the Speaker of the House, and the Majority Leader of the Senate. The legislation was immediately put on a fast track that moved through the legislative process without amendment.

NO AMENDMENT

Under House rules, the Rules Committee allowed for a vote on only two amendments—neither of which dealt with the federal/postal employee issue. Consequently, Members of Congress were left with two choices. (1) Vote for the bill and assure that July Social Security checks could go out on time and for the full amount or, (2) Vote against the bill and be vulnerable to the charge that he or she voted against the millions of older Americans who depend on social security.

Given those options, it is not surprising that the bill passed and was supported even by many of our friends in the House.

SENATE ACTION

At the time this newsletter went to press, the Senate was debating the social security package. The Senate, unlike the House, does not limit amendments to any bill. Senator Russell Long, D-La., ranking minority member of the Senate Finance Committee, intends to offer an amendment that would make the coverage provision become effective either January 1, 1984, or thirty days after a supplemental retirement program for new employees has been approved, whichever is later.

Federal and postal employee organizations have been lobbying hard for the Long amendment and at this point, the vote is just too close to call. If the amendment is approved, we still have a shot at defeating the social security coverage issue because we may be able to persuade the Congress next year, an election year, that social security coverage for new federal and postal employees is not a good idea.

SUCCESSFUL EFFORT

Success must be measured in terms of what was accomplished by the whole campaign, not just with what happened on the day of the legislative conference. When President Reagan's budget became public, a bad situation went to worse. The proposals set forth by the Administration on retirement and health benefits would destroy what current federal and postal employees receive.

Under those proposals, destruction of the present Civil Service Retirement System and the Federal Employee Health Benefits program was a certainty. However, NAPS, along with other active and retired federal and postal employee organizations, graphically illustrated to Members of Congress that they do have an important constituency in the federal/postal community.

ALL OUT CAMPAIGN

The NAPS legislative conference was but one part of a campaign waged by unions and other organizations through FAIR. An all-out public relations campaign was launched which included radio and magazine advertising, press conferences, teleconferences and the series of legislative conferences conducted by individual organizations.

Last December, FAIR decided that successive waves of lobbyists from different organizations would have a greater impact on the Congress than one mass rally. A conservative estimate of the number of active and retired federal and postal employees who visited Capitol Hill is over 12,000. And, judging from some rumblings coming from Capitol Hill, quite successful.

OUR VOICES HAVE BEEN HEARD

There is no question that our letters, our advertising and our lobbying have been noticed by the Congress. On a number of occasions, the effort mounted by our group was mentioned by Members of Congress and witnesses who were trying to refute our facts.

In January, Congressional staff members were telling us we were dead in the water on the social security fight and we might as well roll over and play dead. Instead of following this suggestion, we pointed out that without the specifics of a supplemental plan, we still feared for our SCR financing and for the benefit levels for both new and current employees.

If you don't think our effort was successful, then how do you explain the Long amendment in the Senate? As our campaign continued, we began to get promises from individual Members of Congress that the legislation would not destroy CSRS because there would definitely be a supplemental plan in CSRS in the future.

THE WRITTEN PROMISE

Suddenly, people on Capitol Hill were talking about federal and postal employees and what was happening to them—and, for the first time in several years, not in a negative way. After the Reagan budget became public and the Director of OPM testified on their recommendations for a supplemental plan, the leadership of the House issued a "Dear Colleague" letter intended to allay our fears about social security coverage for new hires.

The letter was signed by the Speaker of the House, the Chairman of the Ways and Means Committee and the Chairman of the Post Office and Civil Service Committee. Basically, it stated that retirement benefits for those new hires would be comparable to current retiree benefits, that they opposed the Administration's budget cuts in retirement, opposed the Administration's proposals to treat COLA's for CSRS retirees differently than social security COLA's, and that they would oppose any proposal that "would threaten or adversely affect the financial integrity of the present civil service retirement fund."

FUTURE OUTLOOK

What the future holds is anybody's guess, but things look much better now than they did in January. Most of our delegates found that Members or their staffs were well-informed about our views and positions. They expressed either support or at least sympathy for our aims. This is a far cry to several years ago when any mention of federal retirement met with blank stares or opposition.

There appears to be more support for preservation of our retirement benefit levels and for adequate financing of our retirement system. And, if extension of Social Security coverage is enacted into law, it will be done in such a way that retirement revenues will come into the Civil Service Retirement Fund and thus help to maintain the cash flow needed to pay future benefits to present employees.

THE KEY TO SUCCESS

Would this change in attitude have been possible without the personal efforts of individual federal and postal employees? Probably not. You are the key and have always been the needed ingredient to any successful effort. We may have lost a battle, but we are certainly not losing the war.

But, again, this social security battle should teach us one thing—let's not wait until the axe is inches from our necks. Let's make sure the Congress remembers who we are and what we stand for. Only you can prevent further cutbacks in your retirement and other benefits. The man in the White House may not be on our side, but we are at least beginning to see some subtle changes from the people who make the ultimate legislative decisions—the Congress.

Mr. STEVENS. The point is the people lobbying for the Long amendment do not assume, as the Senator from Louisiana does, that Government employees ought to be covered under social security.

The difficulty is that those of us who have the responsibility in this area in Congress know that a bill will not pass to reform the civil service retirement system until those people who do conduct lobbying activities of this type are willing to accept the basic first point and that is that Government employees are going to be covered under social security. As long as that question is still in issue there

will not be a reform of the existing civil service retirement system.

Our subcommittee, 3 years ago, that deals with civil service and the Postal Service undertook a study of the problem, and after a series of meetings with representatives of employee groups, we did present to Congress a bill that recommended a new system for civil service.

The system was predicated on the assumption that the Social Security Commission's recommendations would be adopted and new Federal employees would be covered under social security. Parenthetically, let me say that was a victory for Government employees because the first statement coming from the Commission indicated that all Government employees would be included in social security. The proposal before Congress now is that only new civil service employees will be included under social security.

The proposal we made for a new system of retirement benefits for civil servants would produce a system that is better than the existing system. It would assume a first tier of social security, a second tier of a pension system to which the employee did not contribute, and a third tier of an individual retirement account to which the Government would contribute if the employee contributed a minimal amount. The pension system would be managed in the private sector.

The impact of this bill was that when it was reviewed by the employee groups they were commendatory. They told us they thought it was a good job, but they disagreed with the basic assumption and told us civil servants will never be included in social security and, therefore, they said our plan was faulty because the basic assumption is that that is going to happen.

The Senator asked for someone to come forward with a plan. I have it. It is S. 2905 in the last Congress. It has not been introduced in this Congress because of the opposition from the very groups that are supporting the amendment that the Senator from Louisiana has offered. Their opposition is based on the fact, as I said, that social security coverage for Government employees will never occur.

Now, therein is the dilemma for our subcommittee and the House Full Committee on Civil Service problems. And I have discussed this at length with our colleagues in the House and they agree. If the amendment of the Senator from Louisiana passes, Government employees will not be included in social security, even though that is not his intent, and I want to make certain that I repeat that because I understand his statement and I understand the distinguished Senator from Louisiana is trying to offer a proposal which will give the Government employees a fair chance of getting a better system.

But until the basic decision is made as to whether or not they are to be in-

cluded in social security, we cannot commence—even commence—consideration of a plan for the future.

Mr. LONG. Will the Senator yield at that point?

Mr. STEVENS. Yes.

Mr. LONG. Mr. President, let me say to the Senator that I believe he takes me at my word. I do not believe I have ever deceived the Senator. As far as I know, I have not.

Mr. STEVENS. The Senator never has, or any Member of the Senate, to my knowledge.

Mr. LONG. I believe the Senator would accept my assurance, as a fellow Senator and a friend, that, as far as this Senator is concerned, I fully intend to support a supplemental plan worked out to meet this problem, and I favor covering under social security the Federal employees.

Representatives of the Federal employees unions are outside in the Senate reception room, as you might expect. I visited with them during the last half hour, and they assured me that they realize that they have a responsibility to help work out the supplemental plan and go along with social security, and they will welcome the opportunity to do so.

I am not saying that they advocate social security coverage for new Federal employees.

Mr. STEVENS. Neither did I. I did not advocate it, either, I say to the Senator from Louisiana.

But will they accept a date certain when social security coverage will take place? If they will, we do not have any problem, because once we make the decision, if Congress makes the decision that Government employees are going to be included in social security at some time, we can then build on that decision, although I oppose it, mind you, because, again, I say that the civil service system preceded the social security system.

We allow the State employees to opt out of social security and have only a pension system. My State has done that. We allow others to opt out of social security. The Congress exercised the option for Government employees and opted out of social security in the past.

We have a retirement system and it could work. But if the decision is going to be made that every Senator I believe wants to see made, we have to have a time when everybody knows it will be made. I would accept the Senator's amendment and I accept his comments in good faith, and his commitment to me is as good as gold.

But the problem is, we will have opposition. Some of my very good friends are out there. I have worked with them for 15 years. They tell me, "This is live or die for us, STEVENS. You are either with us or against us on this one." I am talking about the Long amendment now.

The problem is I agree with them that they should not be in social secu-

ity, but I disagree with the Senator when he says you can just put this off and we will work something out. Because my good friends out there in the lobby will prevent it from happening. And though the Senator assumes it is going to happen, it will not happen, in my judgment, because there will be an election year in 1984. We will have Presidential candidates and commitments will be made in that campaign and it will not happen.

But, meanwhile, we have the problem trying to cure a terminally ill system because of the problems that have occurred here.

Mr. LONG. Mr. President, if the Senator will yield, I say to the Senator, in good faith, that he perhaps does not know the genesis of this amendment.

By way of background, may I say that the Senator from Louisiana did not start calling Finance Committee Democrats to meet in caucus until the Republican Members were meeting in caucuses for a long time, and that goes back even to previous Congresses.

Mr. STEVENS. On this issue?

Mr. LONG. I am speaking generally about caucusing. But the Democrats on the Finance Committee had not caucused to discuss the social security bill until after the Republicans had a chance to meet and talk and decided what they thought they ought to do; that is, the majority had made their decisions. As a matter of fact, Mr. MOYNIHAN came to me and suggested that we ought to meet. He suggested Mr. DOLE thought we ought to meet because the Republicans had met. They thought we ought to meet and talk matters over so we could get our thinking together, as the Republicans had already done.

We went ahead and met. Mr. MOYNIHAN, at some point, had to go place a telephone call and he was not there at the moment we discussed this matter, but the rest of us who were there in the room talked the subject over. To us, it was apparent that the majority of the Federal employees, to the best of our knowledge, did not want to come under social security. We felt that we were not in a position to vote for what they wanted us to vote for; that is, just not to put them under social security at all. We did feel that, in good faith, they should not be asked to give up the benefits they presently have under a Sword of Damocles hanging over their head so that, if they did not go along with what was proposed, off with their heads, you might say.

We felt, in fairness, it would be appropriate to say that this social security coverage would go into effect when the Federal employees could see what the new program was going to be.

Now, I say to the Senator, and I am sincere about this: I intend to support whatever the Congress can work out, assuming, of course, it is a fair program. I intend to support the supple-

mental civil service program. The Federal employees that I mentioned may not be for the security coverage, but they realize that they are going to have to go along with this, because there are a considerable number among the cosponsors on this amendment with me who are not against social security coverage, but merely say by way of fairness that Federal employees are entitled to be heard and not be under the sword of Damocles that the present program fades out in the event that nothing happens.

Mr. STEVENS. Mr. President, we have been telling these same people, and our subcommittee has been working with them every month of every year for the last 2 or 3 years, and warning them that this day was coming. In the last Congress, we had a series of meetings for these people and said, "The day is coming. Here is a plan." But they said, "No, we will not support it because the basic assumption is you make the assumption"—talking to me—"that the Government employees could be covered under social security, and that will never happen."

That has been the decision—it will never happen.

With the adoption of the Long amendment, we will be along 4 or 5 years from now still worrying about what we are going to do about saving the civil service system. It is now \$500 billion underfunded. The Senator from Rhode Island says \$14 billion, but it is \$17 billion being paid from the Treasury into the civil service retirement system. The Senator from Louisiana and I fought paying any money from the Treasury into the social security system, and that is why this Commission was formed. We, in other words, have a situation where we have a terminally ill patient and you want a transfusion to someone who just broke his leg.

The social security system is not insolvent. It never was insolvent. It was in trouble. The civil service retirement fund is insolvent and is in trouble and the solution has to be reached, and in a very short period of time, with the support of the employees.

But the employees are supporting the Long amendment because they do not want social security coverage. I am going to offer the amendment and let the Senate decide: Do we want social security coverage or do we not? I think the Senator from Louisiana told me he would oppose the amendment, is that right?

Mr. LONG. I would expect to oppose it; yes. If the Senator offers an amendment to say that Federal employees would not be covered by social security, I will vote against it and I will ask other Senators to vote against it. I feel that the new Federal employees should be covered by social security. That, may I say, is the view of the majority of Democrats who sponsor this amendment. We feel they should be

covered. We intend to vote for coverage.

May I say to my able friend from Alaska, the Senator from Louisiana appreciates his position. When I first came here, my first assignment was to the Post Office and Civil Service Committee. I was made chairman of the pay raise subcommittee, it turned out, and I had to struggle around with the employee unions at that time because, as you might anticipate, they were very hopeful of getting some very large pay raises. While I was willing to go along with a pay raise, I felt a responsibility to try to protect the Public Treasury, just as does the Senator from Alaska.

I know the problems the Senator is speaking to. But I have to say in fairness, we are not asking the social security beneficiaries to buy a pig in a poke. They see what benefits they are going to get and what sacrifice they are going to have to make in order to have their program continued and funded. I think in fairness the same thing ought to be done for the Federal employees. We ought to let them see what they are going to get.

What do they get when we enact legislation that prejudices for the future the continuation of the existing program?

Mr. STEVENS. All I can tell the Senator is that in my discussion with members of the Social Security Commission, with Members of the leadership in the other body, I am convinced that what they are going to get if they upset this current solution for the social security problem is a lot of antagonism from the public as a whole. It is going to come right back down on those of us who are trying to reform the civil service retirement system and provide employees of the Federal Government with at least as good a plan, and I believe the plan we had last year is a better plan.

Do you know less than 30 percent of the people who contribute to the civil service retirement system ever get any benefits out of it? Of those, I think less than a quarter are women. That means that most women who come into Government pay into the civil service retirement system and when they leave they only get back their contributions.

If these same women were working for a private sector, the employer would contribute and the employee would contribute and when they left the benefits of the plan would go with them. But that is not the system here.

We have a plan which would benefit those who work for the Government longer than the vesting period but not long enough to retire. We had a plan that gave a stimulus to private investment, a plan that gave management over the pension fund to the employees, and we could show them.

The actuaries agreed, our plan would deliver a better system.

But, again, the assumption was the first year was social security. That first year of social security is opposed by every employee group that I know of. As I said, it has been a parting of the ways for this Senator and many of those groups because they are unwilling to accept the advice I have given them, that it is going to happen.

I am going to offer an amendment to the Senator's amendment to say, "No, let us take them out entirely," because I want the Senate to vote on that and make a record for these people to see how much support there is in the Senate for taking Federal employees out of social security, period. I think there are just two or three of us who believe that way.

I still believe we could have made even a better system than this one if the Social Security Commission had kept its hands off the Federal retirement system. All they have done is taken a transfusion from that patient, as I said, who is terminally ill. We could have cured the illness of the system. We cannot anymore, once they are covered in social security.

We must reform the system. We must come up with a pension plan that assumes the existence of social security, something we would not have had to have done otherwise.

I find myself in the strange position of disagreeing with the Senator's basic assumption. I do not see why the Senator should put those of us who have the duty to come up with a plan into this position. It will not be the Finance Committee but it will be the Civil Service Committees that will come up with some sort of plan. We must work with the people who oppose us because we are willing to go along with your assumption.

UP AMENDMENT NO. 127

(Purpose: To eliminate coverage of Federal employees for the purposes of title II of the Social Security Act)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

I will say to the Members, it is very simple so we will not have to waive it being read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. MATHIAS, proposes unprinted amendment numbered 127 to unprinted amendment numbered 126.

At the end thereof add the following:

On page 4, beginning with line 3, strike out all through page 9, line 19.

Mr. STEVENS. My amendment excludes Federal employees entirely from the social security system. That is what they seek in the Long amendment. That is what I would seek, if we were starting afresh, not to include Government employees in social security. I am hopeful that when people vote on this amendment they will recognize that some of us believe we can reform the civil service system without having social security be the first

phase of that system. It was not necessary to have to have the Government employees pay into social security.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I understand we probably have had enough debate on this amendment and we can probably vote on the amendment very quickly. I will just say a word and then we will start voting.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Which amendment did the Senator request the yeas and nays on?

Mr. LONG. On the Stevens amendment, and the underlying amendment as well.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on the underlying amendment? Without objection, it is so ordered.

Mr. LONG. I ask for the yeas and nays on the underlying amendment.

Mr. STEVENS. If this amendment fails, Mr. President, I do have a second amendment.

The PRESIDING OFFICER. Is there a sufficient second on the underlying amendment? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, we hope to conclude action on this bill by 3 p.m. We will have to move rather quickly. In addition to the series of amendments with reference to the Long amendment, the Senator from Montana has another amendment that I hope will not take long. The Senator from South Dakota and the Senator from Hawaii have worked out an amendment with reference to certain aliens that I understand can be accepted. Senator LEVIN has an amendment and Senator LONG has an amendment on determining the threshold for taxing benefits. Perhaps there is another amendment by the Senator from Colorado.

We do not have many amendments left but about four of those will require rollcalls. I hope there are no other amendments being drafted while we are debating this amendment. That is one problem when you have staff not doing anything. They are drafting amendments during debate.

Mr. President, I would hope we could start voting on these amendments.

Mr. President, I certainly support the Senator from Alaska. The Senator from Kansas has tried to figure out some way to accommodate the real concerns of the Federal employees. They have some just concerns, but I am yet to be convinced that this is not

just a game to prevent them from ever coming under social security.

I think we have to continue to make clear that the National Commission recommended coverage only for new hires. We probably made a mistake. We should have brought in employees with 3 to 5 years of Federal service. Then we could have given that up and they would have had a victory and we would not be here debating the new hires. We just did not think of that at the time.

Now we are only discussing new hires.

It seems to me that if we are really interested in trying to get this social security package passed, we are going to have to address the Long amendment. I would say right now the Senator from Louisiana probably has the votes. But we ought to go ahead and find out. We should finish that amendment, finish the other amendments, and go to conference. I would suggest, however, that if we come out of conference without Federal employees being covered, there probably would not be a social security package which the President would sign.

We have been told by Harry C. Baltantyne, Chief Actuary of the Social Security Administration, about the actuarial cost estimates made on Senator LONG's proposed amendment:

Because of the uncertainty of the development of a supplemental pension program for new Federal employees, we are unable to attach any estimates of short-range or long-range savings to Senator Long's proposal. Therefore, if the proposed amendment were enacted, with no other changes in the Senate Finance Committee bill, the long-range actuarial balance would change from a surplus of 0.08 percent of taxable payroll to a deficit of 0.20 percent under 1983 alternative II-B assumptions. Similarly, the projected short-range savings in 1983-89 would be reduced by \$9.3 billion.

That is a fact we must consider, Mr. President.

I also wanted to refer to a letter that I received from a distinguished member of the Commission, a former Commissioner of the social security system from 1962 to 1973, Robert M. Ball. I thought it was an excellent letter on why he believes Federal employees should be covered. I should like to read portions of that letter and have the balance of it printed in the RECORD.

First of all, he says:

I fully support the coverage of Federal civilian employees newly hired after January 1, 1984, as recommended by the National Commission on Social Security Reform and the establishment for such newly hired employees of a benefit plan within the Civil Service Retirement system that would build on social security coverage, just as is the case with the pension plans of private employers. I would like to tell you why I take this position.

I spent most of my working career, 30 years, as a Federal employee, and although during the last 11 years of that period I was a Presidential appointee, I have always thought of myself as a career civil servant. I believe that the business of the United

States is the most important and challenging business in the world, and we must be able to attract to it the best minds and skills of this and later generations. The need for a government of skilled administrators, researchers, policy analysts—the need for creative minds—transcends one's personal views about the proper direction for government. Whether one wishes to move the government in conservative or liberal directions, there is a need for high competence in carrying out the tremendous responsibilities of the United States government.

He indicates that he would do nothing that would undermine the system. Then, after a lot of thought, as he indicates, he goes on to explain why he believes that we should have coverage of newly hired—those are the two key words—newly hired Federal workers. There is no one currently in the Federal service now who is going to be affected at all by this provision.

I must say if they do not like the Federal system or the possibility of a supplemental program, they do not have to come into the Federal service. They have that option. We are not trying to force anything on anyone in the Federal service now. There was no intent to do that in anything the Commission recommended or in anything the Senate Finance Committee brought to the Senate floor.

Just to summarize Mr. Ball's letter and the reasons he favors coverage:

One, in the long run, Federal employees will lose if they are perceived by the public to have been exempted for selfish reasons from our basic, compulsory social insurance system that covers practically everyone else in the country. Social security has the national purpose of providing protection to make up for income loss because of retirement in old age, total disability, or the death of a wage earner in the family. It is a compact between the generations in which all share the burdens and the benefits. It is anomalous, to say the least, that Federal civilian employees are the ones who do not take part in this national effort. For many years now, coverage has been extended to all employment for which it is practical, including military service.

I think that in itself answers that question. It also addresses the question raised by Senator STEVENS about the perception of all the people out there in my State and every other State who believe that Federal employees should be brought into the system.

Two, the combination of social security coverage and newly designed benefit provisions within the civil service retirement system for new employees should be set up in such a way that, overall, the combination will provide as good protection as the present civil service system does alone. There is no intention to diminish the protection of these new employees as compared to the presently employed.

Three, for many new employees, this arrangement of social security plus a completely independent supplementary plan, as in private industry, would be better than the present civil service plan alone. Social security with its weighted benefit formula is generally more favorable to low-paid employees than the civil service system, and frequently social security is better for those who move in and out of Federal employment, since the possibility of missing eligi-

bility for social security is protected against. Very importantly, full survivorship and disability protection is more quickly achieved under social security. The amounts paid for these risks are not related to length of service as in the civil service system, but are fully effective quickly, as in an insurance plan.

These are very important considerations, Mr. President.

And four, it is true that with extension of coverage to Federal civilian employment, Federal employees will lose an unfair advantage which they now have over those covered by social security throughout their working lives, but it is desirable that this should be the case. At present, about 73 percent of Federal annuitants who are age 62 or more are also eligible for social security, but they have been granted social security protection under more favorable benefit-to-contribution ratios than are possible for most people.

That is another factor that should be considered.

Mr. President, I ask unanimous consent that the balance of this excellent letter be printed in the RECORD, because I think it makes a strong case for covering Federal employees—newly hired Federal employees—to take effect on January 1, 1984.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ROBERT M. BALL,
Washington, D.C., February 17, 1983.

HON. ROBERT DOLE,
Chairman, Committee on Finance,
Washington, D.C.

DEAR MR. CHAIRMAN: I fully support the coverage of Federal civilian employees newly hired after January 1, 1984, as recommended by the National Commission on Social Security Reform and the establishment for such newly hired employees of a benefit plan within the Civil Service Retirement system that would build on social security coverage, just as is the case with the pension plans of private employers. I would like to tell you why I take this position.

I spent most of my working career, 30 years, as a Federal employee, and although during the last 11 years of that period I was a Presidential appointee, I have always thought of myself as a career civil servant. I believe that the business of the United States is the most important and challenging business in the world, and we must be able to attract to it the best minds and skills of this and later generations. The need for a government of skilled administrators, researchers, policy analysts—the need for creative minds—transcends one's personal views about the proper direction for government. Whether one wishes to move the government in conservative or liberal directions, there is a need for high competence in carrying out the tremendous responsibilities of the United States government.

It follows, therefore, that I would do nothing knowingly to reduce the attractiveness of government service. On the contrary, I am appalled at the limits that have been placed on compensation so that Federal pay is becoming less and less competitive with private industry. We are only hurting our Nation when we make it more difficult to attract and hold the best people to work for us all as government employees.

A good retirement system and other fringe benefits have traditionally been a part of Federal government personnel policy. To some extent these benefits have made up for frequently lower wage and

salary levels. I believe it is of great importance to continue the policy of fully adequate retirement and fringe benefits for Federal employees—those presently employed and those hired in the future—as part of the objective of making our Government work well. It is good that the Federal government has been a leader in personnel policy in this area.

I have given the reasons why I favor the coverage of newly hired Federal employees below:

1. In the long run, Federal employees will lose if they are perceived by the public to have been exempted for selfish reasons from our basic, compulsory social insurance system that covers practically everyone else in the country. Social security has the national purpose of providing protection to make up for income loss because of retirement in old age, total disability, or the death of a wage earner in the family. It is a compact between the generations in which all share the burdens and the benefits. It is anomalous, to say the least, that Federal civilian employees are the ones who do not take part in this national effort. For many years now, coverage has been extended to all employment for which it is practical, including military service. I have been on many radio and TV call-in shows in recent years and made many talks on social security to general audiences. I always get the question "How come Federal employees don't have to pay in when I do?"

2. The combination of social security coverage and newly designed benefit provisions within the civil service retirement system for new employees should be set up in such a way that, overall, the combination will provide as good protection as the present civil service system does alone. There is no intention to diminish the protection of these new employees as compared to the presently employed.

3. For many new employees, this arrangement of social security plus a completely independent supplementary plan, as in private industry, would be better than the present civil service plan alone. Social security with its weighted benefit formula is generally more favorable to low-paid employees than the civil service system, and frequently social security is better for those who move in and out of Federal employment, since the possibility of missing eligibility for social security is protected against. Very importantly, full survivorship and disability protection is more quickly achieved under social security. The amounts paid for these risks are not related to length of service as in the civil service system, but are fully effective quickly, as in an insurance plan.

4. It is true that with extension of coverage to Federal civilian employment, Federal employees will lose an unfair advantage which they now have over those covered by social security throughout their working lives, but it is desirable that this should be the case. At present, about 73 percent of Federal annuitants who are age 62 or more are also eligible for social security, but they have been granted social security protection under more favorable benefit-to-contribution ratios than are possible for most people. The Federal annuitant picks up social security coverage without having paid into the system over his entire working lifetime, but instead gets the social security benefit based on a partial earnings record in employment outside the Federal government. His or her earnings record under social security therefore has a lot of zero years in it and the average wage on which the benefit is based tends to be low. This gives the Federal annuitant the advantage of the weighted social security benefit for-

mula (the factors in the benefit formula are 90 percent, 32 percent and 15 percent) which was intended to benefit low-paid people. This is not the fault of the Federal employee—there is nothing he can do about it under present law—but the result is such that everyone else in the country is paying somewhat more for social security because Federal employees receive this advantage. Thus the extension of social security to Federal employees reduces the long-range overall cost of the system by about 0.3 percent of payroll. It is just not true that new Federal employees would be asked to "bail out" the social security to their own disadvantage. On the contrary, extension of coverage would correct an inequity now disadvantageous to those under social security.

5. The notion has been widely circulated that covering new Federal employees under social security would deprive present Federal annuitants and those presently employed by the Federal government of a future source of income needed to pay their retirement benefits. This is not the case. At the present time, the protection furnished by the civil service retirement system—depending on how it is figured—is worth about 38-40 percent of payroll. Employees are paying only 7 percent of their earnings toward this protection. The agency for which they work contributes another 7 percent, and the rest of the benefits will be paid for from general revenues. Thus under present law, the benefits of present workers will be paid for mostly from general revenues, not the contributions of the newly hired.

Moreover, the contributions that the newly hired employees would make toward a specially designed benefit plan within the civil service system would mingle with all other contributions to that system, as is the case today with other special benefit plans in the civil service retirement system, such as those for Members of Congress, congressional employees, air traffic controllers, etc. It is true that the contributions to the civil service retirement system to be made by new Federal employees would be lower than the contributions paid by those already at work because, of course, the supplementary plan on top of social security will be cheaper than the present plan, which is intended to be sufficient in itself. However, these lower contributions will be balanced by the fact that the benefit provisions for the newly hired will have lower long-term costs, and create less liability for the civil service retirement system. You cannot help the civil service retirement system's long-range financing by bringing in new people who pay 7 percent of earnings toward a liability of between 38 percent and 40 percent of earnings.

The civil service retirement system as a whole will not be injured by the proposal to cover the newly hired under social security plus a specially designed benefit plan for this group within the civil service retirement system.

There is apparently widespread misunderstanding among Federal employees about these facts, some even believing that the civil service retirement system is adequately financed by a combination of the 7 percent contributions that they pay and matching contributions from their agency. It is important that these misunderstandings be corrected.

It is not surprising to me that Federal employees are greatly concerned about any proposals affecting their pay, working conditions, retirement and other fringe benefits. Their total compensation is being threatened in a variety of ways, but, in my considered judgment, the proposal to extend social security to newly hired employees is of an entirely different character.

The adoption of this proposal will help, not hurt, the presently retired, the presently employed, and the newly hired, and will strengthen, not weaken, the attractiveness of Federal employment, while improving the attitude of the rest of the country toward the Federal employee.

Sincerely,

ROBERT M. BALL.

Mr. DOLE. Mr. President, I strongly support the amendment of the Senator from Alaska. I hope we can vote.

UP AMENDMENT NO. 127 AS MODIFIED

Mr. STEVENS. Mr. President, I am not sure the Senator from Kansas realizes the amendment I have at the desk to the Long amendment is to take Federal employees completely out of social security. I have been advised by the Parliamentarian that there is a technical error. I ask unanimous consent that my amendment be modified to cover that point.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The clerk will state the modification.

The assistant legislative clerk read as follows:

In lieu of the language proposed to be inserted insert:

"The amendments made by section 101 shall be null and void."

Mr. STEVENS. The effect of that, I want to be sure we all understand, is that the social security recommendations that members of the civil service pay into the social security system will be nullified.

Mr. DOLE. I support the Senator's offering that amendment to make the record. I do not agree with the amendment.

Mr. STEVENS. I understand.

Mr. LONG. Mr. President, I am informed that the yeas and nays have not been ordered on the Stevens amendment. Is that correct?

The PRESIDING OFFICER (Mr. MURKOWSKI). The Senator from Louisiana is correct.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I knew the Stevens amendment was subject to a point of order. I did not make the point of order because I felt that if he has the votes, the Senator from Alaska will prevail whether we make the point of order or do not make the point of order.

With reference to the actuary's memorandum, the actuary's memorandum is based on a false assumption. It is based on the assumption that Congress will never act to put a supplemental civil service program into effect. But if such a program is enacted, then on a consolidated budget basis, Mr. President, there is no real difference whether the new Federal employees pay their money into the Federal retirement program or whether they pay their money into the social security program—in any event,

the Federal Government gets the money. But one can contend that it would create an actuarial problem for the social security program in the event that the assumption that the new employees will pay into the social security fund never takes place.

I want to make it clear, Mr. President, and now that the Stevens amendment is to be voted on, I welcome the opportunity to make it clear by my vote, and I assume most will make it clear by their vote, that we are not attempting to keep Federal employees out of social security. I think they should be in social security, just as we ourselves come under social security—and I modified the amendment so as to put myself under social security, and every other Senator when he votes for this amendment is voting to put himself under social security. So we are not trying to keep anybody out. We are putting ourselves under social security. We propose that Federal employees be under that program, too.

The only difference is that we propose that Federal employees have an opportunity to see what they are going to get in return for what they are giving. It is that simple.

I hope the Stevens amendment will not be agreed to, but I welcome the opportunity to vote against it because the Senator, I think, may want to vote against it himself. It gives us an opportunity to demonstrate whether we are for or against putting Federal employees under social security.

Mr. STEVENS. Mr. President, I am glad the Senator from Louisiana made that statement, because I want to assure the Senate that had we been left alone with the Federal civil service retirement, we would have had the same freedom to deal with that system as the social security system has had to deal with its system and we could have improved it. We could have made it responsive to the needs and wishes of our society. However, the social security question having come first and this proposal having been made by the Commission in order to solve the problems of the social security system, they have, as I said before, made the civil service system a terminally ill patient. I think we can still revive that system. It should be revived. I welcome the approval of this amendment.

What it will do, I admit, is send the social security system reforms back to the Commission for some solution to that portion of their insolvency problem that is related to the payments that would come from new Federal employees.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Alaska. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Mas-

sachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. RUDMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 12, nays 86, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—12

| | | |
|---------|-----------|----------|
| Andrews | Mathias | Specter |
| Burdick | McClure | Stevens |
| East | Murkowski | Symms |
| Heflin | Sarbanes | Zorinsky |

NAYS—86

| | | |
|-------------|------------|------------|
| Abdnor | Garn | Metzenbaum |
| Armstrong | Glenn | Mitchell |
| Baker | Goldwater | Moynihan |
| Baucus | Gorton | Nickles |
| Bentsen | Grassley | Nunn |
| Biden | Hart | Packwood |
| Bingaman | Hatch | Pell |
| Boren | Hatfield | Percy |
| Boschwitz | Hawkins | Pressler |
| Bradley | Hecht | Proxmire |
| Bumpers | Heinz | Pryor |
| Byrd | Helms | Quayle |
| Chafee | Huddleston | Randolph |
| Chiles | Humphrey | Riegle |
| Cochran | Inouye | Roth |
| Cohen | Jackson | Rudman |
| Cranston | Jepsen | Sasser |
| D'Amato | Johnston | Simpson |
| Danforth | Kassebaum | Stafford |
| DeConcini | Kasten | Stennis |
| Denton | Lautenberg | Thurmond |
| Dixon | Laxalt | Tower |
| Dodd | Leahy | Tribie |
| Dole | Levin | Tsongas |
| Domenici | Long | Wallop |
| Durenberger | Lugar | Warner |
| Eagleton | Matsunaga | Weicker |
| Exon | Mattingly | Wilson |
| Ford | Melcher | |

NOT VOTING—2

Hollings
Kennedy

So Mr. STEVENS' amendment (UP No. 127), as modified, was rejected.

UP AMENDMENT NO. 128

(Purpose: To require the establishment of a Social Security supplemental retirement program for new Federal employees by October 1, 1985, and to provide retirement credit for service performed by new employees during the period between December 31, 1983, and October 1, 1985)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 128.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language to be proposed insert the following:

"(c)(1) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983;

"(2) For the purposes of this section the term 'new employee' means any individual whose service is employment under section 210(a)(5) of the Social Security Act (as effective with respect to remuneration paid after December 31, 1983) and section 3121(b)(5) of the Internal Revenue Code of

1954 (as effective with respect to remuneration paid after December 31, 1983).

"(3) Not later than October 1, 1985, there shall be established by law a retirement program that provides retirement benefits which supplement benefits payable under title II of the Social Security Act for new employees.

"(4) Notwithstanding any other provision of law—

"(A) new employees shall not pay into the Civil Service Retirement and Disability Fund, and deductions shall not be withheld from the basic pay of any such employee for the purpose of paying into such fund;

"(B) if a retirement program is established pursuant to paragraph (3) by October 1, 1985—

"(1) each new employee shall, for the purposes of such program, be given credit for service performed under employment by the United States Government during the period beginning January 1, 1984, and ending September 30, 1985, or, if earlier, on the day before the effective date of such retirement program; and

"(2) no payment of a contribution for such retirement program shall be required of such employee with respect to such service; and

"(c) if no retirement program is established pursuant to paragraph (3) by October 1, 1985—

"(1) each new employee shall, for the purposes of subchapter III of chapter 83 of title 5, United States Code, be given credit for service performed in the employment of the United States Government during the period beginning January 1, 1984, and ending September 30, 1985;

"(2) no payment of a contribution for the purposes of such subchapter shall be required of such employee with respect to such service; and

"(3) clause (1) shall not apply with respect to service performed by such employee under employment by the United States Government after September 30, 1985.

Mr. STEVENS. Mr. President, this amendment, now that the Senate has gone on record that it does not endorse the intent of the Long amendment, is to deal with the problem of new civil service employees. The effect of this amendment would be that new civil service employees would be covered into the new pension system that we will enact and the amendment commits us to enact that by October 1, 1985. They would not have to contribute between now and 1985, or until the plan becomes effective, to the new system.

We have cleared this with the Social Security Commission representative and with the Office of Management and Budget. It has very little, if any, budget impact because the main plan that is under consideration to replace the civil service retirement system is in fact a noncontributory pension system which uses social security as its first base, its first tier and the noncontributory pension system as the second portion of the plan.

The effect of this would be, again, that new Federal employees would be paying into social security as is contemplated by the Social Security Commission report.

I have discussed this at length and my friend from Louisiana understands it.

The problem that we have is dealing with the long amendment. The Long amendment is backed by people who do not want to see civil servants pay into social security. That is not the intent of the Senator from Louisiana but that is the intent of the people who seek its passage.

My amendment requires that a new supplemental pension for civil servants be enacted into law, as I said, by October 1, 1985. All Federal employees hired after December 31 of this year would not contribute to the civil service retirement system. Instead, they would be in the social security system and would be given credit in the new Federal pension system from the date of their hire without regard to when the system becomes effective.

In effect, it is a free ride for new employees in the new Federal retirement system.

If Senators vote for the Long amendment they are going to put social security coverage for civil servants in the political year of 1984 when it is going to become an issue in the Presidential campaign and it is not going to happen. It is not going to happen in a Congress that is divided politically and where partisan politics has a great sway in an election year.

Those of us who are on the Civil Service Subcommittee here and on the Civil Service Committee in the House of Representatives know we have a very difficult problem. It is worse, as I have said before, than the social security problem. The unfunded liability of the civil service retirement system is more than twice as much as the projected liability of the social security system, and we are working hard, after a Presidential commission and all the work that has gone into it, to reform the social security system which has a lesser problem.

Since my amendment to exclude Federal employees from social security failed, my new amendment assumes that the new employees would be covered as of the beginning of the year pursuant to the Commission report. But those new employees would not have to pay both social security and civil service retirement contributions. To do so would be quite burdensome.

So, Mr. President, I am hopeful that the Members of the Senate will now provide protection for Federal employees since that last vote indicated the Senate wishes to lower civil service employees under social security. This amendment assures retirement payment above social security for the new employees will not have to be made until October 1, 1985, or the date in which Congress enacts the new pension system which I hope is substantially in advance of that time.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. WARNER. Under the previous amendment which was defeated, it was quite clear that Members of Congress

would be taken out from under social security had the amendment passed. Will the Senator address that issue in this amendment?

Mr. STEVENS. I am glad the Senator mentioned that because it was not clear. It was not until after I offered the amendment that staff advised me that that section included Congress.

I had no intention under that last amendment to do so. This amendment does not affect Members of Congress at all. This amendment affects new Federal civil servants only.

Mr. WARNER. Mr. President, if the Senator will yield further, there was nothing personal intended in the question. As a matter of fact, I was one of those who came to the Senator after the vote started, and pointed it out.

Of course, our distinguished friend, the Senator from Louisiana, has amended the amendment, of which I am a cosponsor, which does not affect Members of Congress.

Mr. STEVENS. As long as the Members are here, we ought to discuss this because the bill that came from the House includes Members of Congress as employees within the social security system.

Currently those of us who have outside income beyond our Senate salary pay social security as self-employed persons, and we pay more.

The House bill and the Senate Finance Committee bill save money for those people who have outside income. It punishes those who do not have outside income, new Members of Congress, those who do not take honoraria, who will have their social security contributions increased.

So we are going to get to that subject before the day is over, but I want to assure the Senator from Virginia there is no intention in the amendment to deal with that question.

The Senator from Louisiana's amendment preserves the intention of the Senate Finance Committee and the House Ways and Means Committee that Members of Congress will be included as employees which, as I said, will save money for most Members of Congress who have outside income. That is the vast majority of the Members of Congress.

Those who do not have outside income, it will increase their contributions because they will then pay as employees into the social security system and they will be the only Federal employees who are currently on the rolls of Federal employment who will be so treated.

I do think that ought to be addressed at a later time. This, however, deals only with new employees who contribute to the civil service retirement system.

I do believe, and I hope Members will agree, that having decided that the Social Security Commission's recommendations that civil service employees must pay into the social security fund was correct, they now should not mislead postal and civil service em-

ployees to believe that by putting this off to allow the issue to go over into a political election year, that Congress will, in fact, change that recommendation of the Social Security Commission. I believe passage of my amendment does more for Federal employees since it assures them that there will be a supplemental pension and that they will receive free credit in that system until it is established.

Mr. GLENN. Mr. President, I am pleased to cosponsor the amendment offered by Senator Long to provide that social security coverage of new Federal and postal employees will take place in January 1984, as mandated by the Finance Committee's social security bill, as long as Congress has enacted a supplemental civil service retirement program for these workers by that time. I urge early congressional hearings on this important issue so that we are able to meet that deadline. If we do not, social security coverage would be triggered upon enactment of legislation implementing a supplemental civil service retirement plan.

The National Commission on Social Security Reform's plan assumed the adoption of a supplemental retirement program for new civil servants. The social security bill reported from the Finance Committee assumes such a plan. The purpose of this amendment is to add assurance to these assumptions that both parts of the plan will be carried out. It is not fair to include new Federal employees under social security without providing in advance how pension benefits will be protected. The amendment would add a measure of fairness to the Commission's plan and finance bill.

Presently, Federal employees contribute 7 percent of their salary for retirement. Workers under social security contribute 5.4 percent of their earnings covered by the payroll tax. Both contribute 1.3 percent of salary to medicare. With the social security tax rising next year, without enactment of a supplemental program, new Federal employees will be contributing 14 percent of their salaries to civil service, social security, and medicare.

I have always been supportive of legislation to strengthen the independent retirement system of civil servants. I view current retirement benefits as deferred compensation which attract qualified people into Government service—where the salary might not compete with the profit of private industry. The civil service retirement system has a long history of serving this purpose. Federal employees were not included under the original Social Security Act because they had this program of retirement protection.

As a member of the Senate Governmental Affairs Committee, I am well aware that President Reagan's past two budgets have reduced civil service benefits in both the retirement and health programs. The administration's 1984 budget includes a number of new proposals harmful to both current

workers and retirees. There is fear on the part of some that enactment of these budget-cutting proposals will be demanded as a price for White House support of a supplemental retirement program for new civil servants.

Despite the fact that the President endorsed the Commission's proposal mandating social security coverage for new Federal and postal workers 3 months ago, we have yet to see any administration proposal for establishing a supplemental retirement program. There are no White House or other proposals before the Congress to establish a plan. We do not have any idea of what such a plan would look like.

The amendment offered by the distinguished ranking Democratic member of the Finance Committee will help insure that Congress will continue providing financing for the present civil service retirement program, and will enact a responsible plan for new workers entering Government service.

● Mr. PRYOR. Mr. President, today I rise in full support of the amendment which my distinguished colleague from Louisiana, the ranking minority member of the Finance Committee, has offered which would delay mandatory coverage of newly hired Federal employees until after a supplementary retirement system is set in place for civil service workers. It is my firm belief that this change would vastly improve a very controversial provision of the social security financing package without substantially altering the National Commission on Social Security Reform's recommendations.

Mr. President, I have called this an improvement in the Federal worker provision because I firmly believe it will ease the very real concerns that many members of the Federal work force and retired civil servants have.

Under current law, assuming passage of this legislation, new Federal hires and former civil service retirement system participants with a break in service of more than 1 year would be forced to pay 13.5 percent of their income—7 percent to go to the civil service retirement system and 6.5 percent to the social security system. The same contribution would be exacted from the Federal Government.

We all know the strains that have been placed on workers and employers as the result of recent increases in payroll taxes—they have served as a disincentive for hiring and have placed a greater burden on the work force—both at times when they can least be afforded. To require that the new Federal worker almost double the current contribution for retirement will place a painful, inequitable and unnecessary financial burden on all new Federal workers.

In many cases, the benefits associated with a job may be the key factor in drawing well-qualified applicants for openings. This provision, as currently

constructed, will discourage quality individuals from coming into the Federal work force due to the uncertainty of their work-related benefits.

I also question the fairness of asking current civil service workers to go on the "blind faith" that the Congress will formulate a fair method for guaranteeing the retirement security of our public servants—a process which we know will take a considerable amount of time. We have no knowledge of the increased administrative costs which may result from the integration and modification of the 38 current Federal retirement programs so that they will complement the social security system. I think this is far too important and far reaching a change to legislate with so many loose ends hanging.

Mr. President, the report of the National Commission states that the inclusion of new Federal workers in social security will result in \$9.4 billion in new revenues to the system through the end of this decade. It is true that half of these revenues will come from new Federal workers. But the other half will be taken from the Federal Treasury. No consideration has been given to the fact that the Federal Government will be under obligation to pay its contribution should these new workers decide to participate in the supplemental program which must be developed. We have no knowledge of the budgetary implications of this provision.

During my membership on the Governmental Affairs Committee the Comptroller General of the United States concluded to the committee in a report entitled "The Need for Overall Policy and Coordinated Management of Federal Retirement Systems," that the extension of social security coverage to Federal workers will require a substantial increase in the cash requirements of the Federal Government. It is important that we closely examine what these cash requirements will be.

In closing, Mr. President, I think it is important to note that in recent years the Federal worker and civil service retiree have been asked to accept considerable reductions in work-related benefits such as health insurance and retirement income. To once again ask them to entrust their present and future security on the basis of the promises of an unpredictable Congress and a hostile administration is patently unfair. The least we can do is delay coverage of new Federal employees until a supplemental retirement system is in place.

If the Congress is able to address the many concerns which this proposal has raised as quickly as some of my colleagues have claimed, then there will be no need to delay coverage. If we are not able to enact the necessary changes, there is no justification for mandatory coverage while so much uncertainty is still rampant. I urge adoption of the Long amendment. ●

● Mr. HOLLINGS. Mr. President, I am pleased to be a cosponsor of the Long amendment. This proposal will simply delay enactment of social security coverage of new Federal employees until Congress has had the time to thoroughly review and implement supplementary legislation. It will not exempt Members of Congress and the President from coverage.

While we all recognize the urgency to enact social security reforms, we should not allow that urgency to stampede us into enacting poor policy. And that is exactly the case if we accept the National Commission provision to bring new Federal employees into the social security system. We will, in essence, be gutting the civil service retirement system under the guise of saving social security. That to me is a very bad deal.

Mr. President, the proposal to bring new Federal employees into social security was simply not thought out. For if it had been, it would never have been made at this time. The proposal's costs, in both financial and human terms, simply outweigh its benefits.

First of all, there is little doubt that this is a poor financial bargain for both the taxpayer and the social security system. At the least, some or all of the \$500 billion unfunded liability of the civil service retirement trust fund will have to be funded by the Federal Treasury. Exactly how much or how little is open to dispute. But the fact is that the taxpayers of this country—already carrying a large share of civil service retirement costs—could be accepting an additional \$500 billion in debt over the next 40 years if we enact this merger. And at the worst, we may not only be accepting these new costs, but may actually be exacerbating social security's problems over the long run by bringing millions of new beneficiaries into this troubled system.

Second, bringing new Government workers into social security at this time would be one more signal to the Federal employee that he is really a second class worker. The civil servant is already lagging behind his private sector counterpart by 13.9 percent in wages and he is possibly facing a total wage freeze this year. Health and other benefits have been cutback over the last 2 years and this spring the administration has proposed yet another radical set of changes in his basic retirement benefits. And now to top all of that off, the Government worker is seeing the civil service pension system, which has existed since 1920, basically dismantled in the name of saving social security. Certainly, that is the wrong signal at the wrong time because we have never needed a competent American Government more than today. And the only way to insure that competence is to have an effective, efficient, and skilled civil service—not a demoralized work force under constant attack.

And third, this proposal is backed more by anecdotes than by facts. By

that I mean that there seems to be a notion that the retired civil servant is somehow reaping unearned and astronomical benefits at the expense of social security—the old whipping boy called the double-dipper. But the facts show that what may have once been the case, is not necessarily so today. The civil servant needs to pay into social security for at least 40 quarters—10 years—in order to qualify for benefits. The minimum benefit, which did provide a windfall to certain retired civil servants, was eliminated in 1981. The public pension offset, which we enacted in 1977, is scheduled to take effect this year. And, finally, other provisions of this bill will reduce any windfall a retired civil servant might reap by revising the so-called tilt in the social security benefit formula.

Mr. President, I am a realist and understand that this bill is going to be enacted despite my reservations. It simply has too many heavyweight supporters, from the President to the Speaker of the House. And it should be enacted because we simply can not let social security go under. But we should not rush pellmell into a mistake regarding the civil service pension system. And our amendment will give us time to avoid that mistake.

Our amendment simply codifies what is assumed in the bill—that a supplementary system will be enacted to protect the rights of Federal employees and the taxpayers. Instead of putting the cart before the horse by bringing civil servants into social security before we have enacted legislation to implement this change, we put the cart back where it belongs. This amendment will delay coverage of new Government workers until Congress has passed the necessary supplemental legislation. This will not only protect the civil servant but also the taxpayer from a possible fiscal folly. Once we are able to study this proposal—away from the crisis atmosphere that surrounds this bill—we will be able to carefully assess all of the potential costs and benefits. And if my analysis proves correct, I am confident that the fiscally shortsighted aspects of the potential merger will become very clear to all Members of the Senate.

In conclusion, Mr. President, there is no doubt that the civil service retirement system has been in need of reform. I have supported and sponsored a number of the changes we have enacted in the last few years and I will carefully review any reasonable proposals made in the future. But what the committee is suggesting today is not reform. Instead, it is what I like to call blind faith legislation. That is, we are asked to enact a huge change—one that could cost the taxpayer, the social security recipient, and the Federal employee billions of dollars in the future—on the faith that all of these potential problems will be worked out after the law is

passed. Well, I for one have seen the folly of that route in the past and do not want to see it repeated here. Our amendment will prevent that from occurring today and it will prevent Congress from being steamrolled into enacting a shortsighted piece of legislation.●

● Mr. SASSER. Mr. President, I rise today to sponsor and express my strong support for the Long amendment to the social security bill.

This amendment, ably described by the distinguished Senator from Louisiana, provides that new Federal employees will not be covered under social security unless and until legislation is enacted that would provide new Federal employees the full protection of a supplemental civil service retirement system.

This is an eminently fair amendment, Mr. President.

It recognizes the obligation of the Federal Government to both the social security system and the civil service retirement system.

It recognizes the fact that we must have a solvent social security system that will meet the need of the 36 million Americans who depend on social security for basic retirement, survivor, and disability benefits.

It also recognizes the fact that we have a solemn obligation to maintain the integrity of the civil service retirement system for the more than 1.7 million Federal retirees and survivors currently receiving benefits, and the more than 2.9 million Federal workers that are eligible for civil service retirement benefits.

This amendment enables the Congress to meet its obligation to social security beneficiary and civil servant alike.

Now, Mr. President, we have been on a fast track on social security legislation.

We have moved on this legislation with breath-taking speed. The National Commission on Social Security made its final recommendations to the Congress on January 20, 1983. The House Ways and Means Committee reported this legislation on March 4, 1983, and it was passed by the House on March 9, 1983.

And here in the Senate we are on this legislation less than 2 months after its introduction.

I do not quarrel with the speed with which we are considering this legislation. We must have a social security bill in place so that social security checks can continue to be mailed in July of 1983 to social security recipients.

But it is a fact of legislative life that whenever this Congress moves a major bill on a fast track, there are bound to be flaws in that legislation.

That certainly is the case with H.R. 1900, as amended.

Unfortunately, the House of Representatives did not choose to have a fair and open debate about the issue of the

coverage of Federal employees under social security.

A number of Congressmen implored the House Rules Committee for a rule that would permit an amendment dealing with the issue of coverage of new Federal employees under social security.

That proposed rule was denied, and the House of Representatives was not able to debate this issue in its consideration of the Social Security Act Amendments of 1983.

Fortunately, Mr. President, we are able to rectify this event and consider a suitable amendment to deal with this issue.

And in that regard, I commend Senator Long for bringing this amendment before the Senate Finance Committee and before the full Senate today.

Mr. President, I support this amendment for several reasons.

First, there is a matter of basic equity. Federal civil servants are rightly concerned that coverage of new Federal employees may eventually undermine the fiscal integrity of the current civil service retirement system.

Without new Federal employees making a full contribution to the civil service retirement system, it is estimated that the fiscal loss to the Federal retirement system will amount to some \$640 billion by the year 2022.

In essence, passage of the current legislation without the Long amendment could result in back-door destruction of the civil service retirement system.

That is not fair, Mr. President.

I believe that one of the major attractions to Federal service is the civil service retirement system. We have had a civil service retirement system for some 63 years. And the civil service retirement system has prompted many, many fine people to come into Federal service.

And I can say that from personal experience, Mr. President, because my father was a dedicated civil servant.

We must not break faith with the Federal employee and undermine the civil service retirement system.

A second reason for my support of the Long amendment, Mr. President, is the fact that I believe we do not have the full facts of the fiscal impact of the coverage of new Federal employees on social security financing.

For example, when the Social Security Commission first broached the recommendation for the coverage of new Federal employees under social security, they suggested that it would add some \$21 billion to the social security funds between 1984 and 1988. Later, in testimony before the Congress, Chairman Alan Greenspan revised that estimate downward to some \$12.5 billion, and independent analysis of this problem notes that the funds transferred into the social security system would only be some \$5.3 billion during that period.

If that is the case, Mr. President, the fiscal benefits of covering new Federal employees under the social security system has been oversold. Indeed, if the savings have been so overstated, we could have adopted other alternatives—such as paying for the administrative costs of the social security system out of general revenue for infusing additional revenues into the social security system.

We have not had a full debate over the real savings of including new Federal employees into the social security system, and that is another reason for not going forward with the proposal to cover new Federal employees under social security.

Finally, Mr. President, I support the adoption of the Long amendment because as it stands now, in January 1984, new Federal employees will be subject to a retirement contribution of nearly 14 percent, because they will be covered by both social security and a civil service retirement system.

That is a fiscal burden which is far too great for Federal workers. It will most definitely make it more and more difficult to attract qualified workers into the Federal service. As a result all Federal services will suffer as the Congress further deliberates changes to the civil service retirement system.

Mr. President, we are on a fast track with social security legislation. But in this process we are proceeding to make major changes in the civil service retirement system which have not been the subject of extensive deliberations by the U.S. Congress.

Once again we are giving short shrift to the Federal employee. And lest we forget, the Federal employee serves us all. They are the ones that mail the social security checks every month. They are the ones that maintain our national parks and forests. They are the ones that investigate and control communicable diseases. Indeed, Federal employees provide essential services that touch practically every facet of our lives, each and every day.

The Long amendment simply assures that we provide the Federal civil servant with a fair deal and eventually develop an integrated retirement system that does not bankrupt the civil servant and that retains the basic integrity of the civil service retirement system.

Mr. DeCONCINI. Mr. President, during the past 2 years this administration has conducted a sustained campaign against Federal employees. In 1981, the Reagan administration successfully eliminated the twice-yearly COLA. In 1982, the Reagan administration tried to cap COLA's for Federal retirees, but with mixed results. I opposed both of these moves, and I continue to be opposed to any efforts to undermine the integrity of the civil service retirement system. It is incumbent upon this Congress to protect the promised benefits to those who are now retirees or are presently contrib-

uting to the civil service retirement system.

I reluctantly support those provisions of S. 1 which place newly hired Federal employees under social security. And I only do so because of the national imperative of preserving the social security system. However, Congress has an obligation to provide new Federal hires with a supplementary retirement plan before placing them under the social security system.

Mr. President, I was frankly disappointed that the Social Security Commission itself did not recommend a specific supplemental plan for new hires, and that the Finance Committee did not insist on such a plan before bringing this bill to the floor. However, I am proud to cosponsor Senator Long's amendment to correct this oversight. The amendment requires that new hires not be placed under social security until a supplemental retirement system for new hires is in place.

Federal employees are hard-working and dedicated public servants. And, if we pass this bill without Senator Long's amendment, the toll on Federal employee morale will be enormous. Besides, not to do so would be unfair.

I urge my colleagues to join me in supporting Senator Long's amendment.

Mr. PELL. Mr. President, I am very pleased to join my distinguished colleague Senator Long as cosponsor of his amendment to defer social security coverage for newly hired Federal employees until legislation is enacted by Congress to provide for a supplemental civil service program for the affected newly hired Federal workers.

In my opinion, the amendment offered by Senator Long is reasonable and absolutely essential for the protection of both current and newly hired Federal employees. In this regard, it is important to emphasize that the National Commission on Social Security, while mandating coverage for newly hired Federal workers, specifically recommended that these same employees be afforded the protection of a supplemental civil service retirement system. Regrettably, no such coordinated coverage and protection for new Federal employees exists or has been proposed to Congress for consideration.

Equally important, the amendment proposed by Senator Long will not alter the essential task of responding to the critical social security financing issues addressed by the National Commission on Social Security.

Mr. President, when the President's Commission on Social Security recommended social security coverage for newly hired employees, I had serious reservations about this proposal, particularly when considered in connection with the other major proposals by the Reagan administration for changes in Federal workers retirement system. In my opinion, the sum total of all these proposals including the re-

tirement age and contributions to the system would place an extraordinary burden on Federal employees.

Taken as a whole, these proposals including the coverage of newly hired Federal employees, would clearly threaten the future of the civil service retirement system. That would be a tragic loss not only to Government workers, but also to the public which depends upon qualified Federal workers for essential services.

Mr. President, in view of the administration's proposal to dramatically revise the entire civil service retirement system, and the uncertainty of any meaningful supplemental retirement coverage for new Federal employees, I am pleased to join Senator Long as cosponsor, and urge my colleagues to vote for this amendment.

Mr. LONG. Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. They have not.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this amendment does not reach the problem that prompted me to offer my amendment and my cosponsors to support it.

Of these three possibilities we have facing us, the committee bill, the Stevens substitute, or the Long amendment, only the Long amendment would link social security coverage to the enactment of a supplemental civil service program. The Stevens substitute makes coverage under social security mandatory whether or not a supplemental civil service program has been enacted, and that is the problem with it.

Mandating social security coverage for new Federal employees means that the Congress will have to modify the civil service retirement program for those employees in order to avoid their paying 14 percent into two programs with similar protection. Present Federal employees are apprehensive that the need to enact a supplemental civil service program will provide the administration with an opportunity to press for its proposals to make substantial changes in civil service retirement for present employees. That would not be to the advantage of those employees. In other words, the purpose of the Long amendment is to seek to have the supplemental program legislated in a situation of legislative neutrality, where there will not be a sword of Damocles hanging over the employees, where they will not be badly prejudiced when they undertake to press for a program which they think is to their best advantage.

The Stevens amendment would address that problem because social security coverage would be mandated even if Congress should fail to act on the

supplemental civil service program. I believe, Mr. President, we have demonstrated by our vote that the majority of the Senate does feel new Federal employees should be under social security. Those who did not feel that way had the opportunity to vote that way and so voted. Those who did feel that way had the opportunity to vote for it. Now we have an opportunity to see how many Senators feel that there should be social security coverage, who think it ought to be in a situation of legislative neutrality where Federal employees can see what they will get in return for what they are giving—or should it be in a situation where they are prejudiced, because they are going to be prejudiced under the Stevens amendment, and they should not be prejudiced.

I hope the Stevens amendment will not be agreed to.

Mr. DOLE. Mr. President, the Senator from Louisiana is correct in saying that we just demonstrated by a vote of 86 to 12 that Federal employees should not be exempt. I hope that message will not be lost on the House conferees when they go to conference on this bill.

I think we might just as well lay it all out on the table. In the House they took a lot of heat on whether or not to do anything about Federal employees, and they decided to stick with the Social Security Commission.

Let us face it, they are not too anxious to do that and have the U.S. Senate say, "Well, that was all right for the House, but we are in the United States Senate so we can just cut the ground out from under them." I want the conferees on the House side to know there was a vote of 86 to 12 not to exempt Federal employees, and I think we have laid that groundwork. It was bipartisan. It was what, 7 to 1, so it is a strong indication of where the sentiment in the Senate is. I want my House colleagues to know there is no backing off in the general sense by the U.S. Senate.

I happen to believe that the Stevens amendment is a good idea—I wish I had thought of it myself—but it is a good idea, and it does protect the concerns of Federal employees. Federal employees do have some legitimate concerns and they deserve to be protected. They are hard-working people.

I told some of the Federal employee leaders that I do not want Republicans all to stand up and vote against the Federal employees so that all the Democrats can vote for the Federal employees. But if that is the price of getting a social security package, then I guess we have to do the best we can. We have as much interest in Federal employees as anyone else, and I hope we have demonstrated that or will demonstrate that.

I believe the Stevens amendment as a compromise is a good one. It deals with the key criticisms leveled by the opponents of the National Commis-

sion's recommendation to cover newly hired Federal employees. It would deal with the possible double-taxation problem beginning in January 1984, and it would deal with a potential loss of revenue to the civil service retirement system.

I am aware that if the committee bill were enacted as is, and there were no further congressional action, Federal employees hired on or after January 1, 1984, would be required to pay both the current 7 percent contribution to the civil service retirement fund, and the social security tax which will be 7 percent under our bill.

I strongly believe that a supplemental plan can be developed before the coverage is extended on January 1, 1984, and I will cooperate in any way that I can to achieve that end.

However, this provision would assure future Federal employees that they will not have to pay both the social security tax and the civil service retirement contribution in the event the creation of a supplemental system is delayed, even if the delay is until October 1, 1985, more than 2½ years from now.

The Senator from Kansas cannot believe we cannot put together a package in 2½ years, and I know the problem now. There is an election in 1984, as the Senator from Alaska pointed out earlier. But I believe that in 2½ years, as slowly as Congress moves at times, we can address this problem. I know it is a very sensitive problem. I know there are a lot of people on each side who do not know which way to go, but I think a plan can be completed in 2½ years.

The Stevens amendment also addresses a concern of many of the critics who say the civil service retirement system will go broke when the new Federal employees are siphoned off to the social security system. Under this amendment, if a supplemental retirement system is in place by October 1, 1985, newly hired Federal employees would receive retroactive credit to the new system. Likewise, the new supplemental system would receive the revenues foregone by having had new Federal hires temporarily excluded.

On the other hand, if, by October 1, 1985, the new supplemental system has not been enacted, such retroactive credit and contributions would be made to the regular civil service retirement system.

Finally, to those who are concerned that this amendment could jeopardize the civil service retirement fund, I have been informed that the civil service retirement fund could continue to pay benefits for 20 years without any contributions from new employees. I am not suggesting that the system should go without new income, only that if there is some temporary period during which new Federal hires are not contributing to the civil service retirement system, it will not go broke as alleged by some.

I would say to those who do not like the Stevens amendment, the Senator from Kansas would prefer to go with what we have in the Senate bill and what we have in the House bill, but that is not the choice we have. The Senator from Kansas believes that the Senator from Louisiana may have a majority. If he has a majority, then we have a problem. It may be a problem we can address in conference, it may be the end of the social security package, but we do not know that yet.

So I would suggest to those who say, "Well, this goes too far; we shouldn't do this much for Federal employees; they ought to be treated like everyone else in the system," I believe the Stevens approach is a moderate approach to try to solve the problem.

It is going to be fair to new hires coming into the system, it is going to be fair to those on the Commission, fair to the Congress, and others who have tried to put together this package. I hope we might adopt the Stevens amendment.

Mr. STEVENS. Mr. President, I want to emphasize what the Senator from Kansas just said. We have had lengthy discussions with Members of the House concerning the problems dealing with the civil service retirement system. We have a tentative agreement that, instead of looking for a Presidential Commission to deal with a future replacement for the current system, we will seek to hire a consultant or consultants jointly between the House and Senate committees, that we will have the system and its problems studied and it will be studied on the basis that social security will be the first portion of a civil servant's security for life after he or she leaves the Federal employment.

The difficulty with that is that we have no timeframe to work on, no real compulsion for the Congress to act, or no reason for the Government employee organizations to support that effort if the Long amendment passes. Because all they need to do is oppose the creation of a new system for retirement of civil servants and they will never be included under social security, notwithstanding that last vote of the Senate.

I am at a loss for words to explain how those of us who have the responsibility to deal with the subject can deal with it if the Long amendment passes. All you have to do is look at the statements that are being made by leaders of those employee organizations to understand that they will not support any new system so long as they are assured that they will not be included under social security until that new system is enacted.

Mr. President, I urge Members of the Senate to support this amendment. It will mean that we will work on a system and have it in place and, in the meantime, all new employees who come into the Federal civil service system will get credit in the new system without paying into it and they

will not have to pay for two retirement systems.

● Mrs. KASSEBAUM. Mr. President, I am pleased to offer my support for the amendment offered by Senator STEVENS. This amendment addresses what I believe to be a serious problem with the bill as written. The bill provides for social security coverage of Federal employees hired after December 31, 1983, as recommended by the National Commission on Social Security Reform. The Commission and sponsors of S. 1 have assumed that a supplemental pension program will be established to assist in meeting the retirement needs of new Federal hires. The bill itself does not, however, establish such a supplemental program—as this effort was deemed to be outside the scope of the social security financing issue.

Considerable concern has been expressed about problems which could occur should a supplemental pension program not be enacted prior to January 1, 1984. It has been assumed that new Federal employees would then be in the position of paying both social security and civil service retirement payroll taxes. Such a taxload, which would approach 14 percent of salary for nearly all new employees, would clearly impose an unfair and unnecessary burden on new Federal employees. An alternative where new hires would pay only social security payroll taxes would relieve the financial burden, but leaves open questions as to the adequacy of retirement coverage during the period in which a supplemental plan is being developed.

I support universal coverage under social security, as I believe there are a number of benefits to be derived from including all workers in a single, portable retirement system. Universal coverage avoids situations where individuals who work in both public and private jobs during their careers are under- or over-compensated upon retirement relative to other workers. Individuals who work only a few years in Federal positions receive little, if any, civil service retirement benefits, while their public employment years are counted as zero-earnings years for purposes of social security. Consequently, their social security benefits are lower than those provided workers with the same overall career earnings who spent their working lifetimes in the private sector. On the other hand, Federal workers who also work for short periods in private employment frequently receive social security benefit levels which are disproportionately high. This is due to the fact that the social security benefit formula is weighted to favor low-income workers.

In my conversations with Federal workers about universal coverage, I have indicated my support for the concept but have also noted two factors I feel are crucial to any legislation in this area. First, I have emphasized my strong endorsement of the approach

taken in this measure, whereby social security coverage is extended only to new employees—not to the Federal work force as a whole. I believe that attempting to include current workers would have created complex administrative problems and could potentially have jeopardized the value of contributions already made to the Federal retirement system. Second, I have stated my commitment to the development of a good supplemental pension program for new employees. Social security is not, nor was it ever intended to be, the sole source of an adequate retirement income. When the program was created, it was intended to serve as a supplement to private pensions and individual savings. Consequently, the Federal Government as an employer has the responsibility to provide supplemental pension benefits comparable to those made available by private employers.

Obviously, it is my hope—and I am sure the hope of all of us here—that Congress can develop a supplemental plan prior to December 31. I intend to support expeditious action on such a plan in whatever way I can. Should we be unable to accomplish this goal, however, the amendment now before us does offer assurance that new Federal employees will be adequately protected. The amendment offers credits to employees hired after December 31 toward whatever supplemental program is enacted, retroactive to their date of hiring. Consequently, if we do not, for example, enact a supplemental plan until say July 1984, individuals hired in January would receive 6 months' worth of credit in the new system.

I wish it were possible to guarantee that by some date certain a supplemental plan would be in place. Because there is no mechanism for making such an assurance, this amendment represents our best effort at providing for new Federal employees without necessitating a delay in the implementation of universal coverage.

I realize that many would prefer that social security coverage not be extended to the Federal work force until a plan was in place. In concept, I agree that this is a good approach; but, in practical effect, I fear it would mean the eventual abandonment of universal coverage itself. The amendment before us offers the advantage of upholding the intent of efforts to delay implementation—to assure supplemental pension protection of new Federal hires—without jeopardizing implementation of universal coverage.

Looking to the future, I hope that Congress and Federal employees can work together in a positive manner to shape a sound, supplemental system. Universal coverage will be a reality, and we need to turn our efforts toward assuring that it operates smoothly. ●

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. LEVIN. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. LEVIN. Is the opposite point true, then, that the 12 Senators who voted for your amendment should then vote for the Long amendment?

Mr. STEVENS. It is a good point. The impact of the last amendment was to demonstrate that the Senate opposes the basic assumption of the Long amendment.

Mr. LEVIN. But the 12 Senators who supported the Stevens amendment and are opposed to employees coming under social security should all then vote for the Long amendment?

Mr. DOLE. If the others vote the other way, we will take that.

Mr. STEVENS. I thank the Senator for his rhetoric. I intend to support my own amendment.

Mr. LEVIN. I beg the Senator's pardon?

Mr. STEVENS. I supported the last one and I support this one. I do not think they are inconsistent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MOYNIHAN (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Florida (Mrs. HAWKINS), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. KENNEDY), are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 45, nays 50, as follows:

(Rollcall Vote No. 48 Leg.)

YEAS—45

| | | |
|-------------|------------|----------|
| Abdnor | Hecht | Nickles |
| Baker | Heinz | Packwood |
| Bradley | Helms | Percy |
| Chafee | Humphrey | Quayle |
| Chiles | Jepsen | Roth |
| Cohen | Kassebaum | Rudman |
| Danforth | Kasten | Simpson |
| Denton | Lautenberg | Stafford |
| Dole | Laxalt | Stevens |
| Durenberger | Lugar | Symms |
| Garn | Mathias | Thurmond |
| Gorton | Mattingly | Tower |
| Grassley | McClure | Wallop |
| Hatch | Metzenbaum | Weicker |
| Hatfield | Murkowski | Wilson |

NAYS—50

| | | |
|-----------|-----------|----------|
| Andrews | Boschwitz | Dixon |
| Armstrong | Bumpers | Dodd |
| Baucus | Burdick | Domenici |
| Bentsen | Byrd | Eagleton |
| Biden | Cochran | East |
| Bingaman | Cranston | Exon |
| Boren | D'Amato | Ford |

| | | |
|------------|-----------|----------|
| Glenn | Long | Riegle |
| Goldwater | Matsunaga | Sarbanes |
| Hart | Melcher | Sasser |
| Heflin | Mitchell | Specter |
| Huddleston | Nunn | Stennis |
| Inouye | Pell | Trible |
| Jackson | Pressler | Tsongas |
| Johnston | Proxmire | Warner |
| Leahy | Pryor | Zorinsky |
| Levin | Randolph | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Moynihan, against

NOT VOTING—4

| | |
|-----------|----------|
| DeConcini | Hollings |
| Hawkins | Kennedy |

So Mr. STEVENS' amendment (UP No. 128) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

Mr. BAKER. Mr. President, I think, in conferring with the distinguished Senator from Louisiana, that he is agreeable to having a voice vote on this matter and I think we are. There is no point in taking the time of the Senate, I believe.

Have the yeas and nays been ordered on the Long amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BAKER. Mr. President, I ask unanimous consent the yeas and nays be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I withdraw that request.

Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (UP No. 126) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later, the following occurred:)

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate earlier today agreed by voice vote to a Long amendment to include new Federal employees under social security only after the Congress enacts a supplemental civil service program for those employees.

Mr. President, I voted against the two amendments that were offered by Mr. STEVENS intending to vote for the Long amendment. That vote was by voice vote.

I want the RECORD to show that, had it been by rollcall vote, I would have voted for the Long amendment.

I ask unanimous consent that this statement appear immediately after the voice vote in the bill, and I ask unanimous consent that any other Senators who wish to make similar statements be permitted to put in the RECORD such similar statements at that place also.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Chair. Mr. President, I want to express the hope that the conferees on the part of the Senate stand firm in support of that amendment in conference.

I want this statement to appear also immediately following the voice vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I should like to have my name recorded following the minority leader as one of those Senators who would have voted for the Long amendment. As a cosponsor of the Long amendment I would have voted aye on a rollcall vote. I am pleased that the Senate approved this amendment because it provides "fairness" to the new public employees. I urge the Senator from Kansas to include this provision in the final conference report.

Mr. BYRD. I say for the information of others who may not have heard my request, I asked—and the Senate agreed to my request—that any other Senators may put similar statements in the RECORD at that point.

Mr. PRYOR. Mr. President, I should like to associate myself with the remarks of the minority leader and also add my hopes that our conferees when they meet with the House of Representatives on this issue will adhere to our wishes relative to the Long amendment. I, too, am a cosponsor, supported and would have voted for the Long amendment had it been a rollcall vote. I certainly appreciate the remarks of the distinguished minority leader on this point.

Mr. LAUTENBERG. Mr. President, one of the most controversial and difficult issues faced by the Senate in its consideration of the social security amendments has been the question of including Federal employees under the social security system, and the related question of a supplementary retirement system for them. This kind of dual coverage is what exists, in most cases, in the private sector. It has been

a debate of extreme importance to Federal employees, who are particularly concerned about the future solvency of the civil service retirement system.

In approaching this question, two major considerations were uppermost in my mind. First was the need to address the fiscal crisis facing the social security system—one which must be addressed if benefit checks are to go out this July and if future beneficiaries are going to be assured of their social security benefits in later years. My second concern was an absolute commitment to protect the solvency of the current Federal employee retirement system and provide for a fair and affordable retirement package for new Federal employees.

Mr. President, I supported the Stevens amendment which retained the Social Security Commission's recommendation to include Federal employees under social security, but also mandated supplementary coverage under either the existing or a new civil service retirement system for Federal workers. I felt this compromise offered an equitable resolution to the dilemma we faced: Saving the social security package, but not at the expense of Federal employees. This amendment failed. With the defeat of this amendment, Mr. President, I want to state my support for Senator LONG's amendment which will delay mandatory coverage for new Federal employees under social security until Congress enacts a supplementary retirement system for them.

Mr. BOREN. Will the Senator from Arkansas yield?

Mr. PRYOR. I will be glad to yield to my friend from Oklahoma.

Mr. BOREN. Mr. President, I also want to associate myself with the remarks of the Senator from West Virginia and the Senator from Arkansas.

As a cosponsor of the Long amendment, I also voted against the two preceding Stevens amendments because of my support for the Long amendment. I join in voicing the hope that the conferees will reflect the Senate viewpoint of strong support for the Long amendment, keeping faith with those in the civil service system who have been assured that we will put in place an appropriate supplementary system, having this action taken before we began the payment into social security by new civil service employees.

I strongly endorse the statements that have just been made by the minority leader and by the Senator from Arkansas.

Mr. SASSER. Will the Senator from Arkansas yield?

Mr. PRYOR. I will be glad to yield to my friend from Tennessee.

Mr. SASSER. Mr. President, I want to associate myself with the remarks made by the distinguished Senator from West Virginia. I was a cosponsor of the Long amendment. I strongly supported that amendment. I am

hopeful, Mr. President, and optimistic that our conferees will stand firm in support of the Long amendment in the course of the conference that will ensue following the passage of this bill.

Mr. RIEGLE. Mr. President, the Senate earlier today agreed by voice vote to a Long amendment to include new Federal employees under social security only after the Congress enacts a supplemental civil service program for those employees.

Mr. President, I voted against the two amendments that were offered by Mr. STEVENS intending to vote for the Long amendment. That vote was by voice vote.

I want the RECORD to show that had it been by rollcall vote, I would have voted for the Long amendment.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first I should like to associate myself with the remarks of the minority leader. I hope that the conferees will support the Long amendment with as much vigor as if it had been adopted by a rollcall vote.

Mr. RANDOLPH. Mr. President, as a cosponsor of the amendment of the able Senator from Louisiana (Mr. LONG), I would like to state for the RECORD that if given the opportunity I would have voted for the proposal. I urge my colleagues on the committee to support the amendment in the conference with the House.

Mr. FORD. Mr. President, I join my colleague from West Virginia in supporting the amendment of the Senator from Louisiana. If a rollcall were ordered, I would have voted "aye."

Mr. HUDDLESTON. Mr. President, the Senate earlier today agreed by voice vote to a Long amendment to include new Federal employees under social security only after the Congress enacts a supplemental civil service program for those employees.

Mr. President, I voted against the two amendments that were offered by Mr. STEVENS intending to vote for the Long amendment. That vote was by voice vote.

I want the RECORD to show that had it been by rollcall vote, I would have voted for the Long amendment.

Mr. DOMENICI. Mr. President, I intended to vote in favor of the amendment by my colleague from Louisiana to assure that a supplementary pension system be in place before new Federal employees are covered by social security. Had there been a rollcall recorded vote, I would have voted in favor of the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, if I may have the attention of the Senate, we have about a half a dozen amendments left, and I am going to encourage my colleagues who have those

amendments to use the minimum amount to time. We need to get to conference hopefully by 5 o'clock this afternoon. If we cannot make it by 5 o'clock, we will probably just postpone the conference until tomorrow.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. DOLE. Yes, I yield.

Mr. STENNIS. Mr. President, we need order. We need quiet, Mr. President, please.

The PRESIDING OFFICER. May we have order in the Senate, please.

Mr. BAKER. Will the Senator yield to me?

Mr. DOLE. Yes, I yield.

Mr. BAKER. Mr. President, the manager of the bill is absolutely correct—

The PRESIDING OFFICER. I wonder if the majority leader will withhold?

Mr. BAKER. Yes, I withhold.

The PRESIDING OFFICER. May we have order, please.

Senators will please desist discussions so that we might hear the majority leader. Staff will take their places on the seats in the rear of the Chamber.

The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, the manager of the bill is absolutely right. It is 3:30 in the afternoon. The day is rapidly slipping away from us. If we have any possibility at all of recessing tomorrow, as I hope we do, we have to get this bill out and be prepared to go to conference yet tonight, if the House is willing to do that. There are not many amendments left. In all candor, the major battles have now been fought.

I urge Senators either not to call up their amendments or to do so promptly and to consider those cases where a voice vote will suffice.

Mr. President, I thank the Senator for yielding.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, let me say to my colleagues that I think we all would like to finish, but some of us are conferees. We do not want to stay here until midnight to accommodate Senators who have statements that can be put in the RECORD so that when we go off to the conference others go home to bed.

If Senators would like to have the conferees meet this evening, they should let us try to expedite the process. We are well aware of the amendments. We are prepared to accept a couple of them and try to defeat the others.

On that basis, I think the Senator from Montana is ready to offer an amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I am about to offer an amendment that deals with the withholding provisions

applying to State and local governments.

AMENDMENT NO. 527

(Purpose: To eliminate the changes made with respect to the payment schedule for State and local governments)

Mr. BAUCUS. Mr. President, I call up printed amendment No. 527.

The PRESIDING OFFICER (Mr. STAFFORD). The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an amendment numbered 527:

On page 99 of the matter proposed to be inserted, beginning with line 19, strike out all through page 100, line 5.

Redesignate sections 149 through 152 of the matter proposed to be inserted as sections 148 through 151, respectively.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. STAFFORD). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, this amendment is really quite simple. It is to repeal a mistake that the committee made when we considered this bill—that is, section 148.

Under present law, States are required to collect social security taxes withheld by local subdivisions on a monthly basis. That is, States must collect within 30 days after the end of the month, the withholding deposits of local governments attributable to the employees they have working for them. That is the present law.

The committee decided, late one night, with no discussion, no hearings, and no examination whatsoever, to accelerate that withholding so that there would be 13 withholding periods for the coming fiscal year. This is the result if we adopt section 148 which requires that the deposit requirements of the States and all local governments be the same as they would be if they were private employers.

That means that IRS regulations with respect to withholding of payroll taxes for private employers would be applied suddenly to State and local governments. This means these large and small government jurisdictions will face not a monthly withholding requirement but instead will have to deposit up to as many as eight times a month.

I understand that the committee would like to find some additional revenue. I think that is probably the reason why it was adopted by a close vote in the committee. But the point is, as I said, that this came up in the middle of the night. I do not think it makes sense, and it should not be in this bill.

The National Commission did not consider this. The House did not consider it. The Ways and Means Committee did not consider it. No committee in Congress in the last several years has considered it.

I think all of us—at least, most of us—want to maintain the National

Commission package. We do not want to break the package. We do not want to adopt amendments which will have the effect of breaking the package apart. We know the importance of social security. We know the importance of the system, and we are doing what we can, with all due respect and with credit to all involved, particularly the Commission members and Members of the House and the Senate, to maintain that package.

We have rejected amendments in the Senate which probably would break up the package, and in this body we have adopted amendments which do not break up the package. This is not an amendment which breaks the package, and, by definition, it could not be, because it was not part of the Commission's package. The Commission did not discuss it. They did not pay any attention to it; neither has anyone else, except for the committee late at night, after just a few moments' discussion.

Mr. President, I think there is a good reason why the Commission did not consider this. There is a good reason why no other body considered it. That reason is that this provision, if it is kept in the law—section 148—will create absolute chaos for States and local governments.

First of all, we do not know what the responsibility of the States is. The States, if the section stays in the law, will be held accountable and liable for the late payments of school boards, counties, cities—all the municipal jurisdictions involved here. They cannot afford that liability.

More important, it is unclear whether IRS regulations would apply directly to States here or whether States, themselves, could enact regulations applying to local jurisdictions. It would be absolute chaos. That is why States and local governments do not want section 148 to stay in the bill. And that is the reason why we should strike that section.

Mr. President, there is also a good reason why the Commission did not consider this package. There is a little history behind this provision. Before 1978, States and local governments withheld payroll taxes and submitted those withholdings to the Government on a quarterly basis, four times a year. That was the law. Then, in 1978, the Treasury had a bright idea—and we all know that the Treasury is looking for whatever ways it can find to obtain additional revenue. The Treasury, on its own, because it could do so under the law in 1978, tried to implement the provisions that are in section 148.

At that time, in 1978, we in Congress were deluged with legitimate complaints by our local government people, State and local governments. They legitimately and properly pointed out the problems this provision would provide for people. So, at that time, Congress agreed. After comprehensive hearings, Congress then, by

law, said, "OK, we will change the law. We will speed up the collection, but we will only go to a monthly basis." That is the present law.

So my point is that the only time Congress has considered this in any way at all, the only time there were hearings, the only time the country had the opportunity to know what was involved here, Congress very definitely decided against the provisions of section 148 that are presently contained in the committee bill. That is, Congress decided that States and local governments should withhold on a monthly basis, and that is the law. That is why the National Commission did not touch it. That is why the House did not touch it. That is why no one else here has decided to change present law, except for the committee, after a few moments of discussion, late at night, when the committee considered this bill. Probably the reason why that committee adopted the provision was that it picked up some additional revenue over a decade—\$2.2 billion.

In my judgment, we should keep the package secure, and by keeping the package secure, let us not enact amendments that break the package. Similarly, let us not enact amendments which are not needed and which will cause unnecessary chaos.

Mr. President, this amendment obviously is supported by the States and by various municipal organizations—the National Governors Association, the National Conference of State Legislatures, the National League of Cities, and many others. I will not list all the other organizations that support this amendment.

Let me conclude this point by saying that this amendment is the only major departure that the committee has taken from the National Commission package. There are some minor variations, but this is the only major departure.

I think, Mr. President, that we should correct that oversight, correct that mistake, correct that misguided action that the committee took that night. Let us stay with the package. Even though we do get some additional revenue for the trust funds with this provision, it is going to cause absolute chaos and be absolutely impossible to administer, and we do not need it.

With that, Mr. President, I hope that Senate agrees and votes with me in striking this provision, because I think it will help us avoid a lot of problems that otherwise we are going to face down the road.

I yield the floor.

● Mr. BIDEN. Mr. President, I am happy to be a cosponsor of the amendment offered by Senator Baucus that would remove the proposal to accelerate State and local government deposits of social security taxes withheld from employees' paychecks from the social security bill.

Under current law, social security taxes withheld for State and local em-

ployees must be deposited within 30 days after the end of the month in which the applicable wages were paid. This gives States time to collect withheld taxes from the various local governments within their jurisdiction. Because States guarantee payment of these taxes, this time period is crucial.

The Senate Finance Committee, however, has included in its bill a provision that would put State and local governments on an accelerated deposit schedule identical to that which governs private business. This proposal is not included in the Social Security Commission's recommendations and is not a part of the House version of this legislation.

Many towns in my State, Mr. President, while very small, would be required to deposit these taxes every 3 days under this proposal. These are towns, in many cases with part-time governments, which may only meet once or twice per month, at which time all bills are paid. These are not towns with expensive and fancy computer systems that make it easy to complete these transactions on time, they are run by dedicated people who would simply not be able to keep up with the administrative burden this proposal would impose.

Delaware is hardly unique in this situation, Mr. President. The same applies to small towns and counties throughout America.

And then there is the burden we would place upon the States through this provision. States must guarantee payment of these taxes—but would clearly have great difficulty in collecting withheld taxes from many of the towns and counties within their jurisdiction. In addition, it is clear that it will be very difficult for States to turn the money they collect back around to the Federal Government within the time this provision would allot. The National Conference of State Social Security Administrators estimates that the interest and penalties on States arising from elimination of the current 30-day period would amount to \$400,000 annually.

It is important, Mr. President, that we find a solution to the social security problem that imposes no undue hardship on anyone from whom we demand sacrifice. I believe the proposal to accelerate State and local deposits of social security taxes violates this principle. I hope the Senate will reject the Armstrong substitute and approve the Baucus amendment. ●

UP AMENDMENT NO. 129

(Purpose: To permit units of local government to make payments of social security taxes directly to the Secretary of the Treasury)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk as a substitute for the Baucus amendment.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 129.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be stricken, insert the following:

SEC. 148. (a)(1) Subsections (e), (h), (j), (q), (r), (s), and (t) of section 218 of the Social Security Act are repealed.

(2)(A) Section 205(c)(1)(D)(i) of such Act is amended by striking out "(or on reports filed by a State under section 218(e) or regulations thereunder)".

(B) Section 205(c)(5)(F) of such Act is amended by striking out clauses (ii) and (iii).

(C) Section 218(f)(1) of such Act is amended by striking out "Except as provided in subsection (e)(2), any agreement" and inserting in lieu thereof "Any agreement".

(b) Section 3121(b)(7) of the Internal Revenue Code of 1954 (relating to exclusions from employment) is amended by striking out "shall not apply in the case of" in the matter preceding subparagraph (A) and inserting in lieu thereof "shall not apply in the case of service included under an agreement under section 218 of the Social Security Act, or in the case of".

(c)(1) Chapter 21 of such Code (the Federal Insurance Contributions Act) is amended by redesignating section 3126 as section 3127, and by inserting after section 3125 the following new section:

"SEC. 3126. RETURNS IN THE CASE OF STATE AND LOCAL GOVERNMENTAL EMPLOYEES.

"In the case of the taxes imposed by this chapter with respect to services performed in the employ of a State or any political subdivision thereof, or in the employ of any instrumentality of a State or political subdivision thereof which is wholly owned thereby, the return and payment of the taxes may be made by the Governor of such State or such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a)(1)."

(2) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Returns in the case of State and local governmental employees.

"Sec. 3127. Short title."

(d)(1) Section 6205(a) of such Code (relating to adjustment of tax) is amended by adding at the end thereof the following:

"(5) STATE AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and

each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."

(2) Section 6413(a) of such Code (relating to adjustment of tax) is amended by adding at the end thereof the following:

"(5) STATE AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."

(3) Section 6413(c)(2)(B) of such Code (relating to applicability in case of certain governmental employees) is amended to read as follows:

"(B) STATE EMPLOYEES.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."

(e) The amendments made by this section shall apply with respect to service performed after December 31, 1983.

Mr. ARMSTRONG. Mr. President, I shall undertake to explain the amendment.

At the present time, when those local jurisdictions which are covered by social security submit their social security taxes, they do so through their respective States. There is an element of injustice in requiring a more rapid deposit of the withholding proceeds when they have to run it through the States. It literally puts the States in the position of having to collect it faster than seems fair.

So the straightforward way to handle it would be as suggested by this substitute amendment, and that is to simply let the local jurisdictions report their social security taxes directly to the IRS just as they presently do the taxes which they withhold for Federal income tax. In other words, that is going to put the local jurisdictions, the municipalities, and so on, on exactly the same footing as any private employer.

We should bear in mind that some of these jurisdictions are fairly small. A few of them may even be as small as the small businesses that are covered by the Social Security Act, and so it is important to recognize that earlier amendments which we have added to this bill do liberalize the treatment of small business enterprises and assuming the adoption of the substitute, which is now before us, the local jurisdictions would benefit from the same kind of liberalized treatment. In other words, we are not trying to impose a severe duty upon these local jurisdictions with respect to their deposit requirements. Indeed, all we are seeking to do in the original amendment as the Finance Committee amended it and the substitute which I have sent to the desk is simply to say that municipalities, States, anyone that is covered should be on the same footing.

If we should for some reason fail to adopt the substitute and in turn adopt

the Baucus amendment, we would restore the present situation which is to give more favored treatment to units of local government than we give to private employers.

This does not seem fundamentally just to me that the State and local jurisdictions, particularly since they tend to have greater financial resources and greater resources of administration and data processing and so on, are given a better break than we give to small business concerns. It just does not make sense to me that the local gas station has to report its social security withholdings and pay those into the Treasury faster than does, say, a municipality or State government. So that is the issue involved.

To sum up, the substitute amendment would provide that the IRS, not the Social Security Administration, would collect FICA taxes from the State and local government units. The rules for the frequency of FICA deposits would be the same as those which apply to private employers, and those rules already apply to the deposit of withheld income taxes by State and local governments.

And as I pointed out a moment ago, they have been liberalized by an earlier amendment which we have adopted.

Finally, each local government could be treated as a separate employer for the purposes of deposit of FICA taxes at the option of the Governor of the State.

With that word of explanation, I urge adoption of the substitute amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BAUCUS. Mr. President, I understand the good faith of the Senator from Colorado. He is saying that the States would not collect withheld taxes but rather each local government subdivision, each local government entity would deal directly with the Federal Government.

Frankly, Mr. President, that is not even a baby step toward solving the problem. It does not meet the objections that I have. It would not meet the objections of the school districts, of the counties, of the cities, of the towns, of all the municipality subdivisions that are most directly affected by this amendment.

The main problem here is really that this is something that has to be worked out. Perhaps it could be phased in. We need a hearing. We need some full discussion, not to debate it forever, but at least some discussion where mayors and officials from entities and subdivisions as small as school districts can come to us, talk to us, to both bodies on both sides of the Capitol, so we can work out something that makes sense to them.

We cannot do this here. We did not discuss it. We just enacted it, and there we are.

Beyond that there is another point that has not been mentioned: For the next fiscal year these governments

have to pay an additional payment. There will be 13 monthly payments instead of 12. Considering the desperate financial straits, that most States and most local government entities are in these days with the recession, and so forth, I do not think this is a proper time to add this additional financial burden to them.

So what I am saying, Mr. President, is as much as I would like to adopt and agree with the Senator from Colorado, I cannot. If his substitute is adopted, my earlier amendment, according to the Parliamentarian, falls. All we will have done then is say keep the present provisions, section 148, except that States do not collect; everything else is the same.

As I say, that does not really go to the heart of the problem. That just touches the first little bit of the problem but does not go to the heart of the problem. So we have not really done anything. We are kind of wasting our time here. It is for those reasons that I must not agree to the amendment of the Senator from Colorado.

Mr. President, I therefore strongly urge that we do not adopt that provision. It does not go to the problem and I think that we should not agree to it.

On that score, Mr. President, I ask for the yeas and nays on the substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. I thank the Senator from Colorado as well as the chairman of the committee for helping to get the yeas and nays.

Mr. ARMSTRONG. Mr. President, unless there is something further, I think the issue is clear. The Senator from Montana has made some good points. It seems to me the most persuasive issue is we should not treat States and local jurisdictions differently than we treat private employers.

That does not dispute some of the points that he has made. It is just a question of how you feel about it.

I feel everyone should be treated the same. So I am ready to vote if the Senator from Montana is.

Mr. BAUCUS. Mr. President, I am except to say, yes, there is an equity argument here. Private employers have to pay as frequently as eight times monthly and they pay according to certain rules. Why should not State and local governments? That is the equity argument that has a lot of appeal.

The problem is we are going much too quickly. We do not know what we are doing here. It is going to cause absolute chaos for all these little entities. What is the school district going to do? It does not know what is going on here. The school district and every other government entity is used to dealing with the State because under present law they submit to the States and they deal with the States. States,

too, have 30 days within which to collect on the withheld payroll taxes that each of those local subdivisions provide.

Now, if we adopt the substitute amendment of the Senator from Colorado, States and particularly local subdivisions are not going to know what in the world is going on here. They will have to deal directly with the IRS and deal with all the redtape and all the mess of problems the employers have to deal with. I just suggest we possibly should ease into this, have a transition period.

The only way I know of doing that is to have a hearing on the subject. Let us address it and iron out the kinks and the problems that obviously are going to arise because we know what happened in 1978 when a similar change was suddenly proposed.

We in the Congress looked at it, and said, "Yes, let us move it from quarterly to monthly withholding, but let us not go any further. Monthly collections by the States is what makes sense."

As I said, that is also probably why the National Commission did not address this question because when Congress addressed it earlier it knew what the situation was.

Frankly, Mr. President, I am just here to try to talk a little common-sense. I do not particularly carry water for local governments or for States, for that matter. Sure, we would like to add some more money to the trust fund. But let us be reasonable. Let us not be draconian, let us not be tyrannical, let us not be dictatorial. Let us try to keep that partnership with the local governments that we need to have in this country if we are going to work together and solve problems.

Fundamentally we should work with people, work with local governments, and then we will resolve that equity argument which the Senator from Colorado mentioned.

Therefore, I think we ought not to agree to the substitute. I urge my colleagues to agree to the underlying main amendment, hold the hearings, and let us get on with it so that we will solve the problem reasonably.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. SPECTER). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—49

| | | |
|-------------|-----------|----------|
| Armstrong | Hatfield | Nunn |
| Baker | Hawkins | Packwood |
| Boschwitz | Hecht | Proxmire |
| Chafee | Heinz | Quayle |
| Chiles | Helms | Rudman |
| Cochran | Humphrey | Simpson |
| Cohen | Inouye | Stafford |
| Danforth | Jackson | Stevens |
| Dole | Jepsen | Thurmond |
| Domenici | Johnston | Tower |
| Durenberger | Kassebaum | Trible |
| East | Kasten | Wallop |
| Garn | Laxalt | Warner |
| Goldwater | Lugar | Weicker |
| Gorion | Mattingly | Wilson |
| Grassley | Murkowski | |
| Hatch | Nickles | |

NAYS—48

| | | |
|-----------|------------|----------|
| Abdnor | Dodd | Mitchell |
| Andrews | Eagleton | Moynihan |
| Baucus | Exon | Pell |
| Bentsen | Ford | Percy |
| Biden | Glenn | Pressler |
| Bingaman | Hart | Pryor |
| Boren | Heflin | Randolph |
| Bradley | Huddleston | Riegle |
| Bumpers | Lautenberg | Roth |
| Burdick | Leahy | Sarbanes |
| Byrd | Levin | Sasser |
| Cranston | Long | Specter |
| D'Amato | Matsunaga | Stennis |
| DeConcini | McClure | Symms |
| Denton | Melcher | Tsongas |
| Dixon | Metzenbaum | Zorinsky |

NOT VOTING—3

| | | |
|----------|---------|---------|
| Hollings | Kennedy | Mathias |
|----------|---------|---------|

So Mr. ARMSTRONG's amendment (UP No. 129) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I understand the distinguished Senator from Hawaii (Mr. MATSUNAGA) has an amendment which has been agreed to by other Senators who have an interest, Senator MITCHELL, Senator LUGAR, and others, and that the distinguished Senator from North Carolina (Mr. HELMS) has an amendment which has been cleared.

I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 130

(Purpose: Providing for a study of individual retirement security account)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 130.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, insert the following new section:

STUDY OF INDIVIDUAL RETIREMENT SECURITY ACCOUNTS

Sec. (a) The Secretary of the Treasury or his delegate shall conduct a study of the feasibility of implementing Individual Retirement Security Accounts (hereinafter in this section referred to as "IRSAs") or any similar alternative type of account.

(b) For purposes of this section, an IRSA shall be an account which includes, but is not limited to, the following features:

(1) Any individual who is required to pay tax under section 3101 of the Internal Revenue Code of 1954 may elect to make contributions to the account.

(2) An individual could make unlimited contributions to an IRSA and would receive an income tax credit equal to 20 percent of the amount of the contribution for any taxable year but not in excess of 20 percent of the amount of the taxes paid under section 3101 of such Code by such individual for such taxable year.

(3) To the extent that an individual elected to take advantage of the tax credit for a contribution to an IRSA, the Old-Age and Survivors Insurance benefits of such individual under the Social Security Act would be reduced proportionately in a manner such that if an individual was allowed the maximum credit for 20 years, such individuals benefits would be reduced to zero.

(4) After the IRSA system has been implemented, an increasing portion of the taxes imposed by sections 3101 and 3111 of such Code with respect to any individual would be transferred to such individuals IRSA account with a corresponding reduction in such individual's Old-Age and Survivors Insurance benefits. Eventually all such taxes would be so transferred with an appropriate phaseout of the credit. The Secretary of the Treasury or his delegate shall study 1 or more schedules for the increases in taxes transferred and phase-out of the credit.

(5) An individual could withdraw funds from an IRSA after age 62 without such amounts being taxed. If an individual withdraws funds from an IRSA prior to age 62, such amounts would be appropriately taxed unless used to purchase term life, health, or disability insurance.

(c) The Secretary of the Treasury or his delegate shall also study the feasibility of making IRSAs mandatory, with mandatory employee contributions accompanied by the phase-out of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954.

(d) The Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under this section before July 1, 1984.

Mr. HELMS. Mr. President, the able Senator from Kansas and the Senator from North Carolina discussed this amendment last evening when it was offered. I believe this has now been cleared on both sides.

Mr. DOLE. Mr. President, a discussion of the amendment offered by the distinguished Senator from North Carolina (Mr. HELMS) was held last evening. This amendment was drafted to conform to the Senator's request, and it has been cleared on both sides. We will accept the amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (UP No. 130) was agreed to.

Mr. **DOLE**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **HELMS**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **DOLE**. Mr. President, I understand the distinguished Senator from Hawaii (Mr. **MATSUNAGA**) has an amendment which we can accept.

SENATE CONCURRENT RESOLUTION 20 MAKING TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 1718

Mr. **BAKER**. Mr. President, I have a matter that needs to be attended to now in connection with the jobs conference report which was sent to the House last evening. This has been cleared by the minority leader and by all responsible persons on this side, those who have a jurisdictional interest.

Mr. President, I send a concurrent resolution to the desk dealing with the typographical error in the conference report on the jobs bill and ask for its immediate consideration.

The **PRESIDING OFFICER**. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 20) making corrections in the enrollment of H.R. 1718.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its consideration.

Mr. **BAKER**. Mr. President, this concurrent resolution makes a typographical correction and adds two paragraphs inadvertently dropped from the Senate amendment to the targeting provision of the jobs bill which the Senate passed last night. These corrections have been cleared with the minority and I know of no objection to adoption of this concurrent resolution.

The **PRESIDING OFFICER**. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 20) was agreed to, as follows:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 1718) entitled "An Act making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent for fiscal year 1983, and for other purposes", the Clerk of the House of Representatives is hereby authorized and directed, in the enrollment of the said bill, to make the following corrections, namely, after the word "unemployment" in paragraph (a)(b) in section 101, insert a comma:

and at the end of section 101, insert the following:

"(e) Notwithstanding any other provision of law, the head of each Federal agency to which appropriations are made under this title, with respect to project grants or project contracts in this section, shall expedite final approval of projects in areas of high unemployment, labor surplus areas, or in political units or in pockets of poverty that are currently or should meet the criteria to be eligible under the Urban Development Action Grant program administered by the Department of Housing and Urban Development in order to allocate sums as required by this section. Nothing required by this section shall impede the rapid expenditure of funds under this section.

(f) Notwithstanding any other provisions of law, any agency rulemaking proceeding conducted in order to implement the provisions of this title shall be conducted expeditiously, and in no case shall an agency hearing on the record be required."

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. **DOLE**. I move to lay that motion that on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The Senate continued with consideration of the bill.

UP AMENDMENT NO. 131

(Purpose: To provide that the provision limiting the payment of social security benefits to nonresident aliens shall not apply to individuals who initially become eligible for social security benefits within 10 years after the date of enactment of the social security amendments of 1983 on the basis of the wages and self-employment income of an individual who has 80 or more quarters of coverage prior to such date.)

Mr. **DOLE**. Mr. President, I understand that the Senator from Hawaii is now prepared to offer his amendment, which has been agreed to. The Senator from Maine is on the floor. I know he has a direct interest in the amendment and the Senator from Iowa (Mr. **GRASSLEY**) is interested.

Mr. **MATSUNAGA**. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The bill clerk read as follows:

The Senator from Hawaii (Mr. **MATSUNAGA**) proposes an unprinted amendment numbered 131.

Mr. **MATSUNAGA**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 2, strike out "or".

On page 53, line 7, strike out the period each place it appears and the end quotation marks and insert in lieu thereof a comma and "or".

On page 53, between lines 7 and 8, insert the following new matter:

"(C) to any individual who—

"(i) initially becomes eligible for benefits under section 202 or 223 before the date

which is 10 years after the date of the enactment of the Social Security Amendments of 1983 on the basis of the wages and self-employment income of any individual with respect to whom not less than 80 of the quarters elapsing before such date are quarters of coverage (as defined in section 213(a)(2)); and

"(ii) in the case of an individual described in clause (i) who becomes so entitled on the basis of the wages and self-employment income of another individual, resides in the United States at any time before such other individual accrues 80 quarters of coverage."

Mr. **MATSUNAGA**. Mr. President, the provision in section 124 of the committee bill to limit social security benefit payments to aliens outside the United States raises for me a grave concern on a matter of equity. Except where required by an international obligation of the United States, section 124 would bar virtually all aliens abroad from receiving full benefits, if their initial eligibility becomes effective after December 31, 1984. Included would be alien workers, many of whom had legally worked and resided in the United States for their working lifetime and paid social security taxes on their earnings in all those years. This provision is manifestly unfair to those aliens who have spent a major part of their lives working in the United States and contributing to our society and economy.

We have a situation in my State of Hawaii wherein section 124 of the committee bill could adversely affect a considerable number of alien residents who would be much better off if they returned to live in their homeland in their retirement years. Between 1907 and 1946, more than 126,000 laborers migrated from the Philippines to Hawaii. Many have already returned to their homeland. Many have died; nearly all of the survivors are retired elderly. The youngest of them have reached age 55 years. Most of these immigrants have spent their working years in Hawaii without the support of family ties.

Many of these lonely, aging Filipinos look forward to returning to their homeland. Their extended families in the Philippines welcome back their aged members and provide them with love and care that are so essential to their mental, physical, and emotional well-being in their later years. The retiree is able to be reunited with not only his extended family, but his church and associations in the Philippines, where there is not the language and cultural barriers that exist for immigrant Filipinos in Hawaii.

In 1975, Father Jaime S. Neri, a Catholic priest, almost single-handedly, boldly undertook to address the needs of such Filipino retirees. With the support of his parishioners and the Hawaii State government, Father Neri was able to arrange for the return to the Philippines of a group of 41 men, ranging in age from 65 to 85, most of them lonely bachelors or widowers. This successful repatriation program is known as Balik-Bahay,

meaning homecoming in the Filipino language.

An important aspect of the Balik-Bahay program is that it not only provides for a better quality of life for the retiree, it also effects considerable savings in American taxpayers' dollars.

As Father Neri has repeatedly stated to the Social Security Administration in his effort to federalize his Balik-Bahay program, repatriation of many of the retired beneficiaries at Government expense would result in savings to the American taxpayer. Most of the men seeking repatriation are receiving supplemental security income (SSI) benefits while they remain in Hawaii. In 2 years, from 1975 to 1977, the Balik-Bahay program saved the State and Federal Government a total of \$74,000. This saving came from the cessation of SSI, food stamp, medicare, and medicaid payments and housing subsidies for these individuals. In 1979, it was estimated that more than \$10,000 a month of public taxpayer costs are saved by the departure of the 41 men that were already sent home to the Philippines.

For example, a 74-year-old bachelor was sent home in January 1979. It was costing the Hawaii Department of Social Services \$1,084 a month to maintain him in a nursing home. Now, back with relatives in the Philippines, and with his U.S. social security check (earned legally through long years of labor) of \$236 a month, he lives comfortably. His monthly social security check translates into about 1,650 pesos and is more money than the local physician makes.

This humanitarian and tax-saving program to help migrants who desire to return home to rejoin their families would be jeopardized by the proposal to limit social security benefit payments to aliens outside the United States. The migrants, who labored for many years contributing fully to the social security system, would no longer be able to receive their full social security benefits if they reach eligibility after December 31, 1985, and returned to their homeland. They would be forced to choose between giving up hope of returning to their homeland on the one hand, and returning with little or no retirement income, on the other. The likelihood is that they would give up hope of returning to their homeland and draw welfare payments to supplement their meager social security benefits.

The National Commission made no recommendations concerning aliens even though it considered imposing a residence test on the payment of benefits outside the United States to auxiliaries and survivors. And the Finance Committee proposal would not result in appreciable savings in the early years since it would only apply prospectively. Thus, the proposal does not, in any event, contribute to the immediate task at hand. There is no need to rush into what maybe ill-considered action, which would lead to a small, or

even negative savings for the social security trust fund, when there is ample time to deal properly with this issue in the months and years ahead.

My amendment would delay the implementation of limiting the payment of hard-earned social security benefits to any alien outside the United States until 10 years after the enactment of this proposal, if upon the enactment of the committee provision the alien had contribution to the system for 20 or more years.

Aliens coming to work in the United States after the enactment of the committee proposal will not entertain the expectation of receiving from the social security system more than what they will contribute into it, with interest. However, we should not change the rules of the game and penalize those aliens who are now in the system and have contributed to it in full expectation of the scheduled benefits upon reaching retirement age. Although I believe that no one already contributing to the service should be denied its benefits upon qualification, it is in the spirit of compromise. That I am offering my amendment, specifically for those aliens who have already spent at least 20 years in covered employment in the United States and will qualify for retirement benefits within 10 years after the enactment of the committee proposal.

The floor manager, the distinguished chairman of the Finance Committee is signaling me to wind it up, so let me say, that is the essence of my amendment. It is meant to save the State and the Federal Government money, just as it was intended by the original section 124, while providing a comfortable retirement for deserving aliens who have contributed toward elevating the quality of living in the Aloha State.

I might in closing, point out for the Record, as was suggested by the Senator from Maine, that those who become spouses or dependents after the enactment of this act will not qualify as dependents of principal alien beneficiaries who reside outside of the United States.

Mr. President, I urge the adoption of my amendment. Before yielding the floor, I ask unanimous consent that Senator INOYE be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, this amends a provision of the pending bill which was included by the committee at the initiative of Senator GRASSLEY and myself and was intended to deal with a serious pattern of abuse that has been apparent for some time and brought into focus by the recent report of the General Accounting Office.

Senator MATSUNAGA's amendment provides for a transition period of 10 years under very tightly defined cir-

cumstances and is intended to accommodate those persons whom he described and others in similar circumstances. I have discussed this with Senator MATSUNAGA and, earlier today, with Senator GRASSLEY. I believe that, while it does provide some exceptions to the provisions of the legislation, the exceptions are sufficiently narrow and warranted under the circumstances. Therefore, I have no objection to the amendment.

Mr. DOLE. Mr. President, do I understand correctly that the Senator from Maine has no objection to the amendment?

Mr. MITCHELL. That is correct.

Mr. DOLE. Mr. President, I wonder whether the Senator from Maine has had conversation with the Senator from Iowa (Mr. GRASSLEY) and with Senator LUGAR.

Mr. MITCHELL. Earlier today, Mr. President, Senator MATSUNAGA, Senator GRASSLEY, and I met to discuss this. Senator GRASSLEY has said the matters now set forth in the amendment would be agreeable to him. I am not aware of whether Senator LUGAR participated in those discussions or agrees with them.

Mr. DOLE. The Senator from Iowa (Mr. GRASSLEY) is now entering the Chamber. I understand that he and Senator LUGAR have no objections to the amendment of Senator MATSUNAGA as modified. Is that correct?

Mr. GRASSLEY. That is correct, Mr. President.

Mr. DOLE. Mr. President, the Senator from Kansas has no objection to the Matsunaga amendment as modified. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 131) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I want to say to the Senator from Hawaii that I was not trying to get him to wind it up. I felt that he was way ahead and I did not want him to lose.

UP AMENDMENT 132

(Purpose: To amend title II of the Social Security Act to provide for an eight-month transitional benefit for a widow or widower whose spouse died while such widow or widower was between the ages of 50 and 60)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and Mr. DeCONCINI, Mr. CHILES, Mrs. KASSEBAUM, Mrs. HAWKINS, Mr. FORD,

Mr. BURDICK, and Mr. RANDOLPH, proposes an unprinted amendment numbered 132.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

TRANSITIONAL BENEFITS FOR CERTAIN WIDOWS AND WIDOWERS

SEC. (a) Section 202(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 50 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife would be so entitled to a widow's benefit under this subsection); and

"(iii) is not otherwise entitled to a widow's benefit under this subsection,

shall be entitled to a widow's benefit under this subsection (subject to the same conditions as an individual entitled to a widow's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which she meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife is entitled to a widow's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the eighth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widow or surviving divorced wife is entitled to a widow's benefit under this subsection other than by reason of this paragraph."

(b) Section 202(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 50 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widower would be so entitled to a widower's benefit under this subsection); and

"(iii) is not otherwise entitled to a widower's benefit under this subsection,

shall be entitled to a widower's benefit under this subsection (subject to the same conditions as an individual entitled to a widower's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which he meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widower is entitled to a widower's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the eighth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widower is entitled to a widower's benefit under this subsection other than by reason of this paragraph."

(c) The amendments made by subsections (a) and (b) shall be effective with respect to monthly benefits under Title II of the Social Security Act for months beginning after December 31, 1983.

Mr. LEVIN. Mr. President, I send this amendment to the desk on behalf of myself, Senators KASSEBAUM, CHILES, HAWKINS, DECONCINI, FORD, BURDICK, and RANDOLPH.

Mr. President, the amendment that we are offering would give a widow who is under age 60 and is, therefore, not eligible for social security as the survivor of her husband and a widow who is not working a chance to survive financially for a few months while looking for work after the death of her husband. In many cases, widows have spent most of their adult lives raising a family and need time to try to adjust their skills to the demands of the workplace. Also, it is an unfortunate fact of life that women entering or reentering the work force after 20 or 30 years can have a very difficult time finding a job.

Our amendment, therefore, provides for a transition benefit to surviving spouses caught in what has been called the widow's gap. I previously introduced legislation to deal with this situation on October 15, 1981.

Under present law, a widowed homemaker under the age of 60 does not qualify for any financial assistance from social security unless she is disabled or has a child in her care who is disabled or under 16 years of age. This causes a severe hardship for the many women who are widowed under the age of 60 and without a job.

My amendment would provide this transition benefit to widows of workers covered by social security, if the surviving spouse is at least 50 years old at the time of the wage earner's death and is not otherwise immediately eligible for social security benefits for the month in which the death occurred. Thus, the transition benefit is for an 8-month period. The benefit would be for the same percentage of the wage earner's primary insurance amount as under current law, for widows age 60, or the spouse's own primary insurance amount based on her own past work experience, whichever is higher. These benefits would also be subject to the social security earnings limitation.

Mr. President, coverage has not been made available to this group in the past under the rationale that these individuals can be expected to work and support themselves. But the fact is, Mr. President, according to a February 1979 report from the Department of Health, Education, and Welfare entitled "Social Security and Changing Roles of Men and Women":

Lifelong homemakers (or women who have been out of the labor force for many

years) who are widowed in late middle age may find it difficult or impossible to get a job. Even widows with job skills or younger widows may have difficulty finding a job immediately or may need a period of job training. For these reasons, widows under age 60 may need some kind of immediate income, at least for a short time, to help them adjust to the loss of their spouse's income.

Mr. President, that is exactly what this amendment does. For a short time, it provides that adjustment, that transition benefit to permit widows in their middle age, who have raised a family and who have run the house, a chance to look for work and not be left destitute during that process.

At this point, some may be thinking that this is a good idea, but can the package afford it. Certainly this is a concern of the chairman of the committee. I know of his prodigious effort to balance the need for safeguarding the fiscal integrity of the social security system, with the need for equity and compassion.

But I know from looking at the committee's report and a report from the office of the actuary of the social security system that there is room for my amendment within a financially sound social security system, both in terms of the short and long term.

As for the short-term financing situation, the Office of the Actuary estimates that for calendar year 1984 my amendment would cost about \$75 million. The Office of the Actuary calculates that the net increase in funds in the OASDI trust fund as the result of S. 1 would be \$4.5 billion in calendar year 1984, the first year our amendment would be in effect. This amendment would not, therefore, jeopardize the solvency of the OASDI fund because the Office of the Actuary estimates that with the passage of S. 1 there will be \$29.1 billion in the OASDI at the end of 1984.

As for the long-term financing question, the Office of Actuary calculates our amendment would cost 0.01 percent of taxable payroll. The committee's report indicates that the effect of passage of S. 1 would be to leave the OASI trust fund with a surplus of 0.07 percent, and the combined OASDI trust fund with a surplus of 0.09 percent. Therefore, the passage of my amendment with costs of 0.01 percent of taxable payroll would not in any way jeopardize the long-term solvency of the system.

One final word. Mr. President. Throughout my statement, I have referred to widows. Our amendment would apply to similarly situated men as well, although 90 to 95 percent of the individuals who would benefit from this provision would be women. It is estimated that between 30,000 and 35,000 individuals would benefit from this provision each year.

This amendment thus balances the same values of fiscal integrity and compassion which the committee's bill sought to balance, and I hope that all of our colleagues can support this modest

amendment, again at a cost of \$75 million, finally doing something to correct the very, very real and tragic problem of displaced homemakers who have given their lives to raising their children and to maintaining their homes and to then find themselves in their fifties suddenly widowed without work and looking for work. This amendment would close, in a modest way, that "widow's gap" at a very, very modest cost to the social security fund.

Mr. DOLE. Mr. President, I always look with favor on amendments offered by the distinguished Senator from Michigan because he is very sensitive and very concerned about the needs of people. His amendment would provide 8 months of social security benefits for a widow or widower whose spouse died while the widow or widower was between the age of 50 and 60 and benefits would be paid at the rate for the widow or widower at age 60, that is, 71.5 percent.

I think the cost between now and 1989 would be about \$1 billion, the long-range cost at about 0.01 percent of taxable payroll.

As the Senator pointed out, the amendment would address a problem confronting lifelong homemakers who have been out of the labor force for many years and suddenly find themselves widowed in late middle age. This amendment would allow older widows to adjust to the loss of their spouse's income and give them a period of time to prepare to enter the work force.

We had some outstanding women on the National Commission and we believe we made some progress in the Commission in addressing the inequities facing women under social security. We did provide for benefits for divorced or disabled widows or widowers who remarry. We changed the indexing for deferred survivor benefits. We added the independent eligibility for divorced spouses. We increased benefits for disabled widows and widowers. We also changed the child care credit, through the amendment of the distinguished Senator from Colorado, which we adopted as part of a long-range package. It is not that we were not conscious or concerned or sensitive to discrimination in some areas of social security. The current package does contain several recommendations.

Our committee recognizes that more remains to be done on these issues and hopes to hold hearings later this year on a more comprehensive approach than the solutions to individual problems offered in this package.

However, on this particular amendment, how do you hold the line at age 50? Why not 40 or 45 or any other age where someone is widowed and where they may be unable to find work?

If you were to take out any age limit on this proposal, then the cost goes to the ceiling. It is another great program, and I commend the Senator from Michigan for calling it to our attention, but I urge my colleagues to defeat this amendment.

Martha Keys, the former Congresswoman from my State, the State of Kansas, who was a member of the Commission, along with Mary Fuller, an outstanding member of the Commission from the State of California, and the Senator from Colorado, had a whole series of additional women's issues they wanted to get into but could not, because of the constraints in the Commission report.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Conversations in the rear of the Chamber will please cease.

Mr. DOLE. The Senator from New York, the Senator from Kansas, and others on the Commission made a number of efforts in this area. We had a whole list of things we wanted to address, and finally we had to draw the line.

I hope the Senator from Michigan will let us proceed with hearings which we will be holding this year in our committee. We know that there are other areas that need to be addressed.

On this particular amendment, however, I wonder how would we hold the line on protecting a spouse from the loss of a worker's income only when he has died? Loss of income can also occur with divorce, separation, disability. Current disability benefits require a 5-month waiting period. A spouse, in particular, with no work history, can suffer loss of income in each of those situations. If we pick out only one, we have difficulty in discriminating against some other group.

I hope the Senator will let us consider the amendment in hearings, because we do plan a more comprehensive approach.

Mr. MOYNIHAN. Mr. President, the chairman has stated it accurately. I fully join in his suggestion that what the Senator from Michigan proposes is compassionate and intelligent. The question is how to fund it.

We have undertaken a broad consideration of those aspects of the social security system which are not equitable to women, which discriminate against them, or where the system simply should be improved because of those circumstances.

Most important, I think, is the question of shared earnings. But the more of these issues involved, the more important our hearings will become. Shared earnings are probably a priority.

I hope we can put this matter over until that early date when we take up the large discussion that is necessary. We can not do it on this package. A billion dollars in the next 7 years is a billion dollars, and we dare not.

Mr. LEVIN. Mr. President, I thank my friends from Kansas and New York.

This is indeed an important issue. It is something which has been festering a long time. As I indicated, I introduced a bill on this subject a number

of years ago. It is an inequity which has to be faced. It can be faced now, in this bill. I think there is an understanding that we can solve this problem now.

If we add up enough years, I guess we can get to a billion dollars. But the fact is, as we understand from the actuary, the cost of this is \$75 million in calendar year 1984 and \$100 million for each year from 1985 through 1987. I do not know how many additional years beyond that the chairman went to get to the figure he identified.

He made a reference to one of the members of the Commission, Mary Fuller, and I want to read from her supplementary statement to this report. She said:

The effect on women of the Social Security program is a subject of major importance, and much analytical work has been done to identify and evaluate alternative approaches to correct the unintended inequities. In fact, the 1979 Advisory Council on Social Security spent more time on this issue than on any other single issue. Unfortunately, our commission could not address this issue due to the urgent priority of restoring the solvency of the system. But we do not intend this choice to detract from the importance of restoring the equitable treatment of women in today's world. The provisions of the bi-partisan package, while advantageous to certain groups of women, do not begin to address the fundamental, though unintended, inequities, that act to the disadvantage of all people except members of intact one-earner couples.

We have talked with her, and, by the way, her reference to this issue relates to inequities to women, not just the particular amendment I am offering.

We also talked to Martha Keys, an outstanding person, with great background in these issues. She told us that this is an excellent amendment, that the area we address is an area of extreme urgency.

We in the Senate all know about the widows' gap. We have let this go on. We know there are women by the tens of thousands in their fifties who are left with children now grown and are suddenly widowed and are not eligible for the social security benefit. They have not worked, they are thrown onto the job market, and they cannot get a job. We all know that.

This amendment is a modest transition amendment to say, "Here, for 8 months you will have this transition benefit so that you can survive."

I say to the chairman of the committee that this is a very modest amendment in amount, in purpose, and in intent, and it is the kind of amendment we all can support.

We have taken action to help small business. We have taken action which costs \$200 million. The trust fund is going to have to lay that out in 1984 to help small business. I think we can take action which will cost \$75 million to help widows.

Mr. President, in closing let me just take a moment to thank Congresswoman MARY ROSE OAKAR, chairperson of the House Task Force on Social

Security, and her staff for the assistance they provided in the formulation of this important legislation.

Mr. DOLE. Mr. President, I do not want to quarrel with my friend from Michigan. He may proceed on it however he wishes.

We are concerned. We think we have demonstrated that our concern is real. This may be a gap as pointed out by the Senator from New York. It may not be classed as an inequity. We had a very difficult time saying no to many of these worthwhile provisions.

We had a little surplus earlier on today, but that has been wiped out, according to the actuaries, by adoption of the Long amendment. At one time, we had a little cushion, and this amendment might have been able to fit into that little cushion.

Mr. LEVIN. I would be happy to make the suggestion to the chairman that if the Long amendment survives intact in conference and if my amendment were adopted, I would be happy to see the conferees adopt this amendment—if the Long amendment were kept intact in conference.

Mr. DOLE. They might be able to figure out something along that line. If the Senator would raise the age to 55 and reduce the time to 6 months, we might take it to the Rotunda or beyond.

Mr. LEVIN. Including the other part of the suggestion, about the Long amendment?

Mr. DOLE. I do not know anything about the Long amendment. [Laughter.]

Mr. LEVIN. Mr. President, I suggest the absence of a quorum, so that we can confer for a moment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I send a modified amendment to the desk on behalf of the same cosponsors.

The PRESIDING OFFICER. The amendment will be so modified.

The modified amendment is as follows:

At the appropriate place in the bill, insert the following new section:

TRANSITIONAL BENEFITS FOR CERTAIN WIDOWS AND WIDOWERS

SEC. . (a) Section 202(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 55 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife would be so entitled to a widow's benefit under this subsection); and

"(iii) is not otherwise entitled to a widow's benefit under this subsection,

shall be entitled to a widow's benefit under this subsection (subject to the same conditions as an individual entitled to a widow's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which she meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife is entitled to a widow's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the eighth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widow or surviving divorced wife is entitled to a widow's benefit under this subsection other than by reason of this paragraph."

(b) Section 202(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 55 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widower would be so entitled to a widower's benefit under this subsection); and

"(iii) is not otherwise entitled to a widower's benefit under this subsection,

shall be entitled to a widower's benefit under this subsection (subject to the same conditions as an individual entitled to a widower's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which he meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widower is entitled to a widower's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the sixth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widower is entitled to a widower's benefit under this subsection other than by reason of this paragraph."

"(c) The amendments made by subsections (a) and (b) shall be effective with respect to monthly benefits under title II of the Social Security Act for months beginning after December 31, 1983.

Mr. LEVIN. Mr. President, the modified amendment, which I sent to the desk, reflects the suggestion of my friend from Kansas that we start this benefit that I described as a widows' transition benefit at age 55 instead of 50 as in my original amendment and that it be for 6 months instead of the 8 months as in the original amendment.

I, as always, am so grateful for the help of my friends from Kansas and Louisiana.

I think the suggestion is a constructive one which gets on the books at

least on this bill a provision which we have been struggling for so long to achieve. We have not recosted it, but I presume it would be something less than \$75 million, perhaps in the area of \$50 million in the first year, that divided by perhaps half because we are starting at age 55 instead of 50. So I presume it would be in the area of \$25 million to \$30 million.

I hope that my friend from Kansas and my friend from Louisiana will try to hold to this position in conference regardless of the disposition of the Long amendment in conference.

Mr. DOLE. Mr. President, if the Senator will yield to me, let me assure the Senator I did not mean to connect the two. I am sure the Senator from Michigan did not. But I think with the modification mentioned before, the Senator from Kansas is willing to accept the amendment.

Again I will say that the amendment has a great deal of merit, but there are a number of others that probably fit in that same category. I am not certain what the reaction of the House of Representatives will be. I am certainly willing to test it.

Mr. LEVIN. I thank my friend from Louisiana and my friend from Kansas for their constructive suggestion and help and thank the Chair and yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Michigan.

The amendment (UP No. 132), as modified, was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SIMMS. Mr. President, have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. They have not.

Mr. SIMMS. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 133

(Purpose: To disregard tax-exempt interest in the computation of adjusted gross income for purposes of the taxation of Social Security benefits)

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 133.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 115, beginning with line 21, strike out all through page 116, line 3, and insert in lieu thereof the following:

"(2) ADJUSTED GROSS INCOME.—For purposes of this subsection, the adjusted gross income of the taxpayer for the taxable year shall be determined without regard to this section and sections 221, 911, and 931.

Mr. LONG. Mr. President, this amendment deals with a provision that was not in the Commission recommendation. It deals with a provision that was not in the House bill. And in my judgment it is certainly a provision that was not adequately considered even in the Senate Finance Committee. This provision would require that in taxing 50 percent of social security benefits, that the base for determining whether people pay the tax include whatever income they may have from State and municipal bonds.

Mr. President, there is no doubt in my mind that the proposed inclusion of State and local bond interest in the tax base for calculating the tax on social security benefits is unconstitutional. We have debated that matter before in the Senate and I believe most Senators begin to understand the issue.

It seems that every year the people who want to tax State and local bond interest seem to find some new way of trying to do it. The problem is, no matter how the proposal is dressed up, taxing State and local bond interest still raises serious constitutional problems.

The proposal would not affect the taxation of higher income people. Let me explain that for a moment, Mr. President, because a lot of folks do not understand this.

This proposal in the committee bill does not apply to people who are making a lot of income. It only applies to little people in the middle-income bracket. For example, if a person had, let us say, \$50,000 of adjusted gross income and \$100,000 of tax-exempt bond income, he would pay the tax on half his social security benefits anyway and it would make no difference how much he had in tax-exempt income. Whether he had \$1 or \$100,000 of tax-exempt income, once he has the \$50,000 or for that matter once he has \$40,000 of adjusted gross income, from that point forward he is paying all the tax that is to be paid on 50 percent of his social security income anyway.

So this is only a tax provision to strike at middle-income aged people. It is not one to strike at very wealthy aged people.

I do not think the committee really understood the matter when the com-

mittee voted to put this on the statute books. This adds complexity to the formula for taxing social security benefits and it would raise very little additional taxes.

Now to support that statement, Mr. President, you do not need to go beyond the committee report. The committee report contains its estimate on how much money the bill raises with all these provisions. This is what I regard as a clearly unconstitutional provision which unfairly affects old people—and then you look in the chart in the committee report to see how much money the bill is going to raise by taxing the State and local government and what do you see? An asterisk. How much do they raise? An asterisk. You know what that means. An asterisk means that over the period less than \$5 million will be raised. An asterisk. What it really means is zero in this case, because it is not going to raise anything.

The cost of administering it and the cost of the complexity, the cost of adding additional lines on the income tax returns of these dear old people—and it will probably have to go on everyone's income tax return—completely offsets whatever might be raised with the provision.

In short, Mr. President, the provision in the committee bill creates problems of constitutionality and complexity in order to close an imagined loophole that does not really exist at all.

Let us just understand this, Mr. President: People do not benefit as far as investments are concerned by buying State and municipal bonds if they are in low tax brackets. The reason is that they lose anywhere from 20 to 40 percent of the income that they would get by buying instead a Federal bond, for example, or a AAA corporate bond. They would lose anywhere from 20 to 40 percent of their income by buying a State or municipal bond and, therefore, as Bill Simon, a former Secretary of Treasury, used to tell us, it has been taxed already. You might say it has been taxed for the benefit of the State and local Government because the fact that bonds of State and local governments are not subject to taxation by the Federal Government causes those bonds to sell at a favored price which means that they pay a much lower interest rate.

Mr. President, we should make no mistake about it. This provision does amount to taxing the interest on those State and local bonds.

Suppose an individual has social security benefits of \$10,000, pension income of \$20,000, and a tax-exempt income of \$10,000. Under the House bill and Social Security Commission recommendation you count one-half of social security benefits as income, \$5,000; count the pension income of \$20,000; for a total countable income of \$25,000. Thus in this situation social security benefits would not be taxed under the House bill.

But under the terms of the Finance Committee bill you count one-half of social security benefits as income, so that is \$5,000; then count pension income of \$20,000; and then count tax-exempt income of \$10,000 for a total countable income of \$35,000, and one-half of the social security benefits would be fully taxed. Thus the inclusion of tax-exempt income would have the effect of raising taxable income \$5,000 in this example.

Furthermore, this proposal is not targeted at high-income individuals. In fact, it would only increase taxes on persons with relatively low levels of taxable income aside from their exempt bond interest. Any single person with adjusted gross income of over \$25,000, and any married couple with adjusted gross income of over \$32,000, will already be over the taxable threshold and thus will not be affected if their exempt bond income goes into the base. Only persons with adjusted gross income, other than exempt bond income, of less than \$25,000 for single individuals, or \$32,000 for a married couple, will suffer this taxation of their exempt bond income.

(Mr. SYMMS assumed the Chair.)

Mr. LONG. Why did the Finance Committee adopt such a proposal? It was not in the Social Security Commission's recommendations, and the revenue cost over the next 7 years is too small to be estimated.

Why would you want to discriminate against these dear old people? Anybody else who buys those tax-exempt bonds will not be taxed on the interest. Why would you want to do that to grandma? Why tax her? Why?

It is difficult to understand. The committee assumed that the proposal was needed to close a loophole under which a person could convert his taxable income into tax-exempt income in order to avoid paying tax on some of his social security benefits. In fact, the potential tax savings from such a conversion is very small and would be more than offset by the lower yield on the exempt bonds.

Furthermore, once a taxpayer had brought his countable income down below the \$25,000 or \$32,000 threshold, his marginal tax rate would be so low that the tax-exempt bonds would be a bad investment. That is, the tax savings would be much smaller than the amount the taxpayer would be giving up by investing in bonds with a lower yield. That is why the revenue estimators say that the revenue gain under this provision is too small even to estimate.

Mr. D'AMATO. Mr. President, will the Senator yield for a question?

Mr. LONG. Yes, I yield.

Mr. D'AMATO. Am I understanding the Senator correctly to say that if you are on social security and have an adjusted gross income of \$40,000 a year for husband and wife with \$10,000 a year of that income coming

from tax-exempt municipal bonds, that that \$10,000 would be calculated in the formula and thereby your social security benefits over and above the cutoff would be taxable; is that correct?

Mr. LONG. That is right. Half of it would be taxable.

Mr. D'AMATO. Now supposing, for example, you are 55 years of age and you have an income of \$100,000 from tax-exempt municipal bonds, you pay no taxes on that, is that correct?

Mr. LONG. That is correct.

Mr. D'AMATO. So we are saying in essence that if you have \$100,000 in municipal bond income and you are not qualified for social security, you have not reached retirement age, you pay no tax. But if you have \$10,000 and you are on social security that can be the difference that raises your adjusted gross income to \$35,000 maximum, husband and wife, and that will put you into a taxable status; is that correct?

Mr. LONG. That is absolutely correct.

Mr. D'AMATO. Is it further correct that the Social Security Commission recommended this?

Mr. LONG. No; the Commission did not recommend that.

Mr. D'AMATO. Well, they showed good judgment.

Mr. LONG. The House did not recommend this, either.

Mr. D'AMATO. Is there any revenue loss or gain that has been determined?

Mr. LONG. It will gain what revenue estimators call an asterisk, which means somewhere between zero and \$5 million in revenue over a 7-year period. This excludes the cost of administration.

Mr. D'AMATO. If you had municipal bonds and were drawing social security and had an income, of \$10,000 from the municipal bonds, and if it were going to place you in a taxable position on your social security, and you were getting a 6 or 7, or 8 percent yield, would you not be wise then to convert them into a higher taxable yield, by selling those municipals because you would not have the tax advantage any more in holding them, and would you not have people converting from municipals into other bonds, and other people purchasing other bonds instead of municipals as a result of this?

Mr. LONG. Why, of course. In other words, the point is that in a great number of cases if people do happen to have a State or municipal bond they would just have to replace them with other investments.

Mr. D'AMATO. In the Senator's opinion, drawing on all his years on the Finance Committee, what would that do to the municipal bond market? Would that raise or lower the cost of those bonds when, for example, the Village of Island Park, in which I live, consisting of 5,300 people, goes into the municipal bond market to borrow, would it not cost that village more in-

terest to borrow? Would not people expect a greater yield as a result?

Mr. LONG. Middle-income taxpayers drawing social security would go to a tax consultant to try to plan what to do with their municipal bonds.

They go to a tax consultant and he says, "let me see, unless you have \$35,000 of income, the first thing you should do is to sell your municipal bonds." This Senator knows that will hurt the market for State and municipal bonds and force State and local governments to pay a higher price to borrow money.

Mr. D'AMATO. I might make note of the fact that I have asked the treasurer in the county in which I live, Nassau County, Long Island, what the effect of this would be. After checking with various bond counsel he said they indicated that with time this provision could result, without gain to the Treasury, in an increase of as much as 200 basis points in borrowing costs.

When we are talking about borrowing of billions of dollars by State, county, city, village, town governments, we are talking about increasing the cost to local governments that need these revenues. They will then have to raise real property taxes on working middle class families who, for the most part, support those governments.

But the thing I find to be incredible is that there is no revenue gain here. People will be forced in many cases to dispose of these bonds, depressing the municipal bond market, resulting in their being less accepted. Consequently, there will be a higher cost to local governments passed on to the working middle-class people, as well as those on social security.

Mr. LONG. I agree with the Senator.

Now, Mr. President, if Senators consider anything wrong about the tax-exempt status of State and municipal bonds, if they consider this to be a tax loophole, why would they want to go after these retired middle-income aged people but not the rich people? Why not go after persons who invested millions in tax exempt bonds? Why not go after them, because with large amounts of tax-exempt bonds, why could they not say, "From this point forward you must pay a tax on income on your tax exempt bonds?"

Why not just go after it that way and see if you cannot overrule the Pollock case decided in 1895 that you could not tax those bonds, and try to get the Supreme Court to reverse itself? Why not go after the rich people? Why go after only the middle-income people?

Mr. D'AMATO. I concur with the Senator. It seems to me if we are going to talk about closing tax loopholes the place should not be on the social security bill.

I have heard since I have been here about how we want to close these loopholes. Why do we not develop a tax system that says people at a certain income have to pay a minimum tax,

including the income that may come from tax-exempt bonds and municipal bonds? It would seem to me that would be a more appropriate way. It would deal with the real abuses that people worry about, so that people who have incomes in the hundreds of thousands of dollars, in the millions of dollars, who pay no taxes will be affected. But it is certainly not solving the problem to place a tax on middle-class working people, who worked all their lives and now have a small income and subject them to a tax with no revenue gain, especially when the local governments are going to wind up levying throughout this country millions of dollars more in real property taxes because the value of their bonds will be published.

I strongly support the Long amendment. It makes eminent good sense.

Once again we find ourselves faced with the situation where those people who propose these kinds of amendments really do not deal with the totality of the question. If they want to argue everyone should pay a fair share, let us look at the entire code. Let us see to it that everybody, regardless of how much they may own in the way of municipal and industrial revenue bonds, no matter how much they may contribute to charities, will pay a certain minimum when they are above a certain income.

It is unfair to have someone who is making a million dollars a year and who, as a result of purchasing revenue bonds, municipal bonds, and tax exemptions and as a result of charitable contributions and various writeoffs, pays no taxes.

I think the Senator from Louisiana agrees with me. We do not want to avoid the closing of a loophole, but let us do it the right way and not in the way that penalizes middle-class people.

Mr. LONG. Mr. President, another thing that is wrong about the amendment is that if someone wants to start a tax reform movement, to go after the so-called tax expenditures in the Internal Revenue Code and tax them, there are a number of them. The Congress passed Mr. Dole's tax bill last year, and we had various types of income included in the alternative minimum tax base. But we expressly voted here in the Senate not to include the interest from State and municipal bonds in this income base because we concluded that they were sacrificing income by forgoing the payment of tax on them. We did include a number of preference items in the alternative minimum income tax base, so that they could be subject to a minimum tax.

Now, if one wanted to subject one-half of social security income to tax, then let us expand the income tax base in a nondiscriminatory fashion and say, "Here are the items that are in the alternative minimum income tax base adopted by the Tax Equity and Fiscal Responsibility Act of 1982.

We could say, "Now, all right, if these old people have a minimum income tax base then we are going to tax 50 percent of their social security benefits."

Well, if you wanted to do that, at least you would be trying to tax social security income based on an economic income concept. However, these people are omitted. Why would they be left out?

They want to tax dear old grandma because she holds a bond issued by the city government of her own hometown. Why would they want to go tax grandma in a situation like that? If she is a rich grandma, they are not going to tax her social security. They are only going to tax her if she is one of the middle-income people. What do they have against the State and local governments?

Mr. D'AMATO. Look at the basic advantages of it again. If you have only \$10,000 tax-exempt income from municipal bonds and it pushes you over the threshold for social security purposes and then half of your benefits are taxed, that is one thing. But what about the person who has \$100,000 in tax-exempt income from municipal bonds and is eligible for social security? So now that person is adding social security and does not pay one penny more on that.

So to use this in connection with the formula for an adjusted gross income, which will put you over the threshold and now make your social security income taxable, only hurts one group—middle-class families; working families. Not the wealthy. It does not close the loophole for the wealthy. It does not make them subject to one penny more than what they would have paid in any event.

Let us pass a tax across the board and say if you make a million dollars a year you cannot exclude and take writeoffs with all of the shelters, including municipal revenue bonds; that you have to pay a minimum.

That is the way to do it, but not here in the social security bill; not here when you are not going to raise any money, when we are going to disturb the municipal market. Because even though the gain to the Government is \$5 million, maybe, over 7 years, it will result in municipal revenue bonds becoming less attractive. They will go up 100 basis points and then 200 basis points, and that will result nationwide in hundreds of millions of dollars a year more in costs. To whom? Towns, villages, counties, and cities that cannot afford it. What do they do? They have to raise real property taxes. And who pays the burden of real property taxes? The small homeowner, the businessman. For what? So they can say, "Oh, we are closing the loophole."

We are not closing the loophole. We know how to close loopholes if we really want to go after them. This is not closing the loophole. It is counterproductive.

So I rise to support this amendment. I urge my colleagues to think very carefully about this amendment. It is an important amendment. There will be those among their constituents who will see there is no justice in the bill when they are pushed up over this level and have to pay additional moneys and, there will be an erosion of the municipal theory.

By the way, it probably is unconstitutional.

I thank the Senator.

Mr. LONG. I thank the Senator.

Mr. President, another problem with this proposal is that it would add to the complexity of our Tax Code. Most of the complications in our tax laws affect only a few sophisticated businesses who want the complexity because it reduces their taxes. However, this proposal would make more complex a provision affecting many of the social security beneficiaries who did not buy these tax-exempt State and municipal bonds for that purpose.

The mechanism for taxing social security benefits is already sufficiently complex without considering tax-exempt income. It would add additional lines to the tax return—maybe three additional lines to the tax return—in order to report and then compute this income to see how much additional tax is owed.

Do we really need the additional lines on the tax return, the additional recordkeeping burden, and the additional steps in the formula that this municipal bond provision would add?

Let me also point out that the Internal Revenue Service has never asked for or received any information from States or municipalities on who receives tax-exempt income. I wonder whether we would need to impose reporting requirements on our State governments and reporting requirements on the cities and the counties in order to help the Internal Revenue Service police this provision.

That would certainly be a significant burden on States and localities, but it might be necessary in order for the provision to be applied in an effective way.

Mr. President, as I stated earlier, taxing State and local bond interest is unconstitutional. The leading case in this area is Pollock against Farmers' Loan and Trust Co. There were actually two Pollock decisions: The first invalidated portions of the 1884 income tax law, including the attempted taxation of State and local bond interest, and a second opinion, issued after rehearing, held that the entire tax law was unconstitutional.

The opinions written in the two Pollock decisions make it clear that Federal taxation of State and local bonds is unconstitutional. Under the cases, the constitutional defect as to taxation of State and local bonds is that such a tax directly impairs the borrowing power of the States. The Supreme Court held that the Federal Government cannot, under our Constitution,

impair this State and local borrowing power. The Pollock opinions make it clear that this is a separate and distinct rationale that would by itself defeat attempts to tax State and local bond interest. Although the second Pollock decision invalidated the remaining portions of the 1884 law on the grounds that the tax was a direct tax required to be apportioned among the States, it did not withdraw the separate rationale applicable to State and local bond interest. In fact, Justice Brown's opinion in the second Pollock decision emphasizes that the question of bond taxation is not a question of apportionment, but is rather a question of total lack of Federal taxing power.

When the 16th amendment was taken up in Congress, the question of taxation of State and local bonds was not discussed and, as later events show, it was not contemplated that the amendment would permit taxation of State and local bond interest. When Charles Evans Hughes, then Governor of New York, raised the question during the ratification process of whether the 16th amendment would permit taxation of State and local bond interest, he was assured by Senators Borah and Brown, who played a major part of this process, that no such interpretation was possible. These comments may be found in the CONGRESSIONAL RECORD for February 10, 1910. The RECORD for March 1, 1910, contains similar reassurances in the form of a letter from Senator Elihu Root to a New York State senator. Congressional debate on a proposal made during World War I to tax State and local bond interest also shows the congressional view that such a tax would be unconstitutional notwithstanding the 16th amendment, as does the fact that, in 1923, Congress considered adopting a constitutional amendment to permit taxation of State and local bond interest. The 1923 proposed amendment passed the House but did not pass the Senate.

The Supreme Court has held on several occasions that the 16th amendment did not extend the Federal taxing power to new subjects. In these decisions, the Court held that the amendment merely removed the necessity for an apportionment of the Federal income tax among the States. These decisions confirm the view that the 16th amendment did not create a new Federal taxing power over State and local bond interest.

The precise question of taxing State and local bond interest has not been considered by the Supreme Court since the adoption of the 16th amendment. However, the Supreme Court has on several occasions, after the ratification of the 16th amendment, expressed the view that the Federal Government cannot tax State and local bond interest, citing the Pollock case as authority.

As a matter of fact, Mr. President, on later occasions, when Charles Evans Hughes, the Governor of New York to whom I referred, became the Chief Justice of the U.S. Supreme Court, in cases dealing with this subject he made a point to state, by way of dictum, that the Federal Government had no authority to tax interest on State and local bonds. Justice Hughes was an individual who had a complete understanding of the entire legislative history of this matter. As the Governor of New York, he had been assured by the legislative process that the 16th amendment had no purpose to allow taxation of State and local bonds, and could not be so construed.

Keep in mind, Mr. President, that the ratification process is part of the legislative process in passing a constitutional amendment.

As I stated, on several occasions after the ratification of the 16th amendment—involving cases on other subjects—the Court has distinguished the special case of bond interest from questions such as the taxability of Government contractors and employees by pointing out the immunity of the States' borrowing power from Federal taxation.

In view of the Pollock decision, its many reaffirmations since the ratification of the 16th amendment, and the legislative history of the amendment, and of other related measures, it is clear that the provisions of the Finance Committee bill that would tax State and local bond interest will directly contradict a well-established constitutional prohibition of taxing a State government. Congress should respect constitutional limitations on the Federal taxing power and should not impose a tax such as this without new and express constitutional authorization. This is especially so when the possibly unconstitutional provision is apparently unnecessary and otherwise imposes troublesome burdens of complexity on our senior citizens.

Mr. President, I would like to add as cosponsors of this amendment the Senator from New York (Mr. D'AMATO), the Senator from Florida (Mrs. HAWKINS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I commend the Senator from Louisiana and the Senator from New York who are doing the best they can with a very, very bad case. I think they have been eloquent in what any objective observer would say has been on the side of inequity.

Mr. President, there has been long discussion about taxation of municipal bonds. I think we can dismiss that. This is not taxation of municipal

bonds at all. It has nothing to do with the taxation of municipal bonds. What we are saying is that municipal bonds can count as a basis on which social security becomes taxable.

The decision is made that social security will be taxable at certain brackets. That is not what we are debating here this afternoon. That decision has been made.

Half of your social security income at certain levels will be taxable.

The question of whether tax-exempt bonds should never be figured in a base, should never be involved in any taxation, of course, does not apply here. As a matter of fact, if we look at the Federal estate tax law we will find that so-called tax-exempt-bond value is computed when one computes the valuation of an estate for tax purposes. There is a tax applied on so-called tax-exempt bonds, the value of them, in computing the Federal estate tax.

Mr. President, what we are discussing this afternoon is not revenue. It is not a question of whether it is an asterisk or a double asterisk, whether it is \$7 billion over 6 years or not. What we are discussing this afternoon, Mr. President, is equity. Is it fair to two people with the same amount of income, one to suffer a tax on his or her social security and the other not, solely because of the definition of the type of income that is.

Mr. President, let us take the case of somebody with a \$22,000 pension, a pension from the company that he or she worked for. That person, with \$4,000 or \$8,000 from social security, with \$4,000 computed here, would have a tax. Clearly, that individual would suffer a tax.

We have decided that. But what is being proposed here on the floor is that somebody with \$100,000 of tax-free income, when he or she receives his or her pension of \$8,000, that be free from any tax.

Is that fair, Mr. President? Is that what we want to do in the Senate of the United States? I do not think so.

The question here is equity. Are we going to permit someone who is wealthy enough or who has the ability to shift around—many people who are going to become taxable under the proposal that is part of this bill do not have the ability to shift their income around. If you have a pension from a company, that is a pension. You cannot make it nontaxable, as opposed to the person whose income comes from stocks and bonds who can shift around and put part of it into tax-exempt and part of it not into tax-exempt. If we are going to make the social security taxable in certain brackets, let us be fair to everybody in the country. Let us not have some groups that are able to avoid that tax through shifting around.

It is not some little old lady, now. It is nice to cloak these in that guise of mama or grandma. But that is not the situation. We are dealing with wealthy

people who have the means, who have the assets to shift them around so that they can avoid the tax on their social security. Is that fair? I do not think so.

Mr. MELCHER. Will the Senator yield for a question?

Mr. CHAFEE. If I may just complete my remarks, then I shall yield the floor. The Senator may have the floor when I finish.

It seems to me, Mr. President—let us set aside the arguments about revenue, the arguments about taxing tax-exempt bonds. That is not before the House this afternoon. We are solely discussing equity. Equity is clearly on the side of the measure that was adopted in the Finance Committee and is a part of this legislation.

Mr. MELCHER. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. MELCHER. Is it not the general case, almost the universal case, that these tax-exempt bonds carry a lower rate of interest return?

Mr. CHAFEE. That is the theory of it. That is the theory, that one shifts into tax-exempt and his income is reduced. It is not always so.

I have here a clipping from the Washington Post of last Friday: Try new investment formula, 10.13 percent; tax-exempt money market and municipal bond fund. Just \$2,000 to open an account, total liquidity—in other words, short term. Unlimited checking.

These are tax-exempts. It says if you are in the 50-percent bracket, tax-exempt income is worth twice the yield; even in the 24-percent bracket, 10.13 tax-free is worth a taxable yield of 13.33.

While the theory is a lower yield, it does not always work out that way.

Mr. MELCHER. Will the Senator yield for a further question?

Mr. CHAFEE. Yes.

Mr. MELCHER. Is it not the general practice that, for instance, school bonds are tax-exempt, city bonds are tax-exempt, in order to permit a school district or the city to be able to sell bonds in a little different market, with a little different attraction, in order to save the taxpayers of the school district or the city some tax money?

Mr. CHAFEE. Yes, that is the rationale for tax-exempt bonds.

Mr. MELCHER. I thank the Senator.

Mr. LONG. Mr. President, did I hear the Senator refer to an advertisement to buy tax-exempt bonds at 13.33 percent?

Mr. CHAFEE. No, Mr. President, I did not say 13.33. I said 10.13.

There is an ad that someone gave me. But that is not what I read from.

Mr. LONG. I thought I heard the Senator say something about 13.33.

Mr. CHAFEE. No, I believe the RECORD will show I said 10.13. But someone put on my desk 13.75 tax-free municipal bonds, interest income

exempt from Federal income tax, and so forth.

Mr. LONG. My thought would be that if the Senator is going to advise someone to buy tax-exempt bonds at 13.33 percent, he had better advise them that there is a very severe question of whether they are ever going to get their principal back. They might collect an interest payment or two, but if they are going to buy a tax-exempt bond at that rate, it is sort of like shooting craps at Las Vegas. You might never get your money back.

Most bonds that are touted as being solid bonds, that would be recommended by most people in the investment field, would draw a lot less interest than that.

Mr. DOLE. Will the Senator from Rhode Island yield?

Mr. CHAFEE. I am glad to yield.

Mr. DOLE. Mr. President, I do not know how long we want to spend on this amendment. It is not one of the major provisions in this bill. We have been on it 45 minutes. There are still other amendments pending and we are asked to go to conference tonight, hopefully by 8 o'clock tonight. Is there anyway we can have a time agreement on this amendment with an up-or-down vote, say, by 6 o'clock?

Mr. CHAFEE. Mr. President, I do not need anything like that. I would take 10 minutes equally divided. Five minutes apiece. It is up to the other side.

Mr. LONG. Mr. President, I do not think we need any agreement. As far as I am concerned, I am ready to call the roll now. There may be someone else who might not agree with me.

Mr. DOLE. I do not think anybody has had a chance to talk about this on the other side. We might hear the Senator from Rhode Island.

Mr. CHAFEE. I did briefly talk, Mr. President. I would like to address my remarks, if I may, to the Senator from New York, who envisioned this as one of the most cataclysmic steps being taken by the Senate in many a year. He sees an effect with all kinds of disastrous ramifications on the municipal bond market as it affects the local community.

As he knows, the Senator from Louisiana made it very clear that the revenue implications here are only an asterisk's worth. When you are only down to an asterisk, you are not talking about much.

Mr. D'AMATO. Will the Senator yield for a question on that point?

Mr. CHAFEE. If I may just finish.

So, if it is only an asterisk's worth, which is a new term—I have to get used to that; I have trouble even pronouncing it—the effect of the ramifications on his hometown or his bond market, his community, is that it will be absolutely uninfluenced.

My point is that that is not the concern. What we are trying to do here under this amendment is have equity, to have fairness. That is what we are striving for in this very modest part of

the bill that we are discussing right now.

I shall be glad to yield for a question.

Mr. D'AMATO. Mr. President, if indeed we are talking about \$5 million over 7 years, why would we want to set in motion a chain of events that, indeed, would make municipal revenue bonds less attractive and would cost far more to local government than would be gained? If we are talking about the appearance of equity, I would agree with my distinguished colleague friend from Rhode Island. But this part of the bill does not do a thing in terms of dealing with those people who have millions in income and who pay no taxes.

It simply misses the mark. It is an asterisk that does not raise revenue, but it is an asterisk that creates the appearance of equity. It really is a sham.

Mr. CHAFEE. Mr. President, I just say in winding up that what it seems to me the opponents of this are trying to do is create an incentive to purchase tax-exempt bonds, an incentive that does not exist today, that the inequity we are talking about could arise. I do not think we want that, Mr. President. I think we want to achieve the greatest possible degree of equity. If somebody whose income is locked into certain forms, as I mentioned—to a pension, or a working person, a person over 65 who has to continue to work—that person does not have the ability to have part of his income tax free. A person who is earning \$25,000 by continuing to work over the age of 65 draws social security. That social security will be totally taxable.

So what we are doing under the amendment that is being proposed here this afternoon is really penalizing the working person or the person who is not rich enough, who does not have enough flexibility in his or her income to shift it around to take advantage of an incentive which would be provided in the amendment that is being sponsored by the proponents this afternoon. I am prepared to vote, Mr. President.

Mr. LONG. Mr. President, the Senator argues that his amendment would not tax the State and local bonds, and that is not his purpose. Mr. President, let us just compare this situation to the zero bracket amount and the so-called personal exemption. For a family of four, there would be no tax except on income that exceeds \$7,400. From that point forward a tax could be owed.

Now, if we were to say that interest from State and local bonds would count against their \$7,400 personal exemption and zero bracket amount, and the family had \$7,400 of such interest, they otherwise would have paid no tax. However, by making the income from the State and municipal bonds push up everything else from the bottom, you would have taxed an additional \$7,400 by saying that an equal

amount of income from State and municipal bonds would be counted against the zero bracket amount.

That has the effect of taxing the State and municipal bonds. Keep in mind that when the court in the Pollock case said that it was unconstitutional to levy an income tax on the income from State and municipal bonds, they said it was unconstitutional because it placed a burden on the power of the State to finance itself by borrowing money. I do not care whether you are taxing the interest under this amendment or whether you are taxing it through the zero bracket amount. However you get at it, you are placing a burden on the income of those tax-exempt bonds. It does not make any difference whether you tax them directly or indirectly. The burden is still there, and that is what the Senator seeks to do with his amendment. There is no doubt about it; he is seeking to do exactly what the Pollock case said you could not do.

Mr. President, that stems from the old case of McCulloch against Maryland where Chief Justice Marshall held that the power to tax is the power to destroy, and that if you let the Federal Government tax the States, it can destroy the State governments. It would be just like permitting the State to tax the Federal Government. That would permit those who created the Government to destroy it.

The States have no right to destroy this Federal Government. That has been decided many years ago and even on battlefields. The States have no power to destroy the Federal Government, and the Federal Government has no power to destroy the State governments. That is the principle the Senator from Rhode Island seeks to violate with his provision. Congress, Mr. President, has not seen fit to go along with that. We had this same issue before us on the TEFRA bill, and the Senate voted by a clear margin to strike out the proposal that would put the minimum tax on State and municipal bonds. It recognized the same principle which has been upheld by great Justices down through the years, including Justice Charles Evans Hughes, that we do not have the power to do that. And the Congress, Mr. President, has in the main denied the Internal Revenue Service the right to take the States to court to try to prove that they could tax these bonds under the Constitution. Congress has expressly put in the law up to this point that the income from these State and municipal bonds is not taxable, and that it is not our purpose to tax them. The Congress has also kept the faith that the sponsors of the constitutional amendment permitting the income tax made when they passed that amendment and assured the State legislatures that it did not tax these bonds, that it was not their intention to do that, and that they did not do that.

We should not be doing it either, Mr. President.

Now, look at the complexity. We are talking about something that is not going to raise any money at all, no money. Why do this? Under the committee bill, the IRS has to put a line, maybe two or three lines on your tax return. I would like to illustrate. Everybody fills out the same tax return, so here is the line: If you are over 65 years old and you have some social security income, then put in here the amount of income you are getting from State and municipal bonds. Add your adjusted gross income. Now report half of your social security income. Now subtract \$25,000 from that and divide two by two and add that to your taxable income down here. How many lines can you get by with on your income tax return when you start trying to do all this?

Why do you want to get into all that complexity if you are not going to make any money for the Government? If you are going to make some money for the Government, perhaps you might take the view that the end justifies the means.

Let us talk about equity. I have stood here year in and year out and heard people talk about tax expenditures. I heard about this until I was sick of it.

Let us just look at some of the items of tax preference:

Accelerated depreciation on real property. If you want to do something about equity and say these old people cannot get away with any tax break, then why not put this in here? Accelerated depreciation on real property. Why let them get a break on that? Tax these old folks.

Next item: accelerated depreciation on leased personal property. Why not go after these old people if they have some of that? Next item: Amortization on certain pollution control facilities. Tax grandpa if he has some of that. Here is the next one: Mining exploration and development costs. Tax grandma if she has some of that. Then circulation and research and experimental expenditures. OK, put that in there and if Uncle Jim has some of that, go after Uncle Jim. Next, reserves for losses on bad debts of financial institutions. All right, go after those people. If old Aunt Susie has some of that, OK, go after her because she is involved in one of these institutions that has a bad debt.

Next, depletion. By all means, if grandma has some income from an oil well, go after her. Do not leave grandma out.

Then we proceed to incentive stock options. If they have some of that, go get them. Intangible drilling costs, go get them. Accelerated cost recovery, go get them.

I would like to ask, why not go get them? In other words, if you are going to go after somebody who is losing a lot of income because they bought a State bond from the State where they

live or because they bought a paving bond in a city or the county where they live, if you are going to go after those bond purchasers, why leave out these other people?

I have heard people stand here and defame these rich oil people. Why leave them out? Why go after somebody who bought a bond in his hometown to help by a fire truck?

It defies imagination, Mr. President. If one wants to do justice and equity, why single these people out for special taxes when you are not going to do it to the rest of them? To be just and to be fair, perhaps you should include all the tax preferences. In fact, they should go in ahead of everything else, because when Congress legislated and looked at this, it thought that if you want to have tax reform, these are the areas you ought to go after first.

So, Mr. President, I hope that the Congress does not get into this mare's nest. It serves no purpose. All it is going to do is wake up some Governors and wake up some mayors, most of whom are not yet aware of what is happening here. You wake up Governors, wake up mayors, wake up county commissioners who will say: "My goodness, what in the devil are those people doing in Washington? Go talk to those people."

Mr. D'AMATO. I wonder if the Senator would yield?

Mr. LONG. I yield to the Senator.

Mr. D'AMATO. In the past Congress, we allowed fire districts that did not have the ability to sell municipal bonds to come in. Was that not just this past Congress that we did that, that volunteer fire districts, for the first time, could sell bonds? It had a municipal purpose.

What is the difference between the status of those who now have municipal treatment, tax-exempt treatment, and their prior status, under which they could not sell tax-exempt bonds? It is as much as 5 points. And who saved the 5 points?

As a result of our action, people who bought those municipal bonds received 5 percent less because they were municipal, and therefore they were tax-free. That meant the municipality, the local taxpayers, paid 5 percent less. It meant that it cost the homeowners, the working people, the taxpayers in the villages and towns and in the fire districts, that much less.

When we talk about the difference between a tax-exempt bond and one that is not tax-exempt, we are talking about driving up the cost of local government billions of dollars.

INTRODUCTION

Mr. DOLE. Mr. President, I rise to express my support for the committee bill, which incorporates a very helpful amendment regarding tax-exempt bonds, offered in committee by Senator CHAFFEE. The amendment offered by Senator LONG would strike that very important provision added in committee. The committee rule does not tax tax-exempt income, but only

looks at tax-exempt income in determining whether half of social security benefits will be subject to taxation.

PROVIDING BROKERS A NEW MARKET

Mr. President, the distinguished senior Senator from Louisiana has spoken quite eloquently in favor of his amendment to disregard tax-exempt income for this purpose. And when Senator LONG talks, people listen. That does not concern me, since the Senator always enlightens us when he speaks on matters of tax policy. What concerns me is that when E. F. Hutton talks, people also listen. And E. F. Hutton, Merrill Lynch, Bache-Prudential, and Sears, Roebuck, for that matter, will have quite an attractive new market to exploit if the Long amendment is adopted. It will be quite simple really. They can advertise:

You don't have to pay the new tax on half of your social security benefits if you don't want to. The tax is not really mandatory, it's voluntary. All you have to do is shift a portion of your investments into tax-exempt bonds. We'll show you how easy it can be.

Mr. President, that will not be misleading advertising, because the pending amendment will make it possible for some taxpayers to "zero-out" the tax on social security benefits imposed by S. 1. So if your broker tells you "it is not a new tax," he will be right, because he can help you escape it completely.

When some taxpayers are smart and quick enough to take advantage of the opportunity to avoid the tax effect of the bill we have spent so much time and effort putting together, they may or may not say, "thank you, Paine Webber." But they certainly should say, "thank you U.S. Congress," since we will have made it all possible, if we approve the pending amendment. Let me illustrate with some examples.

HOW TO AVOID TAXATION OF BENEFITS

Let us assume an individual taxpayer over age 65, with \$8,000 of social security benefits and \$30,000 of taxable interest income from medium term, 10-percent corporate bonds. Under current law, he is in the 34-percent tax bracket, and has no incentive to invest in equivalent tax exempt bonds, yielding only 7 percent, since his tax savings are slightly outweighed by the reduced interest yield—his exact net loss would be \$226.

By the way, that interest rate spread is totally realistic for medium-term bonds, such as 10-year bonds. Indeed, the interest rate spread between taxable and nontaxable bonds could be even narrower for long-term bonds. The Joint Committee on Taxation discussed this issue in the general explanation of last year's tax bill, and I would ask unanimous consent to include that discussion in the Record following my statement.

For the hypothetical taxpayer we are discussing, the law we are debating this week, and the amendment we are debating today will have a real impact. Because this taxpayer is over the

\$25,000 threshold, he must include half of his benefits in income. As a result, S. 1 will increase his tax liability by \$1,328. But if the pending amendment is adopted, he can avoid including any of his social security benefits in income, by shifting one-third of his investments from top-rated, taxable, 10-percent corporate bonds, into top-rated, tax-exempt, municipal bonds yielding 7 percent. If he does that, his cash interest income will be \$27,000, clearly over the threshold. But his adjusted gross income will be only \$20,000, clearly under the threshold. Thus, his benefits will escape taxation completely.

Moreover, his income tax liability on his interest income will drop, by an amount just about equal to his reduced yield from shifting to tax-exempt bonds. In fact, he will be short about \$226, before taking into account the fact that he has excluded all of his social security benefits from taxation. That is where the real benefit is, Mr. President. At a cost of \$226, he will have saved \$1,328 in taxes on half of his benefits. That, Mr. President, alters the investment picture considerably.

A NEW INCENTIVE TO INVEST IN TAX-EXEMPT BONDS

Today, he would lose \$226 by making this investment in municipal bonds. With the adoption of the Long amendment and S. 1, he will gain \$1,102 by making the investment. That \$1,328 difference, Mr. President, is the tax on half of his social security benefits we are supposedly in the process of enacting. But for our hypothetical taxpayer, that tax is only a voluntary tax, not a mandatory tax. People will certainly listen when E. F. Hutton tells them about this investment opportunity. How can you beat it?

We may not be able to beat it, but we can prevent it, by voting against the pending amendment.

S. 1 MUST BE FAIR TO ALL TAXPAYERS

Mr. President, I believe there is a compelling case for rejecting the Long amendment. If the tax revision we are in the process of enacting is to be fair, it must be a mandatory tax for all similarly situated taxpayers. It cannot be mandatory for those with illiquid investments, or taxable pension or trust income, and a voluntary tax for those with the ability and inclination to convert a small portion of their current taxable income into tax-exempt income, solely to stay below the threshold and escape the taxation of benefits.

I would like to make several added points to clarify what we are doing, and not doing, if we reject the Long amendment in favor of the committee bill.

S. 1 DOES NOT TAX TAX-EXEMPT BONDS

First, we are in no way taxing tax-exempt income. We are only taxing half of social security benefits regardless of how much tax-exempt income the taxpayer may have. A taxpayer

with \$1 million of tax-exempt interest income and an \$8,000 social security benefit will pay only on one-half of his benefits, no more and no less.

We are not, in any way, encroaching upon the tax-exempt status of State and municipal bond interest, simply by making reference to that interest for purposes of this act.

As we know, State and municipal bonds are not sacrosanct, or totally immune from Federal taxation, only the interest on the bonds is exempt from income taxation. Let me give an example of another area in the tax law where the bonds get no special treatment. The fair market value of municipal bonds is includible in a taxpayer's estate for Federal estate tax purposes and this is well established. In my view, the mere reference in S. 1 to tax-exempt income, only for purposes of determining whether another source of income should be taxed, is plainly not an encroachment on any legitimate historical, or constitutional concern bond issuers may have.

S. 1 REFLECTS A COMPROMISE RULE ON TAX-EXEMPTS

Finally, I should point out that we are not depriving the bond issuers, bond markets, or investment houses of a new source of customers for tax-exempt bonds. Many of the advocates of the Long amendment will concede that the committee bill does not take away any incentive that exists under current law. They will admit that the purpose of the committee rule is simply to be neutral, that is, to avoid creating an incentive to purchase tax-exempt bonds that does not exist today.

But the fact is, I must admit that the committee rule is imperfect, and actually results in the creation of a slight incentive to purchase tax-exempt bonds not present under current law.

The reason for this is that the committee rule, for reasons of administrative convenience, only takes into account the stated yield of tax-exempt obligations, and not their taxable equivalent yield.

For our hypothetical taxpayer in the 30-percent tax bracket, \$7,000 of tax-exempt interest is equivalent to \$10,000 of taxable interest, after taxes. To preserve absolute neutrality with respect to current law, we would need to take into account the taxable equivalent yield of \$10,000, rather than \$7,000. In calculating whether half of that taxpayer's social security benefits will be taxable. Because the committee rule locks only at the stated yield of \$7,000, and not the taxable equivalent yield of \$10,000, there will still be a new incentive for some social security recipients to invest in tax-exempt bonds. In the example I gave previously, this incentive is the difference between an investor losing \$226 each year from an investment in the tax-exempt bonds under current law, and the same investor gaining \$328 by the invest-

ment, after passage of S. 1, with the committee's rule on tax-exempt bonds.

Mr. President, in short, there is no justification for the pending amendment which would only contribute to the ability of some taxpayers to completely escape the tax consequences of this act. I urge that the amendment not be adopted.

Mr. LONG. Mr. President, I would like to vote right now.

Mr. DOLE. Maybe somebody on the other side would like to talk.

Mr. HEINZ. Mr. President, if the Senator will yield, I want to make two observations.

First, it seems totally self-evident to this Senator that if we do not retain the Chafee amendment, we are going to give people an absolutely irresistible incentive to shift all their investments into tax-exempt bonds and absolutely escape any taxation of that half of the social security benefit we have now decided to tax. That seems self-evident to me.

I have listened to a good deal of discussion about how unfair the Chafee amendment is. I just do not understand how anyone can say that letting everybody escape taxation is fair. It seems to me that it would be an enormous windfall.

The second point I should like to make is that if we do not adopt the amendment of the Senator from Louisiana, the fact is, if anybody at this point is interested in facts—it has been a long bill, and I hope people are still interested in facts—that the Chafee amendment as it is in this bill will still provide a substantial tax incentive for social security recipients to invest in tax-exempt bonds.

There is going to be an incentive. Why is that? It is because the committee bill contains the compromise rule adopted for reasons of administrative convenience—namely, that the rule includes only the stated yield, the tax-exempt investments, and not the tax equivalent yield.

That is to say, for the typical taxpayer in the 30-percent bracket, the 7-percent interest tax free they get on a municipal bond is the equivalent of 10 percent on a nontaxable bond. In other words, in the case of a \$100,000 denomination investment, they are getting \$7,000 of tax-exempt interest or \$10,000 equivalent in taxable interest. That is because the committee rule includes only the \$7,000. Therefore, there is a substantial tax incentive.

Under Senator CHAFEE's amendment in this bill, the taxpayer with \$30,000 of taxable interest income and \$8,000 of social security benefits will have \$31,207 after enactment of S. 1. By shifting one-third of this investment from 10-percent taxable bonds to equivalent tax-exempt bonds yielding 7 percent, the taxpayer's income would be \$31,535. So the result would be an incentive to shift the tax-exempt worth \$328 each year.

Mr. HEINZ. Mr. President, in contrast, under current law, the same taxpayer suffers a \$226 loss by making the same investment shift into tax exempts.

Mr. President, the hour grows late. I shall not belabor the Senate any longer with facts. I trust that they speak for themselves.

Mr. MOYNIHAN. Mr. President, I will not delay the debate. I ask unanimous consent to have printed in the RECORD a memorandum of law which argues the constitutionality of the Chafee amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CONSTITUTIONALITY OF INCLUDING TAX EXEMPT INCOME IN THE SOCIAL SECURITY BASE

This memorandum deals with the constitutionality of certain provisions of Section 131 of the Social Security Amendments of 1933 which seek to include interest on tax exempt obligations in the base for determining the amount of an individual's social security benefits that will be taxed. It concludes that Congress has the constitutional authority to modify or remove the exemption from federal income tax of interest on state and local obligations currently contained in Section 103(a) of the Code. This conclusion is supported by the clear language of the 16th Amendment, by the fact that such a tax would be nondiscriminatory levy on taxpayers other than state and local governments, by the fact that the individual income tax is a tax upon a taxpaying person rather than upon a particular source of income and by a long line of Supreme Court opinions, culminating in *Alabama v. King and Boozer*.¹ A fortiori, Congress has the authority to include tax exempt income in the social security base solely for purposes of determining the amount of a taxpayer's other taxable income that is subject to tax.

BACKGROUND

The exemption for Federal income tax purposes of interest on State and local obligations has a legal, political and economic history which so far has resulted in legislative continuance of an exemption first enacted in 1913. Constitutional doubts as to Congress ability to impose an income tax on the interest of state and local bonds were originally strong, resulting in the 1913 legislation; but these doubts have effectively disappeared in the intervening years.

In *Pollock v. Farmers Loan and Trust Company*² the Supreme Court held in 1895 that such a tax was unconstitutional because the imposition of a tax on bonds constituted an encroachment on one of the sovereign powers of the state in violation of the principle set forth in *McCulloch v. Maryland*.³ Under this principle, it was held that to preserve the framework of the Federal system, both the Federal and State and local governments must have a reciprocal immunity from taxation.

Adoption of the XVth Amendment in 1913, which empowered the Federal Government to levy taxes on income "from whatever source derived," would seem to have neutralized the effect of *Pollock*, were it not for a series of exchanges between New York State officials and Members of Congress which became part of the often cited history of the Amendment. In response to fears

expressed by Governor Charles Evans Hughes of New York and others, Senators Elihu Root (NY) and William Borah (Idaho) stated that the scope of the XVth Amendment was not intended to destroy the reciprocal immunity principle.⁴

Nonetheless, the fear that income derived from bonds issued by the State or municipal governments might be subject to Federal taxation influenced the passage of the first statutory immunity provision also in 1913; now IRC Section 103(a), it provides that "gross income does not include interest on (1) the obligations of a State . . . or any political subdivision. . . ." The efforts of states and local governments to maintain this exemption and its concomitant economic advantages have since been unflagging, resisting continued efforts to modify or remove the exemption by various Administrations and Members of Congress.⁵

By 1939, the Supreme Court's approach to inter-governmental tax immunities had shifted to raise a significant doubt as to the continued validity of are fundamental premise of *Pollock*, that is, that an income tax is a tax on the source of the income. In effect, this premise was rejected. In *Helvering v. Gerhardt*, the Supreme court in 1938 held that the salary paid to an employee of a state agency was subject to Federal income tax.⁶ A year later, in *Graves v. N.Y. ex rel. O'Keefe*, the Court stated that the principle enunciated in *Pollock* that "a tax on income is legally or economically a tax on its source, is no longer tenable." In reaching this decision, the Court held that the immunity of the source does not carry over to the income.⁷ These landmark decisions had been preceded by other Supreme Court cases which held to the same effect.⁸

At the same time, the Court's once broad view of inter-governmental immunities was greatly narrowed. In the *Gerhardt* case, the Court stated that the implied immunity of local government from taxation should be narrowly restricted when invoked by a private citizen since "it tends to operate for his benefit at the expense of the taxing government and without corresponding benefit to the government in whose name the immunity is claimed."⁹

Even under the *Gerhardt* analysis, it might be argued that a Federal income tax on the interest of a State or local obligation constitutes a real burden on the borrowing power of local government. This argument is believed to be without merit, given the Court's holding and rationale in *Alabama v. King and Boozer*.¹⁰ Here, the Court held valid a state sales tax that was levied upon the sales of materials to a contractor who had purchased such materials while under contract to the Federal government. The Court ruled that the extra burden of a non-discriminatory state tax upon the cost of construction work for the Federal government was but a "normal incident" of "doing business within the same territory of two independent taxing sovereignties. . . ." Further, the "asserted right of the one to be free of taxation by the other does not spell out immunity from paying the added costs

attributable to the taxation of those . . . who have been granted no tax immunity."¹¹

This rationale would clearly seem to apply to those provisions of Section 131 of the Social Security Amendments which would include tax-exempt interest on state and local bonds in the base for determining the amount of taxable individual social security benefits, since the burden imposed is non-discriminatory, is placed on private citizens and is "but a normal incident" of the Federal system. Arguments to the contrary, which sometimes appear even today, are based on the original holding in *Pollock* and fail to consider later interpretations and modifications made by the Supreme Court with respect to that decision.

Mr. DOLE. Mr. President, I remind those who may be listening that the vote in the committee was 12 in favor of the Chafee amendment, 4 against, and 1 voting "present."

We are not in any way encroaching upon the status of State and municipal bond interest.

The Senator from Kansas has no strong feeling about this matter, but what concerns me is this: Are we going to create an incentive? It seems to me that we are. If people can find a way to avoid tax on social security payments, I assume it will be perfectly legitimate to do that. I hope we will vote on the amendment, and whatever happens will happen.

Mr. LONG. Mr. President, two Senators have made reference to the fact that there might be an incentive to buy tax-exempt bonds. Keep in mind that when one buys one of these State or municipal bonds, he is losing about 30 percent of his interest income. He could have made an investment in something equally safe and even more marketable and received 30 percent more interest income. So it is like a 30-percent tax for the benefit of the State government when someone buys one of these State or city bonds.

When one provides a tax on half of the social security benefits, and assumes that these people we are talking about are in a 32-percent tax bracket, you would tax 50 cents of each dollar of social security benefits at a 32-percent rate. That would be like taxing the original dollar of social security benefits at 16 percent.

That provides no incentive for someone to buy a State or municipal bond. To the contrary, it provides an incentive to get rid of them. So if these middle-income people have a State or municipal bond, the incentive here is to get rid of it.

I ask for the yeas and nays, Mr. President.

THE PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

¹ 311 U.S. 1 (1941).

² 157 U.S. 429 (1895).

³ 4 Wheaton 316 (1819).

⁴ 45 Cong. Rec. 1698 (1910); and 45 Cong. Rec. 2539 (1910).

⁵ Such efforts include legislative proposals submitted by President Roosevelt in 1935, by President Truman in 1951 and proposed provisions in the Tax Reform Act of 1969.

⁶ *Helvering v. Gerhardt*, 304 U.S. 404, 420 (1927).

⁷ (Blank.)

⁸ See *N.Y. ex rel. Cohn v. Graves*, 300 U.S. 308 (1937); *United States Ghee Co. v. Creek*, 247 U.S. 321 (1918) and *Peck and Co. v. Lowe*, 247 U.S. 165 (1918).

⁹ *Helvering v. Gerhardt* at 420; see also *Graves v. N.Y. ex rel. O'Keefe*, 306 U.S. 480 (1939).

¹⁰ 311 U.S. 1 (1941).

¹¹ *Id.* at .

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. COCHRAN). Are there any other Senators wishing to be recorded on this vote?

The result was announced—yeas 44, nays 52, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—44

| | | |
|-----------|------------|-----------|
| Armstrong | Ford | Pressler |
| Baucus | Glenn | Proxmire |
| Bentsen | Hawkins | Pryor |
| Bingaman | Heflin | Randolph |
| Boschwitz | Helms | Riegle |
| Bumpers | Huddleston | Sarbanes |
| Burdick | Inouye | Sasser |
| Byrd | Johnston | Specter |
| Cochran | Kasten | Stennis |
| Cranston | Leahy | Stevens |
| D'Amato | Long | Symms |
| DeConcini | Matsunaga | Tiburmond |
| Dixon | Melcher | Trible |
| Dodd | Moynihan | Zorinsky |
| East | Murkowski | |

NAYS—52

| | | |
|-------------|------------|----------|
| Abdnor | Grassley | Nickles |
| Andrews | Hart | Numm |
| Baker | Hatch | Packwood |
| Biden | Hatfield | Pell |
| Boren | Hecht | Percy |
| Bradley | Heinz | Quayle |
| Chafee | Humphrey | Roth |
| Chiles | Jackson | Rudman |
| Cohen | Jepsen | Simpson |
| Danforth | Kassebaum | Stafford |
| Denton | Lautenberg | Tower |
| Dole | Laxalt | Tsongas |
| Domenici | Levin | Wallop |
| Durenberger | Lugar | Warner |
| Eagleton | Mattingly | Weicker |
| Exon | McClure | Wilson |
| Garn | Metzenbaum | |
| Gorton | Mitchell | |

NOT VOTING—4

| | |
|-----------|---------|
| Goldwater | Kennedy |
| Hollings | Mathias |

So Mr. Long's amendment (UP No. 133) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. QUAYLE. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is the Quayle unprinted amendment numbered 111.

Mr. QUAYLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. QUAYLE. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, before we consider the pending amendment, I

wonder if I might yield to the distinguished Senator from Montana for 3 minutes. I ask the Senator if that is enough time?

Mr. MELCHER. That is enough time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, let me at the outset state my respect and my commendation to the President's Social Security Commission and to the Senate and House committees for their diligence in producing this package to protect the solvency of the social security system.

No set of provisions on this matter is entirely satisfactory and further there are no guarantees that these provisions are entirely adequate.

There will be many risks and uncertainties as to the projected revenue gains or losses from the social security trust funds.

A major risk does involve the tax increase drain from the economy, at least during fiscal years 1984 and 1985, as we hope for economic recovery. Tax increases during a recession are not the ordinary remedy recommended by economic doctors.

The tax increases for social security payments from employees is provided in the bill with an offsetting tax credit. I hope it works as planned by the managers of the bill.

If the employees' tax increase is completely offset, that is not the case for millions of taxpayers. In particular, the increase in social security taxes for the self-employed and employers is a risk to the economy with this added tax burden which may further aggravate their losses and contribute to either their ability to retain employees, or to hire back those employees previously let go or who have perviously been put on a reduced time basis. This includes agricultural producers who are both self-employed taxpayers and employers who pay the required tax on their employees.

The same added tax burden affects the business that might be starting up or contemplating expansion.

Providing jobs is the cornerstone in rebuilding the economy. These added taxes will not help.

Because the next 2 years are critical for economic recovery, I refer to these added social taxes for the fiscal years of 1984 and 1985:

For the self-employed, the added tax nets out to approximately \$0.5 billion for fiscal 1984, and about \$2 billion for fiscal 1985.

For employers, the increase is \$2.5 billion for fiscal 1984, and \$3 billion for fiscal 1985.

If the economy were healthy, there would be an impact that would adversely affect the economy.

With a sick economy struggling to recover, there could be sufficient impact to retard or further deepen the recession.

This risk must be weighed as to its harmful effect. This bill would be

sounder without these provisions and I object to them.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAKER. Mr. President, will the Senator from Indiana yield to me?

Mr. QUAYLE. I yield to the majority leader.

TIME LIMITATION AGREEMENT ON REMAINING AMENDMENTS

Mr. BAKER. Mr. President, if I could have the attention of the Senate for a moment and that of the minority leader who is in earshot, I think we need to face up to how much more work we have to do and to examine the possibility of getting a time agreement on remaining amendments and perhaps a limitation on remaining amendments and even a time for final passage.

Mr. President, I may have stated an overly ambitious objective, but I have a unanimous-consent request drawn that I would like to state now.

Mr. President, I ask unanimous consent that only the following amendments will be in order to the social security bill from this point forward:

Two Quayle amendments, one dealing with unemployment vouchers and the other dealing with unemployment training; two Pressler amendments dealing with tax breaks for the blind; an Armstrong amendment dealing with prospective coverage of nonprofit organizations; and a Dole-Heinz-Specter-Durenberger amendment dealing with health care.

I further ask unanimous consent, Mr. President, that no other amendments be in order and that there be a time limitation of 20 minutes, equally divided, on the aforementioned amendments and that the control of the time be in the usual form.

Mr. President, I further ask unanimous consent that one second-degree amendment qualify, and that would be a Riegle second-degree amendment to be offered to the Dole-Heinz amendment, if the Dole-Heinz amendment is offered, and that there be 10 minutes, equally divided, on that second-degree amendment.

I further ask unanimous consent that a vote occur on the committee substitute, as amended, at no later than 7:30 p.m. this evening.

Finally, I ask unanimous consent that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania reserves the right to object.

Mr. HEINZ. Mr. President, I would ask the Senator from Tennessee if he would yield to discuss the unanimous-consent request. I do understand the Senator from Kansas has an amendment, of which I would be listed as a cosponsor. However, I think Senator SPECTER may have an amendment on

the same subject and I may want to preserve my right to offer an amendment on the same subject. So we could have three amendments on the same subject. I would have to, unless the Senator changes the unanimous-consent request, interpose an objection.

Mr. BAKER. Mr. President, could I inquire of the Senator how short he would be willing to agree that we might entertain debate on any such amendment?

Mr. HEINZ. Twenty minutes, equally divided, would be ample.

Mr. BAKER. Mr. President, I add to the request a second Heinz amendment dealing with health care and an amendment by the junior Senator from Pennsylvania dealing with health care, each with 20 minutes, equally divided.

Mr. LONG. Mr. President, reserving the right to object—

The PRESIDING OFFICER. The Senator from Louisiana reserves the right to object.

Mr. LONG. Mr. President, I should think that on some of these items we could agree to a time limit. There are others that we just are not familiar with, I gain the impression that at least one of these amendments involves a large amount of money and is not a simple matter.

Under the circumstances, Mr. President, not being familiar with what I am being asked to agree to, I would have to object. But I say to the majority leader that my impression is that if he starts out his request right off the top, with a number of matters we could agree to a time limit very easily. When we know more about what else he has in mind, we might be able to go along with that. But, at the moment, I simply could not agree to a 20-minute time limitation on something that I believe might be a very significant amendment involving a very large amount of money.

Mr. BAKER. Mr. President, I understand the concern expressed by the Senator from Louisiana and I, indeed, share the view with him that it would be a large amount of money and a difficult matter to deal with. I hope that something might be worked out so that we could get a time limitation on a Dole-Heinz-Specter amendment, or some combination thereof.

Perhaps I should revise my unanimous-consent request to provide a time limitation on the first five amendments to be dealt with—that is, the two Quayle amendments, the two Pressler amendments, and the Armstrong amendment—of 10 minutes, equally divided, with no amendments to the amendments being in order, and then we will reserve the balance of the request to negotiate a little further.

Mr. LONG. Mr. President, I do not know whether the sponsors of the health care amendment, for example, want to go along with it, but the thought occurs to this Senator that we could set aside a certain amount of time for the amendment and a time

certain to vote, and if we get to that certain time and we have not voted on the amendment, it would just have to go by the board. That would be all right with the Senator from Louisiana. Unless we have some kind of arrangements to protect people—we do not know what is in the amendment—we would simply not be in a position to give consent at this point.

Mr. BAKER. Mr. President, I do understand that.

Mr. FORD. Mr. President, reserving the right to object, I would like to ask the majority leader, can there be no other amendments and then we could move on from there?

Mr. BAKER. I tried that but it did not work. I not only admire and agree with the Senator from Kentucky, but—

Mr. FORD. I like the admiration part.

Mr. LEVIN. Will the Senator yield?

Mr. BAKER. Yes.

Mr. LEVIN. Will the Senator add my other amendment which would require no more than 10 minutes? I believe Senator Dole has the language.

Mr. BAKER. A new request. I ask unanimous consent that on two amendments to be offered by Mr. QUAYLE, one dealing with unemployment vouchers and the other dealing with unemployment training, there be a time limitation of 20 minutes equally divided, with no amendments to be in order; further, that on two Pressler amendments there be a time limitation of 20 minutes equally divided, with no amendments in the second degree being in order, and finally on the Armstrong prospective coverage of nonprofit organizations amendment there be 20 minutes equally divided, with no amendments to be in order.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Will the Senator state that request again?

Mr. BAKER. Yes. It is for a time limitation for two Quayle amendments, two Pressler amendments, one Armstrong amendment, and the Levin amendment with 10 minutes equally divided. I have not reiterated the request that no other amendments be in order, only that no amendments to these amendments be in order, and I have not included the time for final passage. I would like to do that as soon as I can.

Mr. LONG. So the Senator is asking for a time agreement on four amendments?

Mr. BAKER. No. There will be six amendments.

Mr. LONG. Two Quayle amendments and—is it one or two Pressler amendments?

Mr. DOLE. I think it is only one.

Mr. LONG. And an Armstrong amendment and a Levin amendment.

Mr. BAKER. Yes.

Mr. President, I put that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, even though those are short time limitations, let me urge Senators to proceed as fast as possible. This probably does not appeal to anybody else but me, but I have already told the Speaker that we are going to hand him a bill at 4:30, at 5:30, and at 6:30. I am afraid to call him back again. We need to get this thing done because the House indeed does want to appoint conferees tonight and go to conference. It is important to do that if we want to get out of here tomorrow. We dare not go over. I urge Senators to handle these matters as quickly as they can.

Mr. President, I yield the floor.

AMENDMENT NO. 534

AMENDMENT NO. 111

Mr. QUAYLE. Mr. President, this amendment is cosponsored by the Senator from New Mexico (Mr. DOMENICI). Both the chairman and the ranking member are fully acquainted with this amendment. I do not intend to reiterate the merits unless there is going to be an objection to the amendment. If there will be discussion, I will rebut the statements that will be made by either the chairman or the ranking minority manager.

In regard to the time, I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, this is the amendment of last night with the modification that the Senator from Kansas thought was acceptable. At that time, the distinguished Senator from Louisiana was not on the floor and we withheld any action on the amendment until the Senator from Louisiana had a chance to look at it.

I think it has been tightened up somewhat to address questions which had been raised. It seems to me it has been sufficiently modified and that it should be acceptable.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I have doubts about the matter, but if the distinguished manager of the bill is inclined to go along with it, I will not oppose the amendment.

Mr. DOLE. Mr. President, I would say very honestly to the Senator from Louisiana, I do have some doubts about it. It has been modified to at least address some of those doubts. I am not certain what the attitude of the House conferees is going to be, but I think it is worth consideration.

If we can do it on that basis, I would be willing to accept the amendment.

Mr. QUAYLE. I am glad for the acceptance. I just want to tell the distinguished manager that we have worked very hard with the Department of Labor and others who objected to the original amendment. It has been modified. I hope that in conversations with the House of Representatives the chairman will be successful. I will leave that entirely up to the chairman. I have no problems with that. I just do

not want him to say he will accept it and then forget about it.

Mr. DOLE. I will not do that.

Mr. QUAYLE. We have worked very hard to try to poll those people interested in this issue, and I believe we have a fairly unanimous consensus on this amendment, accommodating all during the time that we have worked on it.

If the chairman is willing to accept it, I am willing to yield back the remainder of my time.

Mr. DOLE. Mr. President, I want to be certain we do not get ourselves into a new program. I am sure the House conferees will scrutinize it very, very carefully, and I would suggest that we take the amendment and see what happens.

Mr. QUAYLE. This is not a really new program. The next amendment will be a new program and is a little more complicated.

With that understanding, Mr. President, I am willing to yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (amendment No. 534) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 134

(Purpose: To provide for reemployment vouchers)

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an unprinted amendment numbered 134.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 234, after line 23, insert the following new sections:

REEMPLOYMENT VOUCHERS

SEC. 404. The Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new section:

"REEMPLOYMENT VOUCHERS

"Sec. 607. (a)(1) Any recipient may, not later than one month after the recipient is eligible to receive Federal supplemental compensation, elect to receive a voucher in accordance with the provisions of this section. Each recipient may receive counseling with respect to the reemployment voucher authorized by this section from the appropriate United States employment service office.

"(2) The amount of the voucher under this section shall be equal to 75 per centum

of the maximum potential benefit of the recipient (less any Federal supplemental compensation that the recipient has received prior to his election to receive a reemployment voucher under this section).

"(3) The appropriate State agency shall issue a voucher authorized by this section to any recipient making an election under paragraph (1) of this subsection.

"(b) The State agency shall, subject to subsection (c), pay to each employer making a certification under subsection (d) the amount of the voucher issued under this section to each employee of that employer in accordance with the payment schedule contained in subsection (e).

"(c) No payment on account of a voucher issued under this section may be paid to any employer who was an employer of the recipient during the recipient's base period as defined under the unemployment compensation law of the State.

"(d) No payment on account of a voucher may be paid to any employer of any employee having a voucher issued under this section unless the employer certifies to the State agency—

"(1) that the employment of the employee issued a voucher under this section—

"(A) will not result in the displacement of currently employed workers (including partial displacement such as the reduction in the hours of nonovertime work or wages or employment benefits); or

"(B) will not result in hiring such an employee to fill a job opening created by the action of the employer in laying off or terminating the employment of any regular employee;

"(2) the date on which the employment of such employee began; and

"(3) that the employee has been employed by the employer for an average of thirty hours a week for the period for which the payment is made.

"(e)(1) The State agency shall pay to the employer of each employee who is a recipient having a voucher issued under this section—

"(A) 25 per centum of the face value of the voucher within one month after the hiring of the recipient by the employer;

"(B) 25 per centum of such face value three months after the date of the payment described under paragraph (A);

"(C) 25 per centum of such face value three months after the second payment described in paragraph (B); and

"(D) the remaining 25 per centum of such face value three months after the third payment described in paragraph (a).

"(2) Payments to employers under this subsection shall be made in a form (as prescribed by the Secretary of the Treasury) which will be accepted by the Treasury in payment of any amounts payable by the employer under Subtitle C of the Internal Revenue Code but such payments shall not be valid for any other purposes.

"(f)(1) Any recipient who—

"(A) is unable to use the voucher issued by the State agency under this section, or

"(B) after the voucher has been issued is laid off without cause.

may return the unused voucher to the State agency in order to qualify for payments under this subsection.

"(2) Any recipient described in paragraph (1) shall be eligible to receive the remainder of his Federal Supplemental compensation reduced by—

"(A) the amount of payments made to the employer under subsection (e) of this section; or

"(B) the amount which the recipient would have received had he been receiving Federal supplemental compensation for the period.

"(g) No employer shall be entitled payments under a voucher with respect to the employment of any individual who—

"(i) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c));

"(ii) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

"(iii) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in clause (i), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

"(h) The Secretary shall carry out a program of public information to encourage business concerns to participate in the voucher program authorized by this section.

"(i) For purposes of this section:

"(1) The term 'Federal supplemental compensation' means only compensation paid to individuals under this Act for weeks beginning after March 31, 1983.

"(2) The term 'maximum potential benefit' means an amount equal to the lesser of—

"(A) 65 per centum of the total amount of regular compensation (including allowances for dependents) payable to an individual with respect to the benefit year (as determined under State law) on the basis of which the individual must recently received regular compensation; or

"(B) the applicable limit specified in section 602 (e) (2) (A) (ii), multiplies by the average weekly benefit amount of the individual (as determined for the purpose of section 202 (b) (1) (C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

"(3) The term 'recipient' means any individual eligible to receive Federal supplemental compensation.

"(4) The term 'State agency' means the agency receiving grants under title III of the Social Security Act."

AMENDMENTS TO INTERNAL REVENUE CODE

SEC. 405(a). Sec. 280C of the Internal Revenue Code is amended by adding after subsection (c) the following new subsection:

"(d) RULE FOR REEMPLOYMENT VOUCHER.—No deductions shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of payments under a voucher issues under section 607 of the Federal Supplemental Compensation Act of 1982"

(b) Sec. 44B of the Internal Revenue Code is amended by adding at the end thereof the following new subsection

"(d) DENIAL OF TARGETED JOBS CREDIT.—No credit shall be allowed under this section with respect to any wages paid or incurred by the employer with respect to any eligible individual for any period for which payments are made under a voucher issued under sec. 607 of the Federal Supplemental Compensation Act of 1982"

Mr. QUAYLE. Mr. President, this amendment deals with a reemployment voucher to allow the recipients of Federal supplemental compensation the option of receiving a reemployment voucher.

The way this program would work is if the recipient decided to receive this voucher instead of the unemployment compensation, he would be able to receive a voucher worth 75 percent of those extended benefits. The recipients of these vouchers would then be able to use these with potential employers, who would receive the value of the voucher in quarterly installments once an individual is hired. Payments under the voucher can be used by the employer to satisfy any obligations to the Treasury under the employment withholding, FICA or FUTA.

The voucher idea and the voucher system have been around a long time. Nobody really knows how this program is going to work. I cannot tell exactly how it is going to work. The only thing I can tell my colleagues is that this extension lasts through September 30 of this year. I say let us give it a chance. It is going to go, and I direct it to the attention of the Senators who have a high degree of long-term unemployment, because it is going to go only to the recipients of FSC compensation. Those people will have the voluntary option to turn this into a voucher. It will, in fact, give a person who has been searching for a job for 26 weeks or as long as 39 weeks an additional attraction for an employer to hire him.

There is no doubt that this program, in fact, will be of assistance to the employee as well as the employer. The voucher is, for all practical purposes, as good as a cash or wage subsidy but it certainly does leave a clear audit trail to prevent abuse. The benefits that the employers gain would begin within 1 month of the date the individual is hired and will be payable to the employer in quarterly installments. Unlike the tax credit this body is quite familiar with, it does not require the employer to make special claims on his tax form.

There has been a lot of discussion on vouchers or tax credits, that there is the possibility of substitution. This amendment prohibits substitution. It can be used by nonprofit organizations, State and local governments, as well as private businesses. It is a new approach to promoting jobs for the long-term unemployed.

The administration, whom we have worked with on this amendment, is generally supportive of it. As I said, it is a new idea. We do not have any exact criteria for how many people are going to use the voucher system, how many people are going to be hired. What I am saying is let us give it a chance; let us try it.

Let us try to use a little bit of creativity when we are dealing with the long-term unemployed. It is optional. If, in fact, they want to use their unemployment compensation in the form of a voucher to get hired, so be it. The better off they are going to be, the better off the employer is going to be,

the better off the country is going to be.

It is a different twist. It is a new idea, but I do not think it ought to be rejected just because it is a new idea. I do not think it ought to be rejected just because we do not have a lot of data to share. This expires on September 30 of this year. If, in fact, it is accepted by the Senate and then in the conference committee, we shall have more information come September 30.

We shall be having hearings, I know, in our committee, having hearings in the Finance Committee about what we are going to do about the long-term unemployed. The administration has some ideas, I have some ideas, other Senators have some different ideas. This is just one idea to deal with a very narrow issue, Federal supplemental compensation, to allow an option to the beneficiary to turn that unemployment compensation into a voucher.

As I said, Mr. President, we have worked with Treasury, been in communication with the Department of Labor and OMB, and they are supportive of this amendment. We had to modify the original amendment a considerable amount in order to garner that support. We have put a lot of time into this. We hope that Members will give this a chance.

I realize that any time you bring up a new idea on how we are going to deal with something, all of a sudden, there are a lot of questions. If there are questions, we shall try to answer them. We shall answer them the best we can.

I hope the final conclusion of the Senate will be the adoption of this amendment to allow the possibility of a reemployment voucher on the Federal supplemental compensation.

I reserve the remainder of my time. The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, to begin with, this is an amendment I know the Senator from Indiana has done a great deal of work on in committee. We have had some hearings in our committee.

The amendment establishes an employment voucher program to be used by recipients of Federal supplemental compensation benefits. The proposal is a modification of the administration's tax credit plan and also a modification of the Senator's earlier cash voucher proposal.

The voucher would be optional with the FSC recipient and would be equal to 75 percent of the individual's FSC entitlement. The employer of the FSC recipient would then apply the voucher to his Federal employment tax obligations—social security payroll tax, the Federal unemployment tax, or wage withholding. The vouchers would be processed by the IRS and could not be redeemed for cash. The program would be in place for 10 months—approximately 4 months beyond the anticipated expiration date of the FSC program.

As I understand it, the amendment includes protections against the displacement of current workers and requires substantially full-time employment—at least 30 hours per week.

Mr. President, I do have a few reservations about this proposal. For one thing, I am concerned that the availability of the voucher may cause some businesses to put off hiring individuals until the voucher is available. Firms may also simply fill existing vacancies with these voucher holders and no new jobs will be created.

So there are some drawbacks. However, the program is temporary one and could be viewed as a demonstration project. I also understand that the proposal has the basic support of the interested departments—Labor, OMB, and Treasury.

Therefore, it begins an experimental program, one the administration has testified on. The Senator from Kansas is willing to support the amendment.

I understand the Senator from Louisiana feels constrained to oppose the amendment. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, it seems to me that this is adding a great deal of cost to the program. I for one am not able to support the amendment. I would be compelled to vote against it.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment.

(Putting the question).

The PRESIDING OFFICER. The Chair is in doubt.

Mr. QUAYLE. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOREN (after having voted in the affirmative). On this vote I have a pair with the Senator from Montana (Mr. MELCHER). If he were present and voting, he would vote "nay." I have voted "aye." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MELCHER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER (Mrs. HAWKINS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—53

| | | |
|-------------|-----------|----------|
| Abdnor | Hatch | Pressler |
| Andrews | Haifield | Quayle |
| Armstrong | Hawkins | Roth |
| Baker | Hecht | Rudman |
| Boschwitz | Heinz | Simpson |
| Chafee | Helms | Specter |
| Cochran | Humphrey | Stafford |
| Cohen | Jepsen | Stevens |
| D'Amato | Kassebaum | Symms |
| Danforth | Kasten | Thurmond |
| Denton | Laxalt | Tower |
| Dole | Lugar | Trible |
| Domenici | Mattingly | Wallop |
| Durenberger | McClure | Warner |
| East | Murkowski | Weicker |
| Garn | Nickles | Wilson |
| Gorton | Packwood | Zorinsky |
| Grassley | Percy | |

NAYS—40

| | | |
|-----------|------------|------------|
| Baucus | Ford | Metzenbaum |
| Bentsen | Glenn | Mitchell |
| Biden | Hart | Moynihan |
| Bingaman | Heflin | Nunn |
| Bradley | Huddleston | Pell |
| Bumpers | Inouye | Proxmire |
| Burdick | Jackson | Pryor |
| Byrd | Johnston | Randolph |
| Chiles | Kennedy | Riegle |
| DeConcini | Lautenberg | Sarbanes |
| Dixon | Leahy | Sasser |
| Dodd | Levin | Tsongas |
| Eagleton | Long | |
| Exon | Matsunaga | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Soren for.

NOT VOTING—6

| | | |
|-----------|----------|---------|
| Cranston | Hollings | Melcher |
| Goldwater | Mathias | Stennis |

So Mr. QUAYLE's amendment (UP No. 134) was agreed to.

Mr. QUAYLE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 135

(Purpose: To provide that the phaseout of the earnings test with respect to individuals over age 65 shall also apply to blind disabled individuals)

Mr. PRESSLER. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), for himself, Senator RANDOLPH and Senator DIXON proposes an unprinted amendment numbered 135.

Mr. PRESSLER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

TREATMENT OF EARNINGS OF DISABLED BLIND INDIVIDUALS

Sec. . The second sentence of section 223 (d) (4) of the Social Security Act is amended by inserting a comma and "as amended by the Social Security Amendments of 1983" before the period at the end thereof.

Mr. MOYNIHAN. Madam President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PRESSLER. Madam President, this amendment provides that the earnings test will be phased out for blind disability recipients just as for retirees. This bill already provides that, between 1990 and 1994, we will phase out the earnings test for retirees. I would ask that we include blind disability recipients in that phaseout, as a matter of fairness. I would hope that my colleagues will support me in this effort.

The argument in favor of this amendment is much the same as the argument in favor of my amendment regarding the earnings offset. We have given blind disability beneficiaries the same earnings test as retirees, so we should give them the same treatment as far as the phaseout of the earnings test. This action is a good idea because it acts as a work incentive. I would also like to point out that if blind persons do find work as a result of the incentive provided by this amendment, they will be contributing money to the social security trust fund through their payroll taxes. These contributions will, of course, help to offset any additional costs to the trust fund caused by phasing out the earnings test.

My colleagues Senators RANDOLPH and JEPSEN are cosponsors of this amendment.

Mr. RANDOLPH. Madam President, will my colleague yield?

Mr. PRESSLER. I yield to my distinguished colleague who has done so much work for the blind in West Virginia.

Mr. RANDOLPH. Madam President, sometimes at the close of the day when perhaps the sense of quiet rather than turbulence comes across this historic Chamber there is one or more amendments that come to the attention of those of us who are present that deserves our careful study and strong support: This is one of those worthwhile amendments.

The blind are a great resource in the United States of America. We know of contributions made by the blinded veterans during the conflicts in which they have served in our Armed Forces to preserve and defend our security against offtime foreign and fierce foes.

The blind can work in the marketplace. They are entrepreneurs in the products they sell.

At the present time in one program as a result of the Randolph-Shepard Act there are approximately 4,000 blind individuals, men and women, who are entrepreneurs. These citizens operate vending facilities established in Federal buildings throughout the United States, in State facilities, in county facilities, and in local facilities. The average annual income of these vendors is \$15,000 per year. These operators return to the Federal Government in taxes each year about eight times the amount of money it costs the Federal Government to run the program. Because of the success of the blind in gainful employment they

have by their experience in handling the public with skill given to American industry the impetus to establish opportunities for the blind in businesses throughout the United States of America.

The blind certainly have proved themselves as individuals, both men and women, who can give to the American purchasing public that service which in a sense is anticipated here by further aid to the blind in reference to the accountability of funds which they have earned and which in a sense the tax may be lessened upon them.

I commend my colleague from South Dakota who introduced this amendment, and I ask him the following question.

Does this amendment have the support of the National Federation for the Blind?

Mr. PRESSLER. Yes; the National Federation for the Blind does support it.

Mr. RANDOLPH. The National Federation for the Blind does support it?

Mr. PRESSLER. Yes, indeed.

Mr. RANDOLPH. I understood the Senator had such an endorsement.

I hope our colleagues will give to this segment of America, a productive segment, the opportunity to feel that they can prepare themselves, they can earn, they can sell, they can be an active part of the American system.

I thank my colleague.

Mr. PRESSLER. I thank the Senator from West Virginia who authored the original legislation regarding disability benefits for the blind and who is known nationally for his work with the blind.

Mr. EXON. Madam President, it seems to this Senator that the amendment offered by the Senator from South Dakota and so eloquently described by the Senator from West Virginia is a good one.

I just wish to ask, has this been cleared with the managers on both sides? If so, could we expedite the procedure?

Mr. DOLE. Madam President, I am going to discuss the amendment very briefly. I am prepared to accept the amendment but I wish to explain some of the negatives even in this case. It will just take a minute.

Mr. EXON. I thank the Senator.

Mr. JEPSEN. Madam President, I rise in support of the amendment offered by the Senator from South Dakota, Mr. PRESSLER. Instituting a phaseout of the earnings limit for the blind is an idea which makes sense.

Over the years, Congress has attempted to build work incentives into various Federal programs. Clearly, it is in the best interests of the blind to be working rather than sitting at home collecting disability payments. Many would like to do this but are constrained because of the social security disability program. This occurs in much the same way as retirees are

constrained from working under the current retirement test.

In the long run, approval of the Pressler amendment will improve the quality of life for thousands of blind people and, I believe, help to strengthen the social security system. After all, a working person contributing to the social security system has to be better than a nonworking person collecting disability.

The Pressler amendment will not require anyone to work. It simply creates a strong incentive for those who can work, and who want to work, to do so. I urge my colleagues to support the Pressler amendment.

Mr. DOLE. Madam President, the Social Security Act contains a strict definition of disability. It is based on not only the severity of the disabling condition, but also the individual's ability to work.

"Disability" is defined as the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that has lasted, or is expected to last, at least 12 months or is expected to result in death.

Determining whether an individual is disabled within the meaning of the law is done on a sequential basis—with work activity, severity of impairment, and vocational factors assessed in that order.

The Pressler amendments would—I think we should make this distinction—for blind beneficiaries only alter the very first, and perhaps most important, criteria used for determining disability—the "substantial gainful activity" test.

If an individual is earning more than the SGA level—\$300 monthly in general, \$550 monthly for the blind—he is evidently able to engage in substantial work. In such cases, he will be found not disabled and thus not eligible for DI benefits, without consideration of any other medical or vocational factors.

Already the blind are preferentially treated with a higher SGA level, which happens to be tied to the earnings limitation under the retirement test.

According to the Social Security Administration, in 1995 when the retirement test is eliminated under the committee bill, the SGA limit for the blind would be completely eliminated.

The result would be that beginning in 1995 anyone who is blind would, regardless of income, education and skill, be eligible for benefits. At the extreme, a well-paid doctor or attorney would be eligible for DI benefits. Few of us would find that to be appropriate.

Madam President, the Senator from Kansas first wants to compliment the distinguished senior Senator from West Virginia, for almost a lifetime of dedication in this area.

The Senator from Kansas has learned a lot from the distinguished Senator from West Virginia. I have

tried to be helpful in areas that pertain to the blind and handicapped, and certainly he has been the pioneer in this body for the last 30 to 40 years.

I have discussed this amendment in great detail with the Senator from South Dakota. The Senator from Kansas is willing to accept the amendment.

I did want the RECORD to show it is a departure from the treatment of other disabilities. It could discriminate against other seriously disabled persons. However, it would be hard to defeat the amendment if an effort were made, so I am willing to accept the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Does the Senator yield to me for a comment before he speaks? Am I a cosponsor of the Senator's amendment?

Mr. PRESSLER. Yes, the Senator is.

Mr. RANDOLPH. I would like to say to the able manager (Mr. DOLE) I think he has done an almost magnificent job, regardless of my opposition to certain amendments which he has fostered during the consideration of this bill.

It is not in any cursory fashion that I express appreciation for the handicapped and the disabled throughout this country for his efforts in well-reasoned measures in Congress and also in other ways to assist the handicapped and the disabled.

I realize, I say to the Senator from Kansas, that in a sense this is a departure in which the underlying sentiment is compassion, understanding and, perhaps, for the moment let us think of the needs of the blind as we bring such legislation to fruition.

Mr. DOLE. Mr. President, if the Senator will yield, I certainly appreciate his comments. Again I appreciate the spirit of the amendment. I want the RECORD to reflect that it is a departure from the substantial gainful activity test. But I am prepared to accept the amendment.

The PRESIDING OFFICER. I move adoption of the amendment.

The PRESIDING OFFICER (Mr. JEPSEN). Is all time yielded back? The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (UP No. 135) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 136

(Purpose: To provide that a blind individual otherwise eligible for benefits under section 223 of the Social Security Act not be regarded as able to engage in gainful activity solely because of the earnings of such individual, and that the benefits payable to such individual be reduced in accordance with the procedures prescribed by section 203 of such Act.)

Mr. PRESSLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an unprinted amendment numbered 136.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

TREATMENT OF EARNINGS OF DISABLED BLIND INDIVIDUALS

SEC. . (a) The second sentence in section 223(d)(4) is amended to read as follows: "No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity solely on the basis of the earnings of such individual; the benefits payable to such individual shall be reduced in accordance with the provisions of section 203."

(b) The amendment made by this section shall apply with respect to benefits payable under section 223 of the Social Security Act after the date of enactment of this Act to individuals applying for benefits under such section after the date of enactment of this Act.

Mr. PRESSLER. Mr. President, I am submitting this amendment, which will provide for the fair treatment of blind recipients of social security disability income. The action which I am proposing has already been passed by the Senate, but important parts of this legislation were deleted in conference.

Currently, blind recipients of social security disability income can earn up to \$550 per month. When these people reach this mark, however, they lose all benefits. For the 30,000 blind persons in this country who earn over \$550, the current regulations cause them to be penalized for working. Mr. President, I do not believe that this is what Congress meant to do. We should be encouraging disability recipients to work, not discouraging them. However, the current law certainly operates as a work disincentive for this group of disability recipients.

My amendment would treat blind disability recipients in the same way that we treat social security retirees' income. That is, for every \$2 earned over and above \$550, beneficiaries lose \$1 in benefits. By passing this amendment, we will send a message to the 120,000 current blind disability recipients that we are serious about providing work incentives. This is an impor-

tant and necessary step, and I would hope that those who have supported it before will do so again.

My colleagues, Senators MATSUNAGA, JEPSEN, THURMOND, and RANDOLPH, have agreed to cosponsor this amendment.

Mr. DOLE. Mr. President, the Senator from Kansas wanted to make certain that the Senate understood before they acted on the previous amendment, which was accepted, and on this amendment, that it is a departure from the treatment of other disabilities. It is a liberalization of the eligibility requirements for blind social security disability insurance beneficiaries. In particular, it would phase out the substantial gainful activity criteria for blind beneficiaries.

This amendment would cost about \$100 million a year, a total of about \$0.5 billion between now and 1989. It would have a long-range cost. I do not know whether you can equate dollars with physical disability, particularly severe physical disability, such as blindness. However, I would restate for the RECORD that this would further liberalize the treatment of the blind. This amendment would allow the blind to earn more than the SGA level of \$550 monthly, with each \$1 in excess of that amount reducing benefits by 50 cents, instead of having excess earnings cause ineligibility. They would be treated like retirement benefits, subject to the earnings test.

I think it is a judgment the Senate has to make. Again, it is one of these areas where if we fail to look at the total picture and try to separate the blind from other severely disabled persons, it would be difficult to oppose the amendment. The Senator is prepared—does the Senator want a voice vote on this.

Mr. PRESSLER. I would like to briefly respond if I may.

I thank the chairman of the Finance Committee and the staff for their comments. Let me say I believe the chairman's costs are assuming that every blind person who is eligible will earn the maximum benefit. This is not the case. CBO has not been able to give an estimate of the cost of this amendment, because they are unable to calculate, with certainty, the number of those working blind with excess earnings who would come onto the disability rolls under this amendment. At the very most, this action would allow 30,000 people to qualify for some reduced level of benefits. I would point out, however, that there are currently 120,000 blind persons drawing full disability benefits. With the change that I am proposing, these recipients will be given the incentive to work without fear that they will lose all their disability benefits. The reduction in benefits that will result from this incentive measure should help to offset the cost of any new beneficiaries added to the rolls.

I think that is a point that should be considered here.

Second, it is true that blind disability recipients are treated differently than other disability recipients, but they still receive unfair treatment. The current system only goes halfway in giving them the same earnings test as retirees, and that is the real problem.

Retirees can earn up to \$550 per month, and for every \$2 that they earn over that amount, they lose \$1 in benefits. However, when blind people earn \$550 or more, they lose all benefits. I am only arguing for fairness. This body has already voted to give blind disability recipients a different earnings limit than other disability beneficiaries. What we should now do is correct an inequity that already exists within that system, which is that the blind have the same earnings limit as retirees, but not the same earnings offset. If we are going to give the blind one of these, we should give them the other.

Mr. DOLE. Mr. President, as I have indicated to the Senator previously, again this is a departure from present policies. It is a liberalization, and I cannot in good conscience support the amendment. I think that is the view shared by the ranking minority member, the distinguished Senator from Louisiana.

Mr. PRESSLER. Mr. President, on this I would ask for the yeas and nays.

Mr. DOLE. Mr. President, it is my understanding that the Senator from South Dakota would be willing to have a voice vote.

Mr. PRESSLER. I would like to ask for the yeas and nays.

Mr. DOLE. Let me explain it again. The Senator from Kansas would be perfectly willing if the Senator prevails on a voice vote, but I am not certain I could guarantee that if we had a record vote.

Mr. RANDOLPH. Mr. President, who has the floor?

Mr. DOLE. The Senator from Kansas has the floor. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I would suggest to my colleague who offered the amendment for himself and others, and responding to what I think is the judgment of the two leaders of this legislation, that it would be the best part of judgment of those who sponsor the amendment to have a voice vote.

Mr. PRESSLER. I will be happy with a voice vote.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota (Mr. PRESSLER).

The amendment (UP No. 136) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

Mr. LONG. Mr. President, I want to make it clear that I voted against the

amendment. I personally cannot agree with it, but I was willing to let the matter be decided on a voice vote, and I am not complaining about the matter.

Mr. DOLE. Mr. President, the next amendment in order is the amendment of the Senator from Colorado. Senator ARMSTRONG. This is the last amendment with a time agreement and we still have amendments from Senator HEINZ and Senator SPECTER and final passage. We also have an amendment by Senator LEVIN, which will be a record vote.

UP AMENDMENT NO. 137

(Purpose: To cover only new hires of nonprofit organizations which are now not covered by social security)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 137.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, strike lines 22-24 and insert in lieu thereof the following:

"Sec. 102. (a) Section 210(a)(8)(B) of the Social Security Act is amended by inserting the following phrase after "of such Code,":

"by an individual who has been continuously in the employ of such organization since December 31, 1983 (and, for this purpose, an individual who returns to the performance of such service shall nevertheless be considered upon such return as having been continuously in the employ of such organization, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 days)."

On page 67, strike lines 1-3 and insert in lieu thereof the following:

"(b)(1) Section 3121(b)(8)(B) of the Internal Revenue Code is amended by inserting the following phrase after "under section 501(a),":

"by an individual who has been continuously in the employ of such organization since December 31, 1983 (and, for this purpose, an individual who returns to the performance of such service shall nevertheless be considered upon such return as having been continuously in the employ of such organization, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 days)."

Mr. ARMSTRONG. Mr. President, I am going to take only a couple of minutes to explain this amendment, but I hope my colleagues will not take the brevity of my argument in any way as an indication of the crucial significance of the issue which I seek to raise.

As my colleagues know, the current law provides social security coverage to nonprofit organizations on an optional basis unless the organization af-

fects withdraws. About 90 percent of all nonprofit organizations have chosen to be covered under social security.

The bill that comes before us today contains the recommendation of the National Commission on Social Security Reform that nonprofit organizations should be covered under social security beginning January 1, 1984. This proposal affects about 200,000 nonprofit organizations, with about 675,000 employees. It will substantially increase their cost and lead to the reduction in social services.

Mr. President, I believe that the principle involved here, that is of affording mandatory social security coverage to nonprofit organizations, is a reasonable one. I do not, however, believe it is reasonable to do it in an abrupt and drastic fashion; that is to simply say without warning that 9 months from today all of these organizations, without any opportunity to adjust their own pension planning, without any opportunity to find new sources of funds, without any opportunity to do anything except just suddenly comply, is not fair, in my opinion.

The effect of it is going to be that some of these organizations will not have the funds to comply and, therefore, will simply have to fulfill this new requirement by reducing the services that they provide. Very often when we think of nonprofit organizations we tend to think of large foundations, the giant foundations which are wealthy and which have tremendous resources that have great endowments. Some of these may be affected.

But the ones I am concerned about are not these but the small ones, like the little shelter house in Denver, Colo., that helps battered women and that has a staff of five and, in all likelihood, will have to lay off one of those five persons in order to pay the additional costs that are imposed under the bill that comes to us from the committee.

There are many other similar examples that have been brought to my attention. The Alcoholism Council of Antelope Valley, in California opted out of social security 4 years ago in order to expand the services they provide. The council, I am told, will have to lay off several employees and with such a small staff already they may have to shut down the operation.

As one thinks about the justice of requiring these nonprofit organizations to suddenly reduce their operations without warning, it is well to keep in mind the economic environment in which they are already operating, and that is one of the declining resources. The recession has affected all of these, just as it has affected all of the private sector.

So, at a time when resources are tight, when needs are growing, to say that we are going to force them on a date certain, an early date certain just 9 months from now, to take such a

step seems to me to be unfair. If that is unfair, and if the principle of covering nonprofit organizations is a reasonable one, what is a good way out? In my opinion, a good way out is to apply this same phase-in process to nonprofits that was suggested by the committee for Federal employees.

We have adopted an amendment which drops the Federal employees out of the bill altogether and whether or not that will be sustained in conference I have no way to know. But the recommendation of the National Commission on Social Security Reform and the recommendation of the Senate Finance Committee was to cover Federal employees on the basis of new hires; that is, as they come on, cover them, phase them in.

The rationale for this is very simple. It was to give the Federal Government a chance to make its adjustments for its pension planning and not to impose an undue burden by requiring that everybody be covered by social security on a short timetable.

So that is all this amendment does. It says that nonprofit organizations should have the same consideration that we seek to afford to Federal employees if, in fact, Federal employees are to be covered at all.

Mr. President, with that word of explanation, I urge my colleagues to vote for the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I will just take a minute. This amendment was offered in the committee. The vote was 4 to 11. Not that that means to dictate how Senators vote on the Senate floor.

But the 1983-89 revenue loss in this proposal is about \$5.2 billion out of the \$12.5 billion we hope to raise with this provision. It was rejected by the committee. I think it is important to note that already 85 percent of all nonprofit employees have opted to be covered by social security. The provision would just bring in the remaining 15 percent.

Under present law, work performed for a nonprofit tax-exempt organization—specified in section 501(c)(3) of the IRC—is excluded from social security coverage unless the organization files a certificate with the IRS waiving its exemption from social security taxes. Nonprofit organizations may terminate coverage upon giving 2 years advance notice, providing coverage has been in effect for 8 years or more. Once coverage has been terminated, the organization cannot again cover its employees. About 4.3 million employees of nonprofit organizations—80 to 90 percent—are covered.

National Commission recommendation: Extend social security coverage on a mandatory basis to all employees of nonprofit organizations, effective

January 1, 1984. This is contained in S.

1.

OASDI savings

| Calendar year: | Billions |
|----------------|----------|
| 1984..... | \$1.3 |
| 1985..... | 1.5 |
| 1986..... | 1.8 |
| 1987..... | 2.1 |
| 1988..... | 2.6 |
| 1989..... | 3.1 |
| 1983-89..... | 12.5 |

Armstrong amendment: Cover employees of nonprofit organizations— which are not currently covered—who are hired on or after January 1, 1984. (Similar to treatment of Federal employees.) Also, prohibit any nonprofit organization from terminating coverage after the date of enactment of the provision.

OASDI savings

| Calendar years: | Billions |
|-----------------|----------|
| 1984..... | \$0.3 |
| 1985..... | 0.6 |
| 1986..... | 1.0 |
| 1987..... | 1.3 |
| 1988..... | 1.8 |
| 1989..... | 2.3 |
| 1983-89..... | 7.3 |

The 1983-89 revenue loss from this proposal is \$5.2 billion, out of the \$12.5 billion we hoped to raise with this provision.

This proposal was considered and rejected in committee by a vote of 4 to 11.

I think it is important to note that already 85 percent of all nonprofit employees have opted to be covered by social security. The provision would just bring in the remaining 15 percent and treat them the same as the rest of private sector employees who are already covered.

I am not persuaded by the argument that we should treat nonprofits the same way we do Federal employees. Social Security coverage has been expanded repeatedly over the years to a variety of private sector employees. Each time, coverage was extended to the new group on a mandatory, current employee basis.

In addition, private sector pension plans should be better able to adjust to coverage—they are often newer plans, and more flexible than the huge Federal Service Retirement System, for example.

I might add that many of the people employed in nonprofit organizations want to be covered by social security, but the choice was taken away by the organization itself, without the consent of employees.

In testimony we received in the Finance Committee, we were reminded that many of the nonprofits that are not now covered or that are opting out of social security are hospitals, for example, whose employees would prefer to be a part of the social security system. People who are not under social security do not have portable pension rights; frequently they do not have disability protection.

While we cannot pretend that beginning to pay the social security tax will be easy for employees and employers, I am convinced that the benefits workers will receive will make their coverage worthwhile.

We cannot ignore the needs and the purposes of the social security system either. As the American Nurses Association testified, working people in the low- to middle-income range are willing to shoulder their fair share of the responsibility for the solvency of the system. In their words, "the system provides enormous social benefits for which all members of society should bear a responsibility."

In my view, I do not quarrel with the Senator from Colorado. He has performed outstanding service. But I do not know where we would get the \$5.2 billion if the amendment is adopted. So I hope we reject the amendment.

Mr. MOYNIHAN. Mr. President, may I again echo the statement of the distinguished chairman. We fully appreciate the concerns of the Senator from Colorado. We do not have the \$5 billion. This has been a repeated proposition.

We have very little keel room as we take this system through the next 7 years. We plead with our colleagues to stay with the Finance Committee proposal. You will be glad you did. In addition to which the employees who will be covered by social security will be glad they are.

Social security is a good program and it is only persons who are devoted to causes that are proper ones who find themselves left out of it, and they ought to be in it. They are entitled to that. The very fact that they are working as they do suggests that the Government ought to see that they have the protection of our social insurance program.

Mr. ARMSTRONG. Mr. President, there is no sense arguing this at length. The issue is clear. If I might be permitted to have the last word, I would point out to my colleague from New York that his characterization of those who are not covered may not be entirely accurate in every case. There may well be some of these organizations which have private-pension arrangements, just as the Federal Government has a separate pension arrangement, and for the same reason that we chose not to precipitously cover Federal employees but to phase them in on the basis of covering new persons as they enter Federal employment, my amendment suggests that we do the same in the nonprofit sector.

There may also be some of the kind that he described earlier. I acknowledge that that is the case. By and large, I think the principle of covering the nonprofit sector under social security is a good one. I support it. It is just a question of whether we ought to do it all on 1 day or phase it in.

Mr. MOYNIHAN. May I offer a personal apology for overstating the case?

Mr. ARMSTRONG. Not at all. The statement just would not apply universally.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GOLDWATER. Mr. President, I ask unanimous consent that this be a 10-minute vote. We are just going to spend the whole night voting.

Mr. BYRD. I do not want to object to the request of the distinguished Senator, but I do not believe we can at this time limit the vote to 10 minutes.

The PRESIDING OFFICER. If all time has been yielded back, the question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.
Mr. Stevens. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. BYRD. I announce that the Senator California (Mr. CRANSTON), the senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 26, nays 69, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—26

| | | |
|-----------|-----------|----------|
| Armstrong | Goldwater | Proxmire |
| Boren | Hatch | Quayle |
| Boschwitz | Hawkins | Symms |
| Byrd | Humphrey | Thurmond |
| D'Amato | Jepsen | Trible |
| DeConcini | Long | Warner |
| Dodd | Lugar | Wilson |
| East | McClure | Zorinsky |
| Garn | Nickles | |

NAYS—69

| | | |
|-------------|------------|-----------|
| Abdnor | Gorton | Mitchell |
| Andrews | Grassley | Moynihan |
| Baker | Hart | Murkowski |
| Baucus | Hatfield | Numm |
| Bentsen | Hecht | Packwood |
| Biden | Heflin | Pell |
| Bingaman | Helms | Percy |
| Bradley | Helms | Pressler |
| Bumpers | Huddleston | Pryor |
| Burdick | Inouye | Randolph |
| Chafee | Jackson | Riegle |
| Chiles | Johnston | Roth |
| Cochran | Kassebaum | Rudman |
| Cohen | Kasten | Sarbanes |
| Danforth | Kennedy | Sasser |
| Denton | Lautenberg | Simpson |
| Dixon | Laxalt | Specter |
| Dole | Leahy | Stafford |
| Domenici | Levin | Stevens |
| Durenberger | Matsunaga | Tower |
| Eagleton | Mattlingly | Tsongas |
| Exon | Melcher | Wallop |
| Ford | Metzenbaum | Welcker |

NOT VOTING—5

| | | |
|----------|----------|---------|
| Cranston | Hollings | Stennis |
| Glenn | Mathias | |

So Mr. ARMSTRONG's amendment (JP No. 137) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 138

(Purpose: To pledge the full faith and credit of the United States Government in support of the obligation to pay accrued benefits under the civil service retirement system)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate considerations.

The PRESIDING OFFICER. The immediate will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 138.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, at the end of line 19, add the following: "The full faith and credit of the United States Government is pledged hereby in support of the payment of said accrued entitlements."

Mr. LEVIN. Mr. President, section 101(d) of the bill before us provides:

Nothing in this Act shall reduce the accrued entitlements to future benefits under the Federal Retirement System of current and retired Federal employees and their families.

This amendment adds the following statement, that "The full faith and credit of the United States Government is pledged hereby in support of the payment of said accrued entitlements."

Mr. President, this statement of intent will hopefully reassure Federal employees of our intent to fully protect their accrued benefits. It is similar to language which was offered by the distinguished Senator from New York (Mr. MOYNIHAN) in committee. It is slightly different, somewhat from that language but its intent is the same. It is a reassurance the Federal employees, current Federal employees and retirees of our intent to protect fully their accrued benefits.

I understand it is agreeable to the floor manager of the bill, my friend from Kansas, and to the Senator from Louisiana.

Mr. DOLE. Mr. President, this amendment would simply buttress the language included in S. 1 offered by Senator MOYNIHAN to reassure civil service retirees and employees that this bill not in any way alter the civil service retirement system. It is clearly not our intention to dismantle the civil service retirement system or otherwise erode the value of the protection provided by the system to present participants. I support the amendment, although it may not be as important an issue now that the Long amendment has passed. But I am certainly willing to accept the amendment. I know of no objection on the other side. In fact, as I have indicated, Senator MOYNIHAN initially included the same language in S. 1.

Mr. BRADLEY. Mr. President, I ask unanimous consent that I be added as a cosponsor to the Levin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back?

Mr. LEVIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 138) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 139

(Purpose: To provide health care coverage for the unemployed)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 139.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III add the following new section:

HEALTH SERVICES FOR THE UNEMPLOYED

SEC. 308. (a) Title XX of the Social Security Act is amended by adding at the end thereof the following new section:

"HEALTH SERVICES FOR UNEMPLOYED WORKERS

"SEC. 2008. (a)(1) Notwithstanding section 2005 (a)(4) and any other provision of this title, any State may establish a program under this section for providing health care coverage for unemployed workers, subject to the provisions of this section.

"(2) The State may choose those groups of individuals (and their immediate families) who shall be covered under the program, the duration of such coverage, and the duration of the program, as the State determines to be appropriate, except that—

"(A) no coverage may be provided to any individual (or his immediate family) unless such individual (i) is receiving regular, extended, or Federal supplemental compensation (or, at the option of the State, railroad unemployment compensation), or (ii) is unemployed and has exhausted his rights to such compensation (by reason of payment of all such compensation for which he is eligible, other than for cause) within the prior six months, or (iii) was eligible for such compensation within the prior 30 days but lost such eligibility on account of employment;

"(B) no coverage may be provided for the first 6 weeks during which an individual is eligible for compensation (referred to in subparagraph (A)) in a benefit year (as determined under the State unemployment compensation law);

"(C) no coverage may be provided to any individual unless such individual was en-

rolled in a group health plan of the employer by whom he was employed at the time he last became eligible for compensation described in subparagraph (A) (and in making a determination with respect to prior enrollment, the State may use the broadest possible determination of proof);

"(D) no coverage may be provided with respect to any services provided prior to June 1, 1983, or with respect to services provided for an individual prior to the time such individual is determined to be eligible under such program; and

"(E) no coverage may be provided for any individual who is otherwise eligible for medical assistance under the State plan under title XIX.

"(b)(1) Services under the program established under this section shall include only inpatient and emergency outpatient hospital services and physician services, including those provided in health clinics but not including those provided in nursing care facilities, and prenatal and postpartum care. No drugs or biologicals shall be included within the covered services described in the preceding sentence unless provided as part of inpatient hospital services.

"(2) The State shall determine the amount, duration, and scope of the covered services described in paragraph (1) which shall be included under the program, but in no event shall the amount, duration, or scope of such services under the program under this section exceed the amount, duration, or scope of such services included under the State plan for medical assistance for individuals described in section 1902(a)(10)(A).

"(3) Services may be provided through varying arrangements made with providers by the State, but no such arrangement may provide services which are more generous than those provided under the State plan for medical assistance for individuals described in section 1902(a)(10)(A).

"(c)(1) The State may provide for a weekly premium charge for individuals participating in the program under this section, but no such premium charge may exceed an amount equal to 8 percent of the amount of compensation (referred to in subsection (a)(2)(A)) for which such individual is eligible for such week. Such premium charges may vary for individual coverage and family coverage and by provider arrangement.

"(2) The State may provide that deductibles and coinsurance amounts be imposed under the program, but the estimated average monthly amount of such deductibles and coinsurance amounts for users of services may not exceed an amount equal to 10 percent of the average monthly benefit amount in such State for compensation (referred to in subsection (a)(2)(A)). No such deductible or coinsurance may be imposed with respect to prenatal or postpartum care, and no such deductible or coinsurance may be imposed until after public hearings which provide adequate notice and opportunity for public participation have been held by the State with respect to such imposition. Such deductibles and coinsurance may vary with respect to different groupings of eligible individuals, different types of services, different provider arrangements, and varying coverage periods.

"(3) Any amounts imposed by the State for premiums, deductibles, or coinsurance which are imposed by the State must be used by the State to pay the State share of the cost of the program under this section, or to provide additional services or periods of coverage to individuals eligible for coverage under such program.

"(d) Payment by the State for services provided to individuals eligible for the program under this section shall be made

through the same administrative mechanisms through which payments are generally made under the State plan for medical assistance under title XIX; however, the State may provide for contracts with cost effective financing and delivery systems among carriers or providers, and may selectively contract with a specific group or provide for capitation reimbursement, but no such contract may provide for services which are more generous than those provided under the State plan for medical assistance for individuals described in section 1902(a)(10)(A). Any limitations under the State plan for medical assistance on the amount that a provider of services may charge the recipient of such services shall also apply to the program under this section, except that premiums, deductibles, and coinsurance may be charged in accordance with subsection (c).

"(e)(1) Determinations of qualification for coverage under the program under this section shall be made by the State agency administering the State's unemployment compensation law under section 3304 of the Internal Revenue Code of 1954, and the program shall be administered by the State agency administering the State plan for medical assistance under title XIX of this Act.

"(2) Upon becoming eligible for compensation (referred to in subsection (a)(2)(A)), an individual shall be informed of the eligibility criteria for coverage under the program established under this section and the benefits provided, and shall have four weeks in which to voluntarily enroll in such program. Such individual shall also be informed of the possibility that such individual may be eligible to enroll in a health plan of his spouse or parent. If the individual declines the opportunity to enroll, or later voluntarily terminates his enrollment, he may not again enroll in such program unless he subsequently becomes eligible for compensation (referred to in subsection (a)(2)(A)) for a new benefit year (as determined under the State unemployment compensation law). In the case of any State which chooses to require the payment of a premium, the State may deduct the amount of the premium from the amount of such compensation paid to an individual enrolled in such program.

"(f)(1) Notwithstanding sections 2002 and 2003, payments to States having programs established under this section shall be made in accordance with the provisions of this subsection. Payments under this subsection are in addition to any amounts to which a State is entitled under section 2002, and payments made under section 2002 may not be used for purposes of this section. An amount, not to exceed the State's allotment determined under paragraph (2), equal to the Federal percentage (as determined under paragraph (6)) of the amount expended by such State for its program established under this section (excluding administrative costs) shall be paid to the State in the same manner as payments are made under section 1903(d).

"(2) The Secretary shall allot \$750,000,000 to carry out this section for each of the 12-month periods beginning on June 1, 1983, and June 1, 1984 among the States as follows:

"(A) One-half of such amount shall be allotted among the States on the basis of the relative number of insured unemployed individuals who reside in each State as compared to the total number of insured unemployed individuals in all the States.

"(B) One-half of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 26 weeks or more and who reside in each State as compared to the

total number of such individuals in all the States.

"(3) Allotments shall be made on the basis of the most recent 12-month period, preceding the month in which the Secretary makes such allotments, for which adequate data is available.

"(4) Funds shall be allotted at the beginning of each 12-month period referred to in paragraph (2), but payment shall be made as described in paragraph (1). Amounts allotted for the 12-month period beginning June 1, 1984, may be paid to States for expenses incurred in providing services under the program for individuals who are enrolled in the program on May 31, 1985, until their eligibility for such program terminates, or November 30, 1985, whichever is earlier.

"(5) Any funds allotted to a State which did not establish a program under this section shall be reallocated to those States having a program, at the end of the 12-month period beginning June 1, 1984. Such funds may be expended in the same manner as described in paragraph (4).

"(6) For purposes of this section, the Federal percentage is—

"(A) 95 percent with respect to services provided in any State during a week for which the State's rate of insured unemployment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) for the period consisting of such week and the preceding 12 weeks is equal to or exceeds 5.0 percent; and

"(B) 80 percent for any other week, except that if a State qualifies for the 95 percent Federal percentage under subparagraph (A) for any week, such 95 percent Federal percentage shall remain in effect with respect to such State for the duration of such State's 4-month initial period of qualification (in the case of a State which qualifies for the 95 percent Federal percentage for a week ending on or before September 30, 1983), and for the duration of such State's 6-month period of qualification (as determined under subsection (g)(1)) (in the case of a State which qualifies for such percentage for a week ending after such date).

"(7) The Secretary shall make payments to States for administrative costs incurred in carrying out the program established under this section, in a total amount not to exceed \$150,000,000 for each of the 12-month periods beginning on June 1, 1983, and June 1, 1984, as he determines appropriate. Seventy million dollars of such reimbursement for each fiscal year shall be made to the State agencies administering the State program under this section, and \$80,000,000 of such reimbursement for each fiscal year shall be made to the Department of Labor for payment to the State agencies administering the State's unemployment compensation law. Payments to any agency administering the State program under this section shall be made in an amount equal to the Federal percentage, in effect under paragraph (6), of the amounts expended by such agency in carrying out the program. Payments under this paragraph may be made with respect to program costs insured after November 30, 1985.

"(g)(1) With respect to services provided to individuals who are enrolled during the period beginning on June 1, 1983, and ending on September 30, 1983, any State may qualify for payments under this section if it has a program which meets the requirements of this section. With respect to services provided on or after October 1, 1983, only a State having a rate of insured unemployment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970)

for a period consisting of any week ending after September 30, 1983, and the 12 preceding weeks, of 4 percent or more, may enroll new individuals in the program under this section. If a State qualifies to enroll new individuals under the preceding sentence, such qualification shall continue for a period of not less than 6 months beginning with the first week in which such State so qualifies, and any State may subsequently requalify upon reaching the required rate of insured unemployment after the end of such 6-month period, but not such period may extend beyond November 30, 1985.

"(2) During the period in which a State may not enroll new individuals in its program by reason of paragraph (1), payment under this section may be made with respect to individuals previously enrolled in such program until their eligibility expires, or, if sooner, November 30, 1985.

"(h) Any State establishing a program under this section shall submit a report to the Secretary on March 1, 1984, on the program's implementation and impact. A final report shall be submitted in January 1986 by any State which carries out its program for any period after September 30, 1983, upon expiration of its program.

"(i) The State shall provide that the payment for any services received by an individual under the program shall be reduced by the amount of any other payment which is or could be made with respect to such services under any other health plan or public program, or from a third party, and shall require each individual enrolled in the program to assign all rights to such payments as he may have to the State as a condition of enrolling in the program."

(b) Section 3304(a) of the Internal Revenue Code of 1954 is amended by redesignating paragraph (17) as paragraph (18) and inserting after paragraph (16) the following:

"(17) If the State establishes a program under section 2008 of the Social Security Act, the State agency administering the State unemployment compensation law shall carry out the functions required of it under such section; and"

(c)(1) Subsection (i) of section 162 of the Internal Revenue Code of 1954 (relating to group health plans) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Denial of 50 percent of deduction in cases where employer does not provide open enrollment if the spouse or parent or the employee becomes unemployed.—

"(A) IN GENERAL.—In any case in which a group health plan does not meet the requirements of subparagraph (B) for any portion of the taxable year, no deduction shall be allowed under this section for 50 percent of the amount of the expenses paid or incurred for such taxable year by an employer for such group health plan.

"(B) REQUIREMENTS WHICH PLAN MUST MEET.—A group health plan shall be treated as meeting the requirements of this subparagraph if, in the case of an individual covered (or eligible to be covered) under such plan who has a qualified spouse or parent, such plan allows such individual during the qualified open period—

"(i) to change coverage from self-only to family, except that in the case of a plan offering different levels of benefits, such plan meets the requirements of this clause even if the change in coverage does not include the ability for an employee to elect a higher level of benefits, or

"(ii) to commence coverage for himself and his family.

"(C) TERMS AND CONDITIONS SAME AS FOR OTHER OPEN ENROLLMENTS.—The terms and

conditions of the coverage required under subparagraph (B) during any qualified open period shall be at least as favorable to the employee as the terms and conditions offered by the group health plan under any other opportunities offered to employees to commence or change coverage under such plan.

"(D) QUALIFIED SPOUSE OR PARENT.—For purposes of this paragraph, the term 'qualified spouse or parent' means the spouse or parent of an individual who—

"(i) becomes unemployed (other than for cause), and

"(ii) as a result of such unemployment, loses eligibility under a group health plan of the employer of such spouse or parent.

"(E) QUALIFIED OPEN PERIOD.—For purposes of this paragraph, the term 'qualified open period' means the 30-day period beginning on the day on which the appropriate State agency notifies the qualified spouse or parent of an individual covered under a group health plan that such spouse or parent has become eligible for receipt of unemployment compensation under any Federal or State law by reason of the unemployment described in subparagraph (D)(i)."

(2)(A) Except as provided in subparagraph (B), the amendments made by this paragraph shall take effect on the 60th day after the date of the enactment of this Act.

(B) In the case of a group health plan which was subject to a collective-bargaining agreement in effect on the date of the enactment of this Act, the amendments made by this Act shall take effect on the later of—

(i) the date under subparagraph (A), or

(ii) the date on which such agreement expires (determined without regard to any extensions agreed to after the date of the enactment of this Act).

(d)(1) Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by adding after subparagraph (B) the following new subparagraph:

"(C) nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health care if the individual elected to have such deduction made and such deduction was made under a program established under section 2008 of the Social Security Act;"

(2) Paragraph (5) of section 303(a) of the Social Security Act is amended by striking out "; and" at the end thereof and inserting in lieu thereof "; Provided further, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health care if the individual elected to have such deduction made and such deduction was made under a program established under section 2008 of the Social Security Act; and".

Mr. DOLE. Mr. President, what I want to discuss just for a very few moments is the amendment I have just introduced. Then I would hope to withdraw the amendment.

Earlier this evening when the distinguished Senate majority leader (Mr. BAKER) was proposing a unanimous-consent request, we came to an area where there was some agreement and

it involved a very important program that I had hoped to address in this bill. It is health benefits for the unemployed.

The Senator from Kansas, the Senator from Minnesota (Mr. DURENBERGER), the Senators from Pennsylvania—Senator HEINZ, a member of our committee, and Senator SPECTER, who has had an interest in this matter for some time—Senator RIEGLE, and many other Senators have been trying to come up with some package that we could properly present and for which we could have rather widespread support.

I have met with White House officials; I have met with HHS officials. We have spent a lot of time at the staff level trying to come up with some package that we thought we could sustain on the Senate floor this evening.

I want to make it clear that I intend to do something about health benefits for the unemployed, but I am convinced that without administration support, this would not be the right vehicle.

In addition, I have made some inquiries on the House side, and they have indicated that they prefer we not attach such an amendment to this legislation. But I do intend to propose legislation in this area as soon as possible—in fact, tomorrow.

I hope that Senators who have an interest in either the legislation on which we have been working together or some separate legislation, if they do not already have their own legislation, might join as cosponsors.

The loss of health benefits by those who have lost their jobs is a serious issue and one that should be addressed by our committee.

As I have indicated, we considered offering this proposal as an amendment to S. 1, but I honestly believe that the proposal warrants hearings, so that those who are interested can comment and make suggestions as to how we might improve this proposal. Our proposal is not the only way to proceed. It is just one option, but one that we believe makes some sense.

The point is that we have a problem, which I hope will be short-lived, but it is one that must be dealt with. We cannot postpone it. Someone might say that we should postpone it to June, July, or August. We will still have the problem, and in the meantime, hundreds of thousands of people are without health coverage. It is a matter of great urgency, and we should face it at the earliest possible time.

GENERAL CONCEPT OF PROPOSAL TO COVER THE UNEMPLOYED

Under the proposal, title XX of the Social Security Act would be amended to provide certain unemployed workers and their immediate families with inpatient and outpatient hospital services, physician services, except for nursing home care, and prenatal and post-partum care. Coverage under the

State administered program would be voluntary on the part of unemployed workers and their dependents. States could require payment of an enrollment premium for such coverage.

States would be entitled to Federal matching payments for the costs of benefits for enrolled unemployed workers and their dependents up to a maximum payment amount for each State determined by a special allocation formula. The allocation formula takes into account State insured unemployment rates in comparison with the national unemployment rate and other factors.

The program would begin on June 1, 1983, with all States entitled to Federal matching payments to finance the program through September 1983. Beginning on October 1, 1983, only States with insured unemployment rates—determined on the basis of a 3-month moving average—at or above 4 percent could elect to continue to receive Federal matching funds. The program would end on May 31, 1985, with any fund allocation balances remaining available for 6 months to finance program benefits for those still on the rolls.

PUBLIC SECTOR PROVISION

Program eligibility: Unemployed workers, and their immediate family members, who are entitled to receive benefits under a State unemployment compensation system and who were enrolled in an employer or other group health benefit plan when they lost their jobs, would be eligible to enroll in the program. Entitlement to unemployment compensation means entitlement to receipt of regular State unemployment benefits, Federal supplemental program benefits or benefits provided under the extended benefits program.

This provision would allow States to provide coverage to anyone who had received Federal supplemental benefits in the past and those who would again receive these benefits as a result of the FSC extension contained in S. 1. So those who have, as of the date of enactment, exhausted regular unemployment compensation benefits and extended benefits, but had received FSC benefits, would be eligible. This could cover people who had received benefits as far back as December 1979.

For those who elect to enroll, coverage under the program would begin no sooner than 6 weeks following the week in which the unemployed worker is first entitled to unemployment compensation benefits and has applied to enroll in the unemployed health benefits program. States could at their option, establish a longer waiting period before coverage first begins.

Coverage under the program would end no later than 6 months following the date on which the eligible worker is no longer entitled to compensation benefits or for a lesser period at the option of the State, or 1 month after reemployment, whichever occurs first.

Eligible workers would have to satisfy the State agency administering the program that they, and, if appropriate, their dependents, were enrolled in an employer or other group health benefits plan at the time they lost their jobs. It is expected that States will rely upon the broadest possible evidence of such previous enrollment, and may, upon their election, satisfy such requirement by obtaining a declaration from the worker of such previous enrollment.

Benefits: Program benefits would be limited to inpatient hospital services; emergency outpatient hospital services; physician services, including those provided in health clinics and hospital outpatient departments, but excluding those provided in connection with nursing home care; and prenatal and post partum care, which may be provided by a hospital, physician, clinic, or nurse midwife.

No coverage is available for prescription drugs or biologicals, except those provided on an inpatient hospital basis.

States may determine the amount, duration and scope of covered services. However, in no case may the benefits offered under this program exceed those offered under the State's Medicaid program for the categorically needy.

States would be allowed to provide for cost-effective financing and delivery structures, and to contract with specific providers for the provision of covered services to the enrolled population. State's electing this option would be limited to contracting with providers eligible to serve the States Medicaid population.

Payment could only be made for services provided on or after the date the State begins participation in the program and only on behalf of eligible enrolled individuals.

Premiums: The plan permits the State to establish a premium for health care coverage equal to an amount no greater than 8 percent of the individual's weekly UC benefit. Separate premium schedules could be established for self-only and family coverage.

Patient cost sharing: The proposal would permit a State to impose cost sharing—that is deductible and coinsurance—requirements after public hearings for which adequate notice and opportunity for public participation have been provided. Cost-sharing requirements could not, on the average, exceed 10 percent of the State's average monthly UC benefit. Further, no cost sharing could be required for prenatal or post-partum care.

The proposal would permit deductibles and coinsurance to be applied on a differential basis with respect to the target population, services provided, provider arrangements and the coverage period.

The proposal would require that all premium and cost-sharing revenues

must be used to offset the State share of program benefit costs, to provide covered services to eligible individuals, or to reduce the cost sharing requirements placed on eligible individuals.

Reimbursement: The proposal would require States to utilize the same reimbursement mechanisms currently utilized under their medicaid programs. They could, within that limit, choose to use a variety of arrangements, including capitation, as long as no arrangement is more generous than those provided to their medicaid categorically eligible. Providers would be required to accept the program's payment as payment in full for covered services except for any required cost-sharing amounts.

Administration: State unemployment offices would be responsible for determining program eligibility.

Upon initial application for unemployment compensation benefits, or after enactment for those already on the unemployment compensation rolls, a worker would be informed of his potential eligibility for health benefits under the open enrollment opportunity provided his working spouse or parent and under the State-administered program. He would then be allowed a 4-week period in which to elect or decline coverage under the State program. Once covered, an individual could opt out of the program at any time. However, once out he could not reenter until he again became eligible for a new benefit year as defined under the State unemployment compensation program.

The State unemployment compensation office would inform the individual concerning the date of eligibility, and the actuarial value of the benefits provided. Premium payments, at the option of the State, would be deducted from the individual's unemployment compensation check. Alternatively, the State would be permitted to establish some other collection mechanism. The administration of the health benefits provisions under this program would be the responsibility of the State agency established or designated to administer the State's medicaid program.

Federal/State funding: Under the program, \$750 million in Federal matching funds would be authorized for the 12-month period beginning June 1, 1983, and \$750 million for the 12-month period beginning June 1, 1984.

All States would be entitled to Federal matching payments to finance the program through September 1983. Beginning on October 1, 1983, only those States with insured unemployment rates, based on an average of the preceding 3 months, equal to or exceeding 4 percent could elect to participate. Any State making an election after September 30, 1983, would be guaranteed participation in the program for at least 6 months, not to go beyond May 31, 1985, regardless of any change in its insured unemployment rate.

A State participating in the program would be entitled to Federal matching payments for the costs of services provided to unemployed workers and their families up to a cap amount determined by the allocation formula. Funds would be allocated at the beginning of each program year although the States would not be provided the money in a lump sum at that time. Funds would be expended in administratively the same manner as they are under the State's medicaid program. At the end of the second year, individual State fund allocation balances remaining would be available for 6 months to expend on already enrolled beneficiaries whose coverage periods have not expired.

The Federal matching rate would be 80 percent for States with insured unemployment rates below 5 percent, and 95 percent for States with IUR's equal to or greater than 5 percent, during the initial 4-month and any 6-month participation period beginning after September 30, 1983. The matching rate would remain stable for a participation period unless the rate was 80 percent and the State's IUR rose to 5 percent or greater, based on a 3-month moving average. In that case the Federal matching rate would be increased from 80 to 95 percent for the remainder of the period.

Any State which experiences a break in program participation because their IUR falls below 4 percent based on a 3-month moving average, would be required to stop enrolling eligible individuals. Federal matching at the rate in effect at the time of the break in participation will continue to be provided for services to enrollees until their State determined individual coverage period expires, but in no case beyond November 30, 1985.

Under the program, \$150 million would be authorized for the 12-month period beginning June 1, 1983 and \$150 million for the 12-month period beginning June 1, 1984 to cover the costs of program administration. Up to \$70 million would be allocated each year to each State by the Department of Health and Human Services to cover the costs incurred by the State's medicaid agency in administering this program. \$80 million in each year would be allocated by the Department of Labor to the State unemployment programs for their administrative costs. All States participating in the program would be required to report to the Department of Health and Human Services (HHS) by March 1, 1984 on the program's implementation and impact on the target population. A final report due in January of 1986 would be required of all States that participate in the program after September 30, 1983.

Benefit dollars allocation formula: The Secretary of HHS is directed to allot amounts appropriated under the act for services for any year among the States as follows:

First, one-half on the basis of the number of insured unemployed in each State to the total number of insured unemployed in all States;

Second, one-half on the basis of the number of persons unemployed for 26 weeks or more in each State to the total number of such persons in all States.

Allotments are to be determined on the basis of the most recent 12-month period, preceding the month of the determination, for which adequate data are available.

PRIVATE SECTOR PROVISION

Special open enrollment provision: Under the proposal, employer-sponsored—and other qualified group—health benefit plans would be subject to a loss of 50 percent of the deduction for employer-provided health care costs if they fail to provide an open enrollment opportunity for persons to change from self-only to family coverage or to commence coverage for himself and his family. By providing these opportunities to certain workers, we are hoping to avoid the situation where a worker or a worker's family loses, or will lose, group coverage because the second worker in the family is laid off or involuntarily separated from his job—other than for cause. The provision would permit such open enrollment for a 1-month period following the date of notification to the employer of the second worker's eligibility for receipt of unemployment compensation. Since the determining event, namely, job loss, is unrelated to the health status of either the dependent or the laid-off worker, virtually no adverse selection should develop for the employer of the dependent person.

Coordination of benefits: Any benefits for which an individual or family is eligible under the new health benefit program for the unemployed would be reduced to the extent that support or payments for items and services are, or could be, made under any other group health insurance plan, public program providing benefits to such individual or family member, or by any third party. An assignment of rights, to any support or payments for medical care from any third party must be made at the time coverage is elected.

Mr. President, I understand that other Senators want to make comments. I emphasize that I know that some Members may desire to pursue this matter, notwithstanding the comments of the Senator from Kansas. I again indicate that we are serious about the proposal. It is a need that should be met. There will be hearings at the earliest possible time. I am certain that what I have outlined in a brief fashion could be improved.

I do not believe we should give the American public the idea that we do not view health benefits for the unemployed as a very serious issue—to consider a solution to this problem in such a hasty fashion does not do justice to the complexities of this issue.

That is why I hope we might get some agreement tonight that we would have hearings.

Let there be no mistake about my interest in working out a solution, but I think all the parties involved should have an opportunity to comment. That is the purpose of public hearings.

Adoption of this amendment this evening means the House has had no opportunity to review any aspect of this new program, and are likely to object to its consideration at this time. We should have an opportunity to work something out that is amenable to both sides—a late-night, last-minute conference is not the place to do that.

I have a commitment from the administration to work with us closely in drafting a proposal. I think we should give them this opportunity.

I did discuss this matter with some who will be House conferees, and I hope we will not include this provision in this bill, because the House is still in the process of trying to put together a package. They have not had sufficient hearings.

As I indicated earlier, I have been unable to receive a commitment from the administration on this proposal, but I do have a commitment from the administration that they will try to work with us on developing a comprehensive proposal.

And we will await that assistance and if it is not forthcoming we will proceed with hearings, and I am certain we will have the opportunity then to hear administration witnesses and others.

Mr. President, having made that statement, and I know others may wish to comment, I am happy to yield the floor.

Mr. HEINZ. Mr. President, will the Senator yield without losing his right to the floor.

Mr. DOLE. I yield.

Mr. HEINZ. Mr. President, I might say I am intimately familiar with the amendment the Senator from Kansas has sent to the desk. It represents the work of about 2 or 3 months of concerted effort on the part of my colleague from Pennsylvania, Senator SPECTER, my colleague from Minnesota, Senator DURENBERGER, and myself, together with the Senator from Kansas, Senator DOLE.

It is in many respects quite similar to the bill introduced by Senator SPECTER and myself a week or so ago. It is somewhat similar in concept, slightly less expensive in terms of cost.

It is my understanding that, and if the Senator from Kansas will yield, his amendment would cost roughly \$900 million a year. Is that correct?

Mr. DOLE. The Senator is correct.

Mr. HEINZ. I happen to think we need a program such as this. I am pleased the Senator from Kansas has indicated his interest and a commitment to moving ahead in this area.

I think the amendment he has sent to the desk, although he intends to retrieve it shortly, is responsible in every

respect. It will meet the pressing medical needs of the jobless and their families who cannot obtain affordable health insurance coverage. The Senator from Kansas made the point that perhaps this is not Cadillac coverage in terms of the benefit package, but let me assure him it will provide a very meaningful package of health benefits for people who right now have no benefits at all.

In my home State of Pennsylvania we have 716,000 Pennsylvanians who are unemployed and in most cases, they have no access to affordable health insurance. Pennsylvania is reeling from layoffs in steel, mining, textiles and related industries. My State is fast approaching an insured unemployment rate of 8 percent.

It is also my understanding that States particularly hard hit in terms of unemployment would get a little bit more of a break under this proposal. Such States only will have to come up with 5 percent matching funds to participate in this program. This program is maybe 95 percent of the health cost, as I understand it, 100 percent of the administrative cost. Is the Senator from Pennsylvania correct in that regard?

Mr. DOLE. Yes.

Mr. HEINZ. I have listened carefully to the Senator from Kansas and hope to have his attention shortly because I am concerned about the extent to which we—

Mr. DURENBERGER. Mr. President, does the Senator care to yield until the Senator from Kansas returns?

Mr. HEINZ. I will yield without losing my right to the floor.

Mr. DURENBERGER. I will get the attention of the Senator from Kansas.

Mr. HEINZ. I wish to say this before I yield.

Mr. DURENBERGER. All right.

Mr. HEINZ. I hope irrespective of what the Senator from Kansas does here tonight, that the administration, which has not been very forthcoming in their support for what I believe is an essential legislative initiative, will realize there are a group of Republican Senators in this Chamber who are very committed to doing something in this area. We would rather do something with them than without them. We do not want to get the hopes of unemployed people up to see them dashed by Presidential veto.

If that is the road that we are forced to go down, then each will choose our own paths. I know where I will be compelled to go, which is toward making sure that my constituents are not left out in the cold freezing without a home, and without access to health care services.

I do hope the administration will listen carefully and look carefully at tonight's debate; because unless we do something soon, we are going to cause an irreparable amount of harm.

I am happy to yield to the Senator from Minnesota.

Mr. DURENBERGER. I thank my colleague.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, let me begin by expressing my appreciation to the two Senators from Pennsylvania for their broad efforts in the area of the problems that face the unemployed in this country and to thank our colleague, the chairman of the Finance Committee, for his efforts and for introducing this amendment.

Let me just start with the comments the Senator from Pennsylvania made about being forthcoming.

Look around the Chamber. Not only are the galleries empty but the Chamber is also. I imagine that when Senators and Congressmen return to their States, with the hundreds of thousands of unemployed persons, the speeches about the plight of the unemployed flow readily from their lips. That is why it is unfortunate that there are only a few Senators here to discuss this very, very important issue.

It is also unfortunate that no one has endeavored to address the subject before now. Unemployment has been with us for a long time, and the lack of health care coverage for persons who are unemployed and their families has been with us for a long time.

I presume that one of the reasons health care coverage is a more difficult problem for people today than it has been in the past is that health care costs have risen so high. The senior Senator from Pennsylvania, because of his long commitment to health care policy issues, recognizes that finally Congress is addressing the role that individuals play, the role that the insurance companies play, the role that doctors, hospitals, and the Government through its medicare and medicaid programs have to play in doing something about the high cost of health care.

I happen to think that despite the fact that only 2 or 3 months have been spent on the specifics of this bill, it is an excellent piece of legislation. Were it not for the fact that we are amending this particular piece of legislation and the problems that were referred to by the Senator from Kansas, I would strongly recommend it as a very good program that will provide health care for unemployed Americans and their families.

The reason it is a particularly good amendment and the reason that I intend, as a chairman of the Senate Finance Committee's Health Subcommittee, to start hearings on this subject, whether the administration is forthcoming or not, and why I intend, as I am sure the Senator from Pennsylvania does, to press the chairman of this committee to report out a bill within the next several months is very simply that this amendment proposes to build health care for unemployed off of the very same principles that

have guided employers in establishing health plans for their employees.

Seventy-five percent of the work force secures health insurance coverage through their place of employment.

The work setting has proven to be an excellent access point for families all over this country for obtaining health insurance. It is the employers of this country who have developed innovative approaches to health care, to insurance protection, to multiple choice of health plans, to wellness classes, to rewards for preventive health care, to coverage for ambulatory surgery, preadmission testing, and utilization review. All of this grew not out of the Medicare system or the Medicaid system but because of the involvement of employers in improving the quality of health care for their employees.

Employer-based health insurance has its advantages. But it has disadvantages too, the major one being that when an employee loses his or her job, he or she also loses health insurance coverage. The CBO estimates that nearly 11 million Americans now lack health insurance coverage because the family breadwinners have lost their jobs.

For many, the loss of adequate health insurance is the most unnerving consequence of unemployment. It's one thing to postpone the purchase of clothes, appliances, or an automobile. But if a child needs surgery, there's no postponing that. And without health insurance, the costs associated with a major illness can be staggering.

The program that is being offered tonight and that will hopefully be back in the Chamber within a matter of months, is designed to ease the health insurance gap caused by unemployment.

It is not intended to be a final solution, and it is not intended to be national health insurance. It is a stopgap measure designed for a particularly acute problem. It is a very good blend of public and private initiatives, and it achieves what I think is a balanced solution to the problem.

On the private side, the proposal establishes a new condition under which an employee may change coverage in his health plan. If an employee's spouse loses a job—and with it health insurance coverage—then the employee will be allowed to change to family coverage, provided the employer offers it. Most employees now have the option of switching to family coverage when they get married or have a child. Now they will have the same option if their spouse loses his or her job.

On the public side, the Federal Government will make \$750 million available to the States in each of the next 2 years through Title 20 of the Social Security Act. Dollars will be allocated to the States based on a formula which measures long-term unemployment. Thus, the States which carry

the heaviest burden of long-term unemployment will get the most money.

States will be required to use existing programs in spending the money. Thus, no new administrative structures are created. Eligibility will be determined through the unemployment compensation system, and health benefits will be managed and paid for through the State's fiscal function established under Medicaid.

States will also have the option of generating additional revenue for the program by requiring a premium payment and imposing modest cost sharing. In no case may a premium payment exceed 8 percent of an individual's unemployment compensation check. And coinsurance and deductible amounts are limited to 10 percent of a State's average unemployment check.

As you can see, the program is based on the employer model of health insurance. Eligible individuals have the option of signing up for coverage, just as they do in the private sector. If they do sign up, they may have to make a premium payment, which would be deducted from their unemployment check. And they could be responsible for modest coinsurance and deductible payments, such as individuals are in the private sector. Finally, States are encouraged to develop competitive alternatives to traditional indemnity protection, so that the unemployed could have a choice of health plans similar to what many active workers now enjoy.

The simplicity of this program is its strength. It requires no new massive administrative bodies. It is countercyclical in that it provides more money to those States with the most unemployment. And it is limited in scope. It is designed only for the unemployed, and it is scheduled for a phaseout in 2 years—after our country has pulled itself out of this recession.

As the chairman has indicated, we are not putting these people into any kind of a Medicaid program or welfare program. We are simply suggesting that States use their fiscal intermediary responsibility that they already have in the Medicaid program to do the buying of health care coverage for persons who are unemployed.

Mr. RIEGLE. Mr. President, will the Senator yield briefly at that point for a question?

Mr. DURENBERGER. I will yield for a question.

Mr. RIEGLE. I share the Senator's concern, as he knows, on this issue, and I feel as deeply about it as he does, as others who have spoken.

I am wondering why it is—I know the Senator is the chairman of his subcommittee—with so much, as you pointed out in your own remarks, being done on it we cannot go forward with it tonight? We have a vehicle; we have an urgent need in the country. Those of us who have worked on it understand the issue fully; it is well understood. Employees have been led to believe that some help is going to

come their way on this health requirement of this kind; why is it we cannot go forward at this point right now?

Mr. DURENBERGER. If I may, I will speak only for myself with regard to that particular issue. As I have said, I believe the amendment that has been presented on this bill is a very good amendment. It is based on a blend of public and private initiatives, and it utilizes the concept of a premium and other cost-sharing requirements. But that is only part of how we would like to address this problem.

We have not fully addressed the employer-based opportunities to extend continuity of coverage in health insurance programs. This is an area we just did not have time to fully explore.

So, in effect, what we have done with this amendment is to show how the unemployment compensation system may be used to meet this need. But there is another half of it, which is what the employer can do to provide—at even less expense—continuity of coverage during people's periods of unemployment. It is probably this kind of combination that would make the most sense for the country, and this is one of the reasons I am comfortable with the chairman's suggestion that rather than try to grapple with all these possibilities now, we explain it here tonight, we talk about it, and then, we go to hearings and markup. The end result will be a much improved bill.

Mr. RIEGLE. Mr. President, will the Senator yield further for one other question?

Mr. DURENBERGER. I will.

Mr. RIEGLE. I am sure the Senator is aware that the Congressional Budget Office estimates there are over 10 million Americans tonight, both unemployed workers and their dependents, who have lost this health care protection, and they are out there right now as we are meeting and discussing this issue, and they really need help now. I mean they have pressing medical problems.

Everybody on this floor at one time or another in their own personal or family experience has been through medical emergencies where we have needed help right then and, in fact, there are people on this floor who would not be alive were that help not given at that time, and I happen to be one, and it is true of many others here.

I do not know what we say to those families who are in that circumstance right now, in desperate financial straits, needing this health care, wanting our capability to act, I do not see how we cannot act now.

What we are talking about is a long time elapsing, and it will be weeks, perhaps months, before we get back to it. I am really troubled about that.

We really have a well thought-out proposals here. I presented some, the Senator from Minnesota has given leadership on this, and the chairman

of the Finance Committee has, and the Senators from Pennsylvania. But I just do not know how we justify the fact that there are people out there right this minute who desperately need this kind of response from us and, in a sense, we are sidestepping the issue and letting the clock run I think for an unconscionably long period of time. I guess I do not understand why that is necessary, given all the work that has been done here.

Mr. DURENBERGER. I would respond by saying that I share that concern. The States represented on the floor right now certainly represent the regions that are heavily populated with basic industries that are failing. In the short term it is very difficult for us to promise a great deal of relief via the employment route.

But so far as this Senator is concerned, my concern is twofold: One, it may be a well-thought-out plan, but it has been thought out by a few people like me and Senator HEINZ and a few others, and I do not know that we are necessarily the best thinkers in this country.

On the other hand, I would say that when we do go to the American people with a plan, I want to be able to indicate to them that the plan is a commitment, a national commitment, to build a program providing for health care for the unemployed. I think we ought to be totally confident that this is the best kind of a program we put together.

We should have a plan we are totally confident with. We should not come back next fall and start tinkering with it, or next year and start playing with it.

It is for that reason I feel we should take a little time and work to improve this plan.

Those who have been unemployed for 1 year, for 2 years or even longer need our assistance now. Last week the Senate passed the jobs bill. Now we have the opportunity to lend another helping hand to the unemployed by giving them the peace of mind that comes with health coverage. I urge my colleagues to work with us in further refining and forging a proposal.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I would be glad to defer to the Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator from Colorado for yielding to me.

The presentation by the distinguished Senator from Kansas was most eloquent in his outline of the need for health coverage for the unemployed and in his outline of a program to meet that need.

My colleague from Pennsylvania, Senator HEINZ, my colleague from Minnesota, Senator DURENBERGER, Senator DOLE and I have been discussing this matter for the past several days, and it is apparent from the text of Senator DOLE's speech that it could

have gone either through an advocacy approach, an amendment to this bill, or simply a limited move forward and, as he has indicated, a withdrawal.

But my sense of the situation is that the unemployed who are without health benefits have been asked to wait too long already. The statistics have already been outlined, and Senator HEINZ has stated the statistic in Pennsylvania is several hundred thousand.

Senator HEINZ and I have collaborated for the past several months on a health program, and its importance was emphasized to us when we were in Midland, Pa., about a month ago. We had a high school auditorium full of people who emphasized that health insurance was their No. 1 concern, even above the rising cost of fuel and the unemployment problem generally.

In that context, we have been pressing Senator DOLE to try to come forward with an amendment which would be attached to this bill at this time.

One of the difficulties is to attract the attention of the administration, and I think we have to some extent attracted their attention at this time. But my thought is we ought to proceed to move on this amendment now.

I ask the distinguished Senator from Kansas if we do not press an amendment and press it to a vote, how soon can we have the meeting which the White House officials have stated they would be willing to undertake? I also ask whether such a meeting can be accomplished this week?

Mr. DOLE. The Senator from Kansas is willing to meet this week. If we can dispose of this bill tonight and go to conference tomorrow we can meet as early as Friday, and the Senator from Kansas and, I think, the Senator from Minnesota, who is chairman of the subcommittee, are certainly willing to commence hearings soon after we return. The Senator from Kansas may be tied up on withholding, but I am serious about the commitment, I can tell the Senator from Pennsylvania.

I have tried to make my case. Again I cannot quarrel with those in the White House who have overall responsibility because they just have not had time to focus on it.

They do not suggest that ours is a bad idea. They just have not had a chance to make a judgment.

So what I hope we would do is to make it clear this evening, as we have—I think the record is very clear—that we are going to move ahead with or without a stamp of approval.

Mr. SPECTER. Will the Senator from Kansas yield for a question?

Mr. DOLE. Yes.

Mr. SPECTER. What timetable would the Senator from Kansas be willing to commit to move ahead with or without a stamp of approval from the administration?

Mr. DOLE. In visiting with White House officials today, they indicated

they would be prepared to come forward and help us—that is not to say they will agree with everything, we do—to put together a package in the immediate future. I assume we are talking about some time right after we come back.

Mr. SPECTER. Would it be possible to have such a meeting with the White House officials yet this week on Friday, as was originally stated, and have a commitment for hearings for the week when we return, which would be Tuesday, April 5, sometime during that week?

Mr. DURENBERGER. Mr. President, keeping in mind that the week we come back I have 3 days of hearings in the Governmental Affairs Committee, if it would not be too much trouble to the Senator from Pennsylvania to use the second week after we come back, I cannot recall what we are having that week, but we will try to postpone those, and I would be happy to do it in that second week.

Mr. SPECTER. If the Senator from Minnesota would commit to that kind of timetable and if we could meet on Friday with the administration officials.

Mr. DOLE. Mr. President, the Senator from Kansas will be in town Friday and certainly will be willing to arrange a meeting with the appropriate officials. I understand Secretary Heckler has made a number of calls today. I was not able to return the calls, but I think she has indicated an interest in us not moving ahead tonight, but at least some commitment that she would be helpful.

Mr. DURENBERGER. The Secretary made that commitment to me and she may have to the Senator from Pennsylvania, also. I am available on Friday.

Mr. RIEGLE. Will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. RIEGLE. Would the Members on this side of the aisle who happen to have an interest in this matter have an opportunity to participate in that meeting? I do not presume we would not, but I would like to make sure that we have a chance to participate.

Mr. DOLE. Mr. President, I was only responding to the question of the Senator from Pennsylvania. Obviously, as far as this Senator is concerned it would include everybody who has an interest. There may come a time when we will have to visit privately with the administration, as you will understand.

But I have no pride of authorship. I think there is a need that must be served. So the Senator from Kansas believes this is the best way to proceed. We believe we have a good idea. The Senator from Michigan has good ideas and other Senators have good ideas. But it may take some refinement. Obviously, it will take some hearings, bringing in the private

sector, the public sector, the administration officials, and others.

The answer is yes.

Mr. BRADLEY. Mr. President, during Committee consideration of this bill, I offered an amendment that was adopted that amends the title of this bill dealing with unemployment insurance benefits. It amends the Federal-State Extended Unemployment Compensation Act of 1970, and I introduced it because of my concern over recent happenings to individuals across the country; the amendment will correct an inequity that exists in the program.

All across the country, Mr. President, individuals are being denied their extended unemployment benefits for up to 1 month because they were hospitalized or were serving on jury duty. This is because they were not engaged in an active search for work, as defined in the law.

The amendment that I am offering today amends the provision of the extended benefits program that requires an active search for work to allow an individual who is hospitalized with an emergency or life-threatening condition or a person who has been legally called to serve jury duty, to continue to collect his or her unemployment benefits and not be terminated for 1 month. Although we should encourage unemployed individuals to seek work wherever they can find it, we should not penalize those who are clearly unable to search for work. This legislation would go a long way toward correcting this inequity.

My amendment will allow States to provide coverage under the extended benefits program to the extent that it is provided by the States in the regular State program. It is a modification of legislation introduced in the House of Representatives by Representative CONTE of Massachusetts and in the Senate by Senator TSONGAS, and I urge the conferees on this bill to include this amendment in the conference agreement.

Mr. President, I rise in support of Senators HEINZ and DOLE's proposal that provides health insurance for the unemployed. Because of sharply rising unemployment in the United States, growing numbers of workers and their families have lost their employment-based group health benefits and their employers' contributions toward the costs of such important protection. Although the loss of employer provided group health insurance is not a new phenomenon, the absolute number of workers who have lost their jobs and the duration of such unemployment is unprecedented in modern times and makes the matter of particular national concern.

In February of 1983, the national unemployment rate was 10.4 percent. Though slightly lower than last year's figures, which reflected the largest number of unemployed workers since 1940, the number of unemployed persons remains at an astronomically

high 11,490,000. Compounding this problem, is the increase in the duration of unemployment. In 1981, the average jobless man or woman remained unemployed for 12 weeks, in 1982 this figure increased to 18 weeks, and this year that figure has risen to 19 weeks. Since those who are unemployed for a short period of time generally do not lose health benefits, this increased duration of unemployment is of vital concern to me. A study in 1975 indicated that 50-60 percent of unemployed workers lost their health insurance for 22 weeks mainly due to the duration of unemployment.

Exacerbating this problem is the lack of continued employer contributions toward the cost of health premiums. Although by 1980, 29 States required group health plans to allow an employee to continue insurance after leaving a job, none mandated that employers continue any contribution to the cost. As a result, workers are forced to finance continuation or conversion of their group policy on their own. However, the costs of doing so invariably cost more than someone who is out of work can afford. In addition, usually existing public health care programs are unavailable to the unemployed, since they are targeted toward other specific population groups. For example, medicare is limited to the aged and seriously disabled. State medicaid programs have eligibility requirements which preclude most unemployed workers and families from obtaining benefits, and the Veterans' Administration can assist only selected numbers of those who lose employment-based health benefits.

The burden of providing the much needed health care services has fallen mainly on our public hospitals and community clinics. Last week in the jobs bill we added some needed funds for those who are providing care for the unemployed but that was hardly enough to plug the hole in the dike. The projected slow economic recovery gives no hope for our Nation's unemployed. We must give them the continued health care provided in this proposal.

I am pleased that this amendment gives special attention to health needs of pregnant women and children—the most vulnerable in our society. By providing for pre- and post-natal care, we can assure some protection at this most crucial juncture of life. Although I would have preferred that no level of matching funds be required of the States, the formula used is sensitive to those States with the greatest fiscal burden and human need.

I am pleased to cosponsor the Dole/Heinz amendment to provide a means of health insurance to the unemployed and their dependents. While this proposal is more modest than what I would have liked, it is important to get assistance out to the millions of unemployed now. Those without care tonight cannot wait any longer for help. I am sorry we will not

be voting on this amendment tonight, I appreciate the commitment of the chairman of the Finance Committee that we will act on this matter shortly.

Mr. PRYOR. Mr. President, will the Senator yield so I may ask the Chair a question?

Mr. DOLE. Yes.

Mr. PRYOR. How long have we been on this amendment, Mr. President?

The PRESIDING OFFICER. Thirty-seven minutes.

Mr. PRYOR. Mr. President, just speaking for this Senator, I thought we were all going to try to pass this bill tonight. I enjoy hearing all of my colleagues and I think they are very eloquent. I would only suggest, if we are going to have hearings on this issue, and a lot of us are interested in that, that we do it some morning at 9 a.m. rather than 9 p.m. That is just a modest suggestion. I would just like to urge, if we are going to vote on this, let us vote on it. If we are not, let us withdraw it. Is that a proper suggestion?

Mr. CHILES. Mr. President, I join with that. I think we have been here long enough. Maybe we should just vote on this. Why not stay a little longer and vote?

Mr. DECONCINI. Mr. President, it really troubles me—I do not know about the rest of you—but we are only a few months into the 98th session of Congress. We have an employment part of this bill that is necessary and all of a sudden it has been thrust upon us if we do not pass this whole blasted thing this week that the Nation is going to come to a halt. I do not know about everyone else, but I have a few things I would like to do and I suspect others here would not mind spending a little time with their families or maybe doing some work someplace else.

I think we are looking foolish hanging around here until 11 o'clock at night, night after night, trying to pass a bill that does not have to pass this week.

Mr. LONG. Mr. President, I hope that Senators will be more tolerant and give us the benefit of a little more of their patience. I believe we are going to go to third reading on this bill shortly. I am convinced the committee chairman is doing the very best he can to bring this matter to a decision. I hope that Senators could just indulge us just a few more minutes. I believe we can resolve these things and be on third reading.

I urge everybody to please be brief, even if they are for amendments. I know that is not very considerate for me to say that because I have already had my say on my amendments.

Mr. DOLE. Mr. President, we frittered away about 36 hours on withholding. This is at least as relevant. There are people out of work, people that do not have health care coverage.

When the Senator from Kansas offered the amendment, I said I was not

going to press it, but I wanted to discuss it, as other Senators do with amendments. Most demand rollcalls. I have not done that. I am going to withdraw the amendment.

The **PRESIDING OFFICER**. The Senator has a right to withdraw the amendment. The amendment is withdrawn.

Mr. SPECTER. Mr. President, we have consumed 37 minutes, perhaps now up to 42 minutes, not at the most convenient hour, but there have been many of us who have been waiting for several days to have this amendment heard. I understand that I have a right to offer an amendment if I choose to do so. But, with the assurances that have been made here this evening about a specific timetable, a meeting with the administration on Friday, the commitment to hearings by the subcommittee during the week of April 11, and the commitment by the Senator from Kansas that he will move ahead at an early date with or without administration approval, that is satisfactory to the Senator from Pennsylvania.

Mr. BAKER addressed the Chair.

The **PRESIDING OFFICER**. The majority leader.

Mr. BAKER. Mr. President, I hope we can finish now. I do not know what other amendments are scheduled, but I think we are close to the end. I urge any Senator who has an amendment to come quickly to the floor and offer it.

Mr. BUMPERS. Third reading.

Mr. DOLE. Mr. President, I do not want to upset anybody over here, because those of us who have to go to conference have some things to do, also.

I understand the Senator from New York, Senator **D'AMATO**, sent word that he might have an amendment. Has that been taken care of?

Mr. LONG. It is my understanding that the Senator from New York does wish to make a brief statement, but he is not going to insist on offering his amendment.

Mr. CHILES. Mr. President, we should make sure. If the Senator from New York sent word that he would have something, I think we ought to wait a while for him.

Mr. DOLE. The Senator has the same rights as any other Senator.

Mr. LONG. Might we just take a moment to have someone check with the Senator from New York?

Mr. BRADLEY. Mr. President, we have worked hard to resolve a very difficult problem—how to find the money to save one of our most basic institutions—the social security system. None of the choices are painless, none are particularly pleasant. I have made clear from the beginning that we must develop a solution in which everyone is asked to share a part of the burden. And I believe that the bill before us is a reasonable attempt to do just that. Everyone is asked to sacrifice a bit. While I do not support each and every

change included in the package, I believe that it is probably the best compromise possible—one that is fair to recipients as well as workers paying taxes.

Social security is a vital part of the fabric of our society. It is the best expression of community that we have—with workers willing to pay in because they expect there will be others supporting them when they reach retirement. Over the past 1½ years I have held social security conferences throughout New Jersey for senior citizens—both to lay out the facts about the present crisis and to get reaction to possible suggested proposals and to involve them in arriving at a solution. The participants in these forums have generally agreed that all citizens—social security recipients and taxpayers—must share the burden of keeping the system solvent in years to come.

And Mr. President, I believe that the reform legislation generally meets the criteria established by participants in these forums for a fair solution. If everyone had refused to make any sacrifice the check would not go out this July. But because everyone has seen the need to pitch in we will resolve this problem and keep this important life support system going. We will have saved social security.

Mr. President, this legislation is based largely on the recommendations made by the National Commission on Social Security Reform. Both the Senate and the House versions of the reform legislation closely follow the Commission's recommendations. The four major provisions included in the bill are as follows:

First, delaying cost of living adjustments. Beginning this year, the COLA for social security benefits will be delayed by 6 months. Under the current law, COLA's are paid in July; from now on, COLA's will be paid in January.

Second, taxing social security benefits. The bill includes the provision that social security will be subject to income tax based on thresholds of \$25,000 for single taxpayers and \$32,000 for married taxpayers. To determine whether the taxpayer's income exceeds these thresholds, one-half of social security benefits would be added to adjusted gross income. For taxpayers over the threshold, one-half of social security benefits would be subject to income tax.

Third, coverage of nonprofit employees and newly hired Federal employees. The bill extends social security coverage as of January 1, 1983, to all persons who work for nonprofit organizations and to all current members of Congress, the President, Vice President, and the Social Security Commissioner. In addition, all new Federal and congressional employees hired after 1983 will be covered by social security as soon as supplementary civil service retirement plan has been developed for them. To alleviate the fears of Federal workers that the current

civil service retirement system will go bankrupt, the bill includes a provision which I cosponsored that:

Nothing in this act shall reduce the accrued entitlements to future benefits under the Federal retirement system of current and retired Federal employees and their families. The full faith and credit of the U.S. Government is pledged hereby in support of the payment of said accrued entitlements.

Fourth, increased payroll taxes. The bill includes a provision to move the scheduled 1985 tax increase to 1984, with a tax credit to offset the increase. In addition, the 1985-87 tax rate would remain as scheduled under present law, part of the 1990 rate would be moved to 1988, and the rate for 1990 and after would remain unchanged.

Mr. President, the bill includes two other major provisions to resolve social security's long-term deficit problem.

The first provision relates to increasing the retirement age. The bill gradually raises the social security retirement age to 66 by the year 2012, beginning with those who attain age 62 in 2000. Early-retirement benefits would continue to be available at age 62 for workers and spouses and at age 60 for widows and widowers, but the benefit reduction for early retirement would be larger. The minimum age for eligibility for medicare benefits would continue to be tied to the age at which unreduced retirement benefits are first available.

The second provision reduces by 5 percent the initial social security benefit level for workers that first become eligible for social security benefits in the year 2000.

Mr. President, as I stated earlier, I do have some strong concerns about some parts of this proposal.

One of my deepest reservations about the reform package relates to taxing social security benefits. The provisions in the bill amount to changing the rules after the fact. People who have already retired made financial decisions during their working lives based on the premise that social security benefits would not be taxed. Now we are changing the rules after the fact—for people who have already retired.

If we must to tax benefits, I believe that the fairest way would be by excluding from taxation people who have already retired or who are about to retire—for example, people who are 55 years of age and older. But given social security's severe fiscal problems, such a proposal was never given serious consideration by the Congress. I offered an even more modest amendment in committee that would only tax social security benefits after the person has received back in benefits all that he or she paid into the system, plus interest. This seems to me to be the minimal acceptable proposal for taxing benefits; unfortunately, the amendment was also not accepted.

Mr. President, another area of concern to me relates to increasing the retirement age. It seems to me that if we must raise the social security retirement age we need to develop a safety net for older workers who, for health reasons, simply cannot keep working.

I offered an amendment on the Senate floor that would have established a new social security program to aid older workers with major health problems. Under the proposal, beginning in the year 2000, a limited number of workers between the ages of 62 and 66 would have received a new "disability-retirement" benefit if they were unable to work in their current occupation because of poor health.

I believe that it is imperative that we take this step in conjunction with any increase in the social security retirement age. If the retirement age is increased, as now seems inevitable, it will mean a hardship for many older workers who cannot stay in their jobs because of poor health and also can not qualify for regular disability insurance benefits. These workers should not be shortchanged in any way, but that will happen in a lot of cases unless steps are taken to protect these workers.

My amendment would have allowed workers to qualify for these benefits if they could demonstrate inability to perform the major occupation they had held in the recent past. Beneficiaries for this program would have been paid the benefits they are entitled to under the current social security law. In effect, these workers would be "held harmless" to the proposed increase in the retirement age and reduction in early retirement benefits.

Mr. President, a majority of the members of the Social Security Commission, including Senators DOLE and HEINZ, recommended that the retirement age be raised. In addition, these same recommended a liberalization of the disability program for those aged 62 and above.

I quote from the Commission Report:

Disability benefits are now available under somewhat less stringent definitions for those aged 60 to 64. However because some workers, particularly those in physically demanding employment, may not benefit from improvements in mortality and be able to work longer, we assume that the disability benefits program will be improved prior to the implementation of this recommendation to take into account the special problems of those between age 62 and the normal retirement age who are unable to extend their working careers for health reasons.

Mr. President, the Senate bill only raised the retirement age—it did not make improvements to the disability program. Unfortunately, my amendment, which merely followed through on the recommendations made by a majority of the members of the Social Security Commission, was not adopted by the Senate. Instead the Senate has

requested that a study be conducted to determine how to best deal with the problem. I am hopeful that a measure similar to mine will be adopted by the Congress prior to the implementation of the increase in the retirement age, and I will continue to press for its passage.

Mr. President, there is one other provision included in this bill that I strongly oppose. The Senate Finance Committee included a provision that would allow the Secretary of Health and Human Services to scale back or even eliminate social security COLA's if the trust funds are running low.

I oppose this idea for two reasons. The first and most important reason is that the proposal is unfair to social security recipients; benefits may be cut over time if we are faced with another economic period similar to the past 5 years—high inflation coupled with slow growth.

The second reason why I oppose the provision is that it ties the hands of future Congresses in dealing with potential funding problems. During committee consideration of the social security reform legislation, I offered an amendment which was not adopted that would have allowed the Social Security Administration to borrow from general revenues if the trust funds run out of money. My amendment also required the Congress to develop a plan for repayment of the borrowed funds, leaving the decision as to how to repay the funds up to future Congresses. I believe that my approach is fairer than the one adopted by the Senate. A person's benefits should not be arbitrarily cut back without serious congressional debate.

Mr. President, the House did not include a provision for cutting COLA's in future years if the trust funds run low. And the Commission did not recommend cutting future COLA's. I hope that the conferees realize the serious mistake that has been made, and I hope they strike this provision from the final bill.

The financing of the social security system is extremely sensitive to the health of the economy. Recently, high unemployment reduced the number of people paying taxes into the trust fund while high inflation caused social security benefits to rise. That combination of high unemployment and inflation has caused a serious, immediate cash-flow problem that needed immediate attention. It is my belief that the legislative changes included in the reform package should be sufficient to solve this cash-flow problem, so long as the economic picture continues to gradually improve.

But some people are afraid that we have not made sufficient changes to keep the system afloat. They believe that the social security system is fundamentally flawed and that the proposals included in this reform package only delay for a few short years the final day of reckoning. I simply do not agree with this assessment. Social se-

curity is a sound and durable system that has worked well for the past 45 years, and with these adjustments, should continue to work well for the next 45 years.

Mr. President, it is my belief and my hope that this social security reform package will eliminate the current uncertainty about the future of social security and assure continuation of one of the most significant achievements of the 20th century. As long as we all work together, social security will continue to provide benefits to our children's children. The Congress, through its work on social security, is showing that it can grapple with a very serious issues in a fair and sound way, which should give us confidence as we face the challenges of the 1980's and 1990's.

Mr. GORTON. Mr. President, I wish to voice my strong support for the bill now before the Senate with one significant reservation. H.R. 1900 will implement the recommendations of the National Commission on Social Security Reform. The Commission was charged with restoring the short- and long-term solvency of the social security system. Its recommendations do so without altering the system's basic financing and benefit provisions, and in a manner which is responsive to the needs of all aspects of American society. Moreover, the reforms in this bill added to the Commission's recommendations add to its responsiveness and long-term soundness.

The importance of social security to its beneficiaries—present and future—cannot be overstated. Monthly social security checks are the primary—if not the only—dependable source of income for millions of Americans. The system assures active workers and their families of financial protection in case of their disability, retirement, or death. Obviously, public support for a viable and fair social security system is overwhelming.

The Commission actually was charged with two problems. First was the financing issue; second, the need to restore the public's confidence in the system. Using reasonable economic and demographic assumptions, the Commission put together a package which meets both goals: fiscal and political. The bill before us, which embodies this package, with the exception of the Long amendment, together with amendments proposed by Congressman PICKLE, Senator DOLE, and Senator ARMSTRONG, strikes a good balance between the financial needs of social security beneficiaries and the need to limit the burden placed on workers and employers who finance the system through payroll taxes. The passage of this bill will renew the confidence of all Americans in social security.

Mr. President, it is also appropriate to comment on the process which has led to the consideration of this bill. Passage of the 1983 social security

amendments will demonstrate that our democratic political system works and works well. Everyone who cared to participate has been heard, and the result is a bill which responds to the concerns and the needs of all citizens. Significant differences of opinion have been resolved. Guidance from the President and the leaders of Congress was essential to this result, as was the participation of the nonelected members of the Commission who represented important constituencies. Equally valuable to the process was the dedication of experts and ordinary citizens alike who made their views known to the Commission and to their elected representatives in Congress.

The distinguished chairman of the Committee on Finance, Mr. DOLE, deserves the special recognition of the Senate. The Senator from Kansas contributed mightily to the compromise package before us today. In my view, his work, in collaboration with the other members of the Finance Committee, most particularly Senator ARMSTRONG and Senator ΜΟΥΝΤΑΝ, has resulted in a bill which improves upon the work of the Commission, on which he served, and on the measure already passed by the House. I commend the Senator from Kansas for his work and leadership.

Mr. President, in terms of the future solvency of the social security system and the equity of the proposed changes, the package before us was totally sound and deserving of support before the adoption of the Long amendment. That amendment, which destroys the consensus which created this package, effectively strips from the bill the mandatory coverage of future Federal Government employees. That, in turn, means that the solvency of the system is not assured and thus that recipients of benefits may have those benefits threatened before the end of the 1980's. Moreover, the Long amendment undercuts the vital principle of universal coverage.

The Long amendment seriously calls in question the long-range soundness of the bill. Because of my belief that the conference committee will drop or correct the Long amendment, I remain firmly in support of the bill.

What remains for Congress to address, however, are features of the social security system which may well remain unsound and flawed. These problems relate to the fundamental design of the system and its relationship to the Nation's economy.

Let me briefly discuss these shortcomings. The automatic growth factors built into the social security system trouble me. Benefits of current recipients grow without congressional action. But these escalators also will cause the initial benefits of future recipients to increase in real terms well above levels paid today, and well above those that can be supported by today's contributions, even with the modest reductions included in the bill before us. These automatic, uncontrolled in-

creases led, in large part, to the solvency problem addressed by this bill.

My reservations about the automatic benefit increases of the social security system run deeper than simple dismay over the short-run solvency problem they caused. These escalators—in social security and many other Federal programs—pose a threat to the solvency of the Federal Government. The enormous budget deficits we face today are ample proof of that fact. The ability to alter spending programs is a fundamental attribute of free government. The features of the social security system which lead to these unlegislated increases encroach on this necessary function. Reform of these escalators must be addressed in the future.

I am also unconvinced that we have dealt adequately with the increasing long-run system costs which stem from the advancing average age of our population. This bill does include a 1-year increase in the retirement age which will take full effect in 30 years. As this change is part of the compromise which enables us to have such a fine package before us, I do not want to press debate on this issue now. Perhaps we should, however, reexamine the merits of having a fixed age of "normal" retirement which does not respond to the inevitable trend of our population toward longer lifespans.

The present system also fails to recognize the changes which have occurred in the roles women play in society. The benefit structure is based on the assumption that families are composed of a single wage earner and a dependent spouse. This assumption is naive by today's norms, and is becoming increasingly outdated. I would be receptive to reforms in the system which were developed from careful study of women's increased participation in the labor force and the growing frequency with which they live independently or are heads of households. I call on women's groups and other affected parties to come forward with proposals which are designed with an eye sensitive to both costs and benefits.

The final structural problem of the social security system I want to discuss was acknowledged but not addressed by the Commission. The Commission's recommendations affect the operations of only two of the system's four trust funds. Nonpolitical experts point out that the long-term deficits facing parts A and B of medicare—the social security system's other two programs—are at least as large as the funding shortage in the combined retirement and disability programs which are addressed by this bill. Title III of this bill phases in a revamped hospital reimbursement system. The theoretical incentives of this system bode well for the future, but are untested. And the system is designed to be "budget neutral" in the near term. Although individual hospitals will experience changing medicare revenues,

aggregate Federal spending will not change markedly. This is only a first step toward better health care policies at the Federal, State, and local levels. Such improvements are necessary to slow the growth of health care spending, as well as to preserve the solvency of the medicare trust funds.

In summary, Mr. President, I would like to reiterate my support for this bill. We have addressed the immediate problems before us in a responsible manner. The public should be assured that we are taking action which will yield a solvent and more affordable social security system. But we will not have served our Nation well if we are content to stop with the reforms contained in this bill. The issues which I have identified must be given careful attention.

Mr. DECONCINI. Mr. President, I intend to cast my vote today in favor of final passage of S. 1, the Social Security Act Amendments of 1983. This is a difficult vote for me to cast because I continue to have reservations about some elements of the bill. On balance, however, I believe that the legislation should be passed and that it will significantly add to the final stability of the social security system.

Most Americans regard the social security system as the single most important Government program. Originally conceived as a retirement supplement, it has for millions become either the sole or at least the primary source of retirement income. Because social security is so fundamentally important, I am absolutely committed to insuring its financial integrity. And that is precisely what S. 1 does.

As in any piece of major legislation, the many provisions represent compromises between differing points of view and a balancing between different interests. On the whole, this legislation succeeds in the dual goals of effectiveness and fairness. With the enactment of S. 1, the future solvency of the social security system will be assured for the foreseeable future.

During the last Congress, the administration proposed solving social security's financial problems by reducing benefits. Indeed, it succeeded in persuading Congress—over my opposition and that of a number of colleagues—to eliminate the minimum benefit. A few months later, Congress reversed itself and decided to find an equitable solution. A National Commission was established to study the problem and propose a legislative solution.

The members of that Commission met for many months, listening to all points of view, and ultimately crafted a compromise proposal which is transmitted to Congress. That document became the starting point for Senate Finance Committee hearings which resulted in the legislation before us today.

It is in order, Mr. President, to congratulate not only the members of that Commission but my colleagues on

the Senate Finance Committee, especially its chairman, Senator DOLE, and its ranking member, Senator LONG. Whether we agree on every point or not, I doubt if anyone can legitimately accuse S. 1 of fundamental unfairness.

I have been an avid opponent of cuts in social security benefits for the simple reason that too many retired Americans need that income to survive. My opposition to cuts has continued during the Senate deliberations on S. 1. My preference is to balance the books by other means, primarily through various revenue-raising devices and interfund borrowing.

In sum, Mr. President, this legislation is both fair and reasonable. I believe that the present legislation keeps benefits intact and, more importantly, it retains the principle of readjusting benefits to keep pace with inflation. Had I been its sole architect there are things I would have done differently. But, on balance, it should be supported.

(By request of Mr. LONG, the following statement was ordered to be printed in the RECORD:)

● Mr. HOLLINGS. Mr. President, it was only in 1977 that Congress last enacted a social security reform bill. A bill, we should all remember, that was to put the system on a firm financial footing for at least the next 50 years. Unfortunately, that reform lasted only 5, not 50, years. And, more unfortunately, there are parallels to that earlier, failed effort in this present legislation.

First of all, this bill relies too heavily on tax increases. In 1977 we enacted the largest tax increase in our history, only to be here a few years later to add on more. Fully two-thirds of the total fiscal impact of this legislation is due to tax increases.

Mr. President, the problems of social security are not due to people paying too few taxes. Indeed, the average American now pays more in social security taxes than he does in Federal income taxes. The maximum social security tax quadrupled in the 1970's, and it will triple again in the 1980's.

Surely, this trend cannot continue. And more assuredly, it cannot continue without serious economic and social consequences. The tax increases in this bill will mean fewer jobs during the next few years—perhaps as many as 100,000 to 200,000 jobs according to economists that I have spoken to. In addition, it burdens our current and future workers—our children and grandchildren—with the bulk of the financial cost of this compromise. These taxes will be with them for life while changes such as the cost-of-living delay will only be temporary. And it is this imbalance that has led such groups as the American Association of Retired People and the National Alliance of Senior Citizens To Oppose the Higher Payroll Taxes.

Furthermore, Mr. President, this legislation disrupts many of the fundamental principles that are the founda-

tion of our social security program. For example, it begins a means test on benefits and it taxes benefits for the first time. It also infuses general revenues into the system and thereby erodes the distinction between social security and welfare. And, finally, it increases the retirement age for our elderly. Those people who need to or want to retire at our established retirement age will no longer be able to do so without a penalty.

While all of this is bad enough, it is intolerable in view of the fact that a fair and efficient alternative exists. For the past 2 years now I have advocated a temporary freeze in cost-of-living adjustments as part of a total Government-wide freeze on expenditures. Such a proposal would restore social security solvency and I am sure, from conversations that I have had with retirees, that most people would be willing to give up a bit of their COLA if it insured that the system would survive. Also, such a proposal would not make drastic cuts in basic benefits or the retirement age—it only slows up the increase in benefits. And, finally, it restores some equity between retirees and the workers who now support the system but who do not get automatic COLA's on their wages every year.

Mr. President, it is heartening to see bipartisan agreement on the social security problem. But it does us no good to agree on a set of poor policies. In 1977 we tried to get out of a similar fiscal dilemma by relying on tax increases and failed. For the past 2 years both parties have avoided addressing the root causes of social security's financing problems and we are now only delaying the day of reckoning. Indeed, this compromise appears to be bits and pieces of the worst of all suggestions—massive tax increases that penalize the young, benefit taxes that penalize the retiree, retirement age increases that penalize the blue collar worker, and general revenue funding that penalizes the dignity derived from an insurance program, not welfare.

We certainly can do better than that. We do not need more partisan politics, but we also should not be rubberstamps to poor policy. We owe more to current retirees, current workers, and future generations than another round of stopgap, shortrun remedies. For all these reasons, Mr. President, I oppose this legislation.●

Mr. HELMS. Mr. President, I am obliged to vote against H.R. 1900 the Social Security Act Amendments of 1983, because I am convinced that the bill will not solve the social security crisis. It is a bandaid, pure and simple, and while it might patch up the present system and pay the bills for a few more years, it does not address the long-term problem.

I commend my good friend, the distinguished Senator from Kansas (Mr. DOLE), for his diligent work on this bill. He has done his best to work out the problems in difficult circum-

stances. I also commend the Senator from Colorado for his interest in real reform. But this bill simply does not go far enough.

I predict that within a short time, the social security system will face another funding crisis that will make the present one seem mild by comparison. Already, there is a commission studying ways to avert a medicare funding crisis. In all likelihood, the panel will recommend still higher taxes, benefit cuts, or both.

However, Mr. President, I am pleased that 11 of the 20 provisions in the comprehensive reform bill I introduced a month ago are in this bill. These 11 provisions address a number of substantial problems. Unfortunately, they do not address the long-term social security funding problems. This bill does little to provide Americans the retirement security they so badly need.

Let us examine for a moment how this bill addresses the looming social security crisis. First, it raises payroll taxes significantly. We have just completed work on the so-called jobs bill, which provides almost \$5 billion for porkbarrel, make-work projects. If Congress is so concerned about jobs, why is it raising the payroll tax when the Congressional Budget Office has told us the 1977 payroll tax increase cost 500,000 working men and women their jobs?

The American people cannot stand another round of tax increases. If anything, we should be talking about cutting taxes.

The bill also reduces social security benefits by raising the retirement age, postponing cost of living adjustments, and so forth. The U.S. Government has a commitment to millions of social security beneficiaries—a commitment that ought not be broken. But here is Congress, breaking that trust. Any government that cannot keep its commitments cannot maintain its credibility.

This bill does not solve underlying problems. It is merely another bailout, and I predict it will be just another disaster, just like 1977. The bill does not provide for any long term means of establishing private, fully funded retirement plans to ensure the security of elderly Americans. It does not eliminate the dependence people have on government programs.

Mr. President, my colleagues are aware of what I have tried to do to help solve the social security problem. I offered a comprehensive plan to save social security—S. 541—that would have allowed workers to establish for themselves in the private sector an Individual Retirement Security Account—IRSA. These IRSA accounts would have accumulated billions of dollars for individuals to draw on when they retire, stimulating the economy by lowering interest rates and creating jobs.

Mr. President, obviously Congress is not yet ready for such a reform. I am pleased that this bill requires the Treasury Secretary to conduct a study of the feasibility of my proposal, and to report back to the Senate Finance Committee by July 1, 1984. Perhaps then the value of my proposal will become clearer. Thousands of citizens across America have endorsed my proposals.

Mr. President, I believe in incremental success. I intend to continue to advocate my reform proposal. Progress has been made, and I believe the American people now understand my proposal. Judging from the mail I have received on the subject, they not only understand it, but they want it.

One day, Mr. President, Congress will no longer be content to "paper over" the social security problem. It will be obliged to adopt a private retirement system along the lines of my proposal to replace the bankrupt Government-run system we have today. If we begin to take prudent steps now, however, the transition will be smooth and gradual and not a penny of benefits will be jeopardized.

Mr. HATCH. Mr. President, I cannot support H.R. 1900 which is alleged to restore the financial soundness of the old age and survivors' insurance—OASI—program.

The recommendation of the National Commission on Social Security Reform provided a good point from which to begin. The changes made in the House of Representatives gradually raising the retirement age were in the right direction. They reflect current demographic reality but standing alone do not overcome the quick-fix solution contained in the bill being touted as a bipartisan solution to a serious problem.

Mr. President, in my view the fundamental structural deficiencies of social security were not addressed. Instead we further increased the regressive payroll tax; introduced a back door means test in the method by which benefits are taxed; increased the use of general revenues to fund social security and created a break in parity in employer-employee FICA tax contribution.

Mr. President, my colleague Senator ARMSTRONG, a member of the National Commission and chairman of the Subcommittee on Social Security of the Committee on Finance, has indicated that high taxes account for 75 percent of the proposed deficit reduction in the system between now and 1990. That is \$126 billion out of the \$169 billion total. In the long run, tax increases constitute 91 percent of the Commission's total recommendation.

Further, during the 1970's, maximum payroll tax rates quadrupled. Without the Commission's recommendations, they are scheduled to triple again during the 1980's. During the period from 1970 to 1981, pretax wages increased 122 percent. The consumer priced index went up 136 percent.

Social security benefits rose 205 percent. Such trends make it almost impossible to justify further payroll levies on wage earners, many of whom already pay more in social security taxes than Federal income taxes.

It is obvious that higher payroll taxes will have a serious effect on unemployment. As employers also pay social security taxes equal to what their employees pay, the tax rate increase will raise the cost of employing each worker. These higher labor costs will make the employment of labor relatively more expensive than the employment of capital in the production process. Since labor is now more expensive, employers will tend to reduce the amount of labor they use and increase the amount of capital used. This substitution of capital for labor, due to higher labor costs caused by the increase in social security taxes, will contribute toward increasing unemployment.

Mr. President, the bill provides for the taxation of benefits and thereby penalizes those who save, and rewards those who do not. It penalizes a disabled individual by taxing his benefits if his spouse takes a job to help pay for his special needs, thus raising the family income above the tax threshold. For some individuals now at the earnings limitation level, the combination of taxes and loss of benefits resulting from additional earnings could actually exceed 100 percent of those earnings. This is a strong disincentive for those who otherwise want to continue working to supplement their income.

This provision radically alters the fundamental nature of the system by imposing a means test. Even worse, this particular form of means test vastly overemphasizes the social adequacy features of social security and reduces the individual equity element which is so essential to the credibility and popularity of the system.

Mr. President, the bill further changes the nature of our social security system by its use of general revenues. This is an abrupt deviation from the discipline of a self-contained system, recognized as being essential in the original design of the program. It is also a fiscally irresponsible change, given the projected deficits in the Federal budget for the foreseeable future.

The injection of general revenues, without any significant structural reform to restrain the growth in benefit outlays, creates serious questions regarding the ability of workers to sustain the system in the future.

Finally, Mr. President, this bill destroys the parity of treatment between employers and employees. In order to ease or partially cushion the impact of higher payroll taxes, the bill provides employers with a credit against payroll tax and eliminates the parity of cost.

Traditionally, the employer and the employee have shared the cost burden

of the system. The tax on earnings covered by the system was to be computed on the same basis and the same rate for employer and employee alike.

If we are serious about providing a cushion to the employee we would not accelerate the payroll tax increases that were enacted in 1977.

Mr. President, in summary, the bill fails to address squarely the problems which remain in place in the social security system. The bill merely focuses on symptoms while allowing the basic problems to continue to grow unchecked.

By relying upon general revenues and new payroll taxes, we have squandered a historic opportunity to bring about the structural changes which would provide greater assurance of stability in the system for the future.

That stability can come about only by altering the basis structure of the program, by designing a system which relates benefits more directly to taxes paid by an individual.

SOCIAL SECURITY: A NATIONAL COMMITMENT

● Mr. JEPSEN. Mr. President, I support the social security reform package put together by the Senate Finance Committee. I believe it is a sound package which will go a long way toward restoring our Nation's confidence in this very important program.

It has been a long and sometimes rocky road we have followed to this point, Mr. President. As you will recall, it was only a few short months ago that many in Congress were still trying to convince the American people that there was not a problem. But through the dedication and determination of those people who faithfully served on the National Commission on Social Security Reform, we were able to come up with the basis for this proposal.

As the legislation has worked its way through the legislative process, I think changes have been made which make this a much stronger package. While there are still a number of changes which I do not personally believe are necessary, I, like so many others, am willing to support those changes in the interest of securing the long-term solvency of the social security system.

I would like to take a few minutes, Mr. President, to speak briefly about some of the changes which I believe are of utmost importance.

EARNINGS LIMIT REPEAL

During the Senate Finance Committee's deliberations, Senator ARMSTRONG offered an amendment to phase out the social security earnings limitation. I cannot tell my colleagues how extremely important this change is to the future of social security. As my good friend from Colorado knows, I have been working to get the earnings limit repealed since shortly after I was elected to the U.S. Senate. While I would prefer to see the ceiling lifted sooner than the bill specifies, I am

pleased that the committee was at least willing to take this important step.

In conjunction with the earnings limit repeal is another important change, and that is the increase in the delayed retirement credit. This, combined with the earnings limit repeal, will be a strong incentive for people who want to continue working to remain in the work force. Although these two provisions have not received the media attention they deserve, I believe that history will show that these changes will prove very significant to the long-term solvency of the social security system.

I commend the Senator from Colorado for his efforts on this issue, and I look forward to working with him in the future on other issues of mutual interest.

DROPOUT YEARS FOR CHILD CARE

Another provision, also recommended by the Senator from Colorado, deals with the increase in the dropout years for child care. I was most pleased to see the committee's acceptance of this proposal, and I commend Senator ARMSTRONG for having the foresight to offer this amendment in committee.

For years, Mr. President, women have suffered significant losses of benefits because of time out of the paid work force during childrearing years. While this increase does not correct all of the inequities in the system, it is a start. I would hope that the committee will continue to consider further changes to remove some of the penalties married couples face with regard to the social security system. I understand that the Committee has agreed to give serious consideration to Senator CRANSTON's earnings sharing proposal, and I think that is an important step. I look forward to studying the committee's recommendations in this area.

WIDOW (ER)S AND DIVORCED SPOUSES BENEFITS

Another important change recommended by the committee deals with improved benefits for disabled widows or widowers and divorced spouses, as well as the ability of divorced spouses to receive benefits despite the retirement decision of the former spouse. Again, both of these changes are extremely important in eliminating some of the provisions in the social security law which discriminate against women.

While it is true that the social security law is "blind" with respect to sex, it is also true that because of the historical makeup of this country's work force, there are certain provisions which impact more heavily on women than on men. More specifically, these are the provisions which deal with widow's benefits and spouses' benefits. I believe these changes are extremely important and will go a long way toward making social security a more equitable and fair system.

FAIL-SAFE/STABILIZER PROVISIONS

Before concluding, Mr. President, I want to point out two additional

changes which are recommended by the committee which will perhaps do the most to restore confidence in the social security system: the fail-safe mechanism and the stabilizer provisions.

As my colleagues know, the fail-safe mechanism is intended to prevent the type of situation that forced us into the current reform proposal—changing economic conditions. I cannot tell my colleagues how many times I have been asked by people why this reform package is necessary. After all, they state, we were told by President Carter that the system was solvent for the next 75 years.

Well, unfortunately, the social security system is extremely sensitive to a changing economy. Prior to the Carter administration, the thought of prices increasing faster than wages was simply unheard of. The sad fact is, it can and did happen.

The fail-safe mechanism will not prevent prices from rising faster than wages, but it will help the social security system adjust if this continues to occur. Specifically, the Secretary of Health and Human Services will have the authority to reduce cost-of-living adjustments if trust fund reserves fall to dangerously low levels. In addition, the stabilizer provision will also change the way the cost-of-living adjustment is computed if the trust fund reserves fall too low.

Of equal importance, however, is the "catch-up" provision which will allow larger cost-of-living adjustments if the trust fund reserves exceed a certain level. This, Mr. President, will insure that social security beneficiaries will be able to benefit from a strong economy.

Clearly there were some other things which could have been done to further protect trust fund reserves from a changing economy, but as with many of the other changes, these are important first steps. If we did nothing else, we have tried to exercise some restraint on the cost-of-living adjustments, and I think this was extremely important.

I close, Mr. President, by commending all those people who served on the National Commission on Social Security Reform. Theirs was not an easy task. I dare say that at times it appeared impossible. But in the end, what some people said could not be done, has been done—a social security reform package with bipartisan support has been brought to the floor of the Senate and it will be approved. If nothing else, I hope we have sent a signal to the American people that says that when the chips are down, we can join hands and try to resolve a national problem in an honest and responsible manner. ●

● Mr. BOSCHWITZ. Mr. President, almost 2 years ago, I began studying the social security program and suggesting ways to insure its fiscal soundness and integrity. It became increasingly clear to me, through my work on

the Budget Committee, that serious thought and effort needed to be given to controlling the rate of growth of the so-called entitlement programs—particularly the nonmeans tested ones—social security, medicare, civil service, railroad retirement, veterans pension, and so forth. Social security is nearly half—43 percent—of all the entitlements combined. Total entitlements that cost \$28 billion in 1961 zoomed to \$350 billion in 1982—a 1,150-percent growth. I do not criticize the existence of these programs at all. They fulfill vital needs.

Although it has traditionally been considered close to political suicide to even suggest slowing the growth rate of entitlement programs, I have believed for a long time that if we do not do something, social security will not be around for the children and grandchildren of those people receiving social security today.

How did we get where we are? How did we get to the point where 63 percent of our workers, in a spring 1982 Gallup poll, believe that they will get no benefits when they retire? There are several problems unique to the social security system that have caused us to be facing a short-term and long-term crunch. But, while we have many economic problems, the thread of inflation is interwoven in all of them—the social security problems are no exception.

What specific factors have led to social security's funding problems?

First, when the system was in its early years there were many more people paying in per beneficiary drawing benefits. In 1945 there were 42 workers paying in for every 1 beneficiary, currently the ratio is 3 to 1 and, when the baby-boom generation starts retiring in about 2012, it will bring the ratio down to only 2 to 1 by the year 2030.

Second, people are living longer today, and consequently drawing benefits for a longer period of time than they did when the social security program was inaugurated. According to the Commission's report, men live on the average 15 years past retirement, and women 19 years; a lifespan increase of 20 percent over 40 years.

Compounding this problem is the fact that more Americans are opting for retirement before age 65—90 percent of Americans who retire, do so before age 65. Therefore, beneficiaries are drawing benefits sooner, and they are living longer, extending on both ends the period during which they receive benefits.

Third, the average social security recipient now gets back \$5.60 for every \$1 they put into the system. Social security is a pay-as-you-go system and was never intended to be a retirement system where social security taxes would build up in a pension fund for an individual or group to meet their eventual benefits, as it is in private pension funds. Nevertheless, a 5 to 1

payback ratio cannot be maintained while the ratio of workers to retirees declines to 2 to 1.

And last, but certainly not least, the effects of inflation have been devastating to the OASDI trust fund. In 1975, we began to fully index benefits for inflation commensurate with increases in the Consumer Price Index (CPI). Certainly the goal of protecting beneficiaries from the effects of inflation is laudable, but we could not have chosen a time in the history of our Nation when the cost-of-living adjustments (COLA's) indexed to the CPI would have been more costly to the social security system.

Since 1975 COLA's for all beneficiaries have cost the system more than \$200 billion. We have experienced double digit inflation since COLA's were implemented; and the CPI, and consequently the OASDI benefit increases, have outstripped the increases in average wages. The bottom line is that social security benefits have gone up faster than the wages which pay the benefits.

No one would argue that social security recipients are getting rich. My point is simply that when the amount being paid out of the system is increasing at a faster rate than the amount coming in, we are jeopardizing the stability and solvency of the social security system.

About a year ago, I prepared a "laundry list" of ideas, consisting of 19 ways to slow the rate of growth of the social security system. I sent out 50,000 copies of my newsletter entitled, "Saving Social Security." Thousands of Minnesotans responded. Most—not all—agreed with most of my ideas. In fact, I received positive responses from all over the country because the Minneapolis Tribune, the Washington Post and many other newspapers published my ideas. I tallied the results of this poll. More recently I held town meetings throughout Minnesota to conduct further surveys on the Commission's proposals as well as some of my own. I ask unanimous consent that the results of my poll and surveys conducted at the town meetings be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOSCHWITZ. The results of my informal surveys taken at the town meetings suggest that both retired and nonretired people understand and approve of some reasonable modifications in the social security system designed to make the system solvent. The survey was taken of about 800 people attending the town meetings in Willmar, Worthington, Rochester, Duluth, and Roseville. I also made the presentation to a group representing the St. Paul Chamber of Commerce and the Metro Senior Federation in Minneapolis.

I presented 12 different proposals at the meetings—five of the Commis-

sion's proposals and seven of my own. Of the 12 possible solutions, only 2 were supported by less than half of those responding. I believe this demonstrates that if people are given a chance to review some of the changes in social security without the usual politicking and demagoguery that accompanies them, they will make thoughtful, reasoned judgments. The dialog was heated at times, to be sure, but generally pretty constructive.

The thoughtful, pragmatic approach taken by the National Commission on Social Security Reform, the House of Representatives, and the Senate demonstrate that others have gotten the same reaction from the folks back home.

I am pleased to see that many of the changes suggested in my 19-point "laundry list" have been included in the social security reform package. The 19 possible changes I suggested were:

First, limit social security benefits paid to foreigners not living in the United States.

Second, increase immediately the number of quarters needed to qualify for full social security benefits.

Third, only allow 1 quarter's credit for 1 quarter's work. A quarter is currently measured as a 3-month period during which a worker earns more than \$370. Suppose a worker earns \$1,480 (4 times \$370) in that quarter. Under present rules a worker gets credit for 4 quarters, even if he does not work at all the rest of the year. I proposed changing this rule, 1 quarter's work should only get 1 quarter's credit.

Fourth, require all new government employees (Federal, State and local) to pay into social security. This is a proposal that deserves serious consideration and presents an opportunity for Congress to examine the retirement system for Federal employees.

Fifth, eliminate children's benefits for early retirees. If a worker takes early retirement at 62 and has children under 18, the worker receives benefits and the children receive separate benefits as well. I proposed not allowing the children to get benefits until the retiree is 65, unless he or she retired early for health reasons.

Sixth, increase the self-employed person's taxes withheld for social security by 2 percent.

Seventh, give incentives to people to keep working beyond age 65 by increasing benefits each year the person works beyond 65. Specifically, my proposal would give an extra 5 percent (105 percent of the regular social security benefit) if a person retires at 66; at 67 an extra 11 percent (5 percent plus 6 percent); at 68 an extra 18 percent (5+6+7 percent); at 69 an extra 26 percent (5+6+7+8 percent); and if the worker retires at 70, an extra 35 percent (5+6+7+8+9 percent).

Eighth, raise the offset age to 75. Currently people over 72 who keep working receive benefits no matter

how much they earn. People under 72 lose \$1 of social security benefits for each \$2 of income they earn over \$6,600. My proposal would have extended this to anyone under 75.

Ninth, tax social security payments if the social security recipient has income exceeding \$20,000 besides social security (\$25,000 for couples).

Tenth, raise the 65-year-old retirement age to 65 plus 3 months (and the 62 year early retirement age to 62 years plus 3 months).

Eleventh, raise the retirement age to 65 years plus 6 months.

Twelfth, lower the cost-of-living adjustment (COLA) to 3 percent less than the inflation rate for 3 years, except for the lowest 25 percent of social security recipients who would continue to receive the full COLA.

Thirteenth, delay the COLA 3 months to October 1, to coincide with the beginning of the Government's fiscal year.

Fourteenth, index "bendpoints" by one-half of the wage index for 4 years.

Fifteenth, eliminate survivor benefits for minor children if the remaining parent has income exceeding \$25,000.

Sixteenth, lengthen the benefit computation period by 3 years. Benefits are determined by applying a formula to a worker's average monthly earnings over a certain period of time. In most cases the averaging period is the number of years after 1950 up until the year the person reaches 62 less the 5 lowest years. I proposed dropping only the 2 lowest years rather than the 5 lowest.

Seventeenth, eliminate parent's benefit when the youngest child is age 6. The child would continue to receive survivor's benefits until he or she is 18, but I proposed eliminating the surviving parent's benefits when the youngest child reaches age 6—not 16. I felt this proposal acknowledged the major increase in the number of women working in outside jobs.

Eighteenth, expand workers' compensation offset. About 165,000 people now receiving social security disability benefits also receive payments from other Federal programs: veterans compensation, civil service, military disability retirement benefits and black lung benefits. All these benefits are calculated without regard to what other benefits the person is receiving. After February 1981, people eligible for social security disability payments have a "cap" on their total combined benefits equal to 80 percent of their average predisability earnings. I proposed extending this provision to all recipients of social security disability benefits.

Nineteenth, increase the number of required quarters in covered employment to be disability-insured to 30 out of 40 quarters. To receive disability benefits, a person must have worked at least 1 quarter for each year of age above 21 and have worked a total of at

least 20 of the last 40 quarters. My proposal would require a person to have worked at least 30 of the last 40 quarters in covered employment.

Eight of the nineteen proposals on my "laundry list" were incorporated into the reform package on one form or another. The package as it came out of the Senate Finance Committee agreed to:

Limit social security benefits paid to foreigners (1);

Require new Federal Government workers to pay into social security (4);

Raise the tax rate for the self-employed to 100 percent of the combined employer-employee rate—which I think is actually too much of an increase. That represents a 25-percent increase of the rate the self-employed pay now and I was proposing a more modest increase (6);

Increase the delayed retirement credit for continuing to work beyond age 65 (7);

Tax social security benefits if the beneficiary's income (including social security) exceeds \$25,000 or a married couple's income exceeds \$32,000 (9);

Raise the retirement age to 66 gradually after the year 2000 (10 and 11);

Lower the COLA or even eliminate it when the OASDI trust fund reserve ratio falls below 20 percent (12);

Delay the COLA for 6 months (13).

I claim no pride of authorship of any of these proposals. As I began my studies of the financial problems of the social security system more than 2 year ago, I soon realized there were many sane, sensible ideas available that would protect the solvency of the system, without cutting benefits to current recipients of social security benefits.

This social security package is one of the most constructive pieces of legislation that I have participated in since coming to the Senate. I commend the members of the Commission, the members of the House Ways and Means Committee, all the Members of the House of Representatives, the members of the Senate Finance Committee, and all those who had a hand in shaping this package. In particular, Senators DOLE, ARMSTRONG, HEINZ, and MOYNIHAN deserve our admiration and gratitude for pulling this package together.

Democrats and Republicans alike worked to make this a good package. Because I was one of the earliest—perhaps the first—to propose meaningful changes in the social security system, I

have particular satisfaction with the package.

I think we have a better assurance now that social security will be intact for the children and grandchildren of those now collecting benefits.

RUDY'S SOCIAL SECURITY SURVEY

Of the 19 possible changes discussed, which ones do you agree with?

| Item number corresponds with number in text | Agree | Percent | Disagree | No opinion | No answer |
|---|-------|---------|----------|------------|-----------|
| 1. Limit benefits for foreigners.. | 4,165 | 98.0 | 67 | 35 | 25 |
| 2. Raise to 120 quarters..... | 3,497 | 81.5 | 485 | 174 | 136 |
| 3. Earn one credit for quarter.. | 3,737 | 87.0 | 214 | 212 | 129 |
| 4. cover new Government workers..... | 3,679 | 85.0 | 371 | 171 | 71 |
| 5. No children's benefits in early retirement..... | 3,881 | 90.0 | 231 | 139 | 41 |
| 6. Increase self-employment tax..... | 2,526 | 59.0 | 1,345 | 308 | 113 |
| 7. Increase work incentives..... | 3,529 | 82.0 | 479 | 195 | 89 |
| 8. Raise offset age..... | 2,544 | 60.0 | 1,137 | 430 | 181 |
| 9. Tax social security..... | 2,117 | 49.0 | 1,904 | 151 | 120 |
| 10. Raise age to 65 plus 3 mo..... | 2,231 | 52.0 | 1,412 | 329 | 320 |
| 11. Raise age to 65 plus 6 mo..... | 1,843 | 43.0 | 1,723 | 474 | 252 |
| 12. COLA 3 percent except lowest 25 percent of recipients..... | 3,041 | 71.0 | 845 | 243 | 163 |
| 13. 3 month COLA delay..... | 3,213 | 75.0 | 634 | 316 | 129 |
| 14. One-half index for bendpoints..... | 2,406 | 56.0 | 524 | 1,058 | 304 |
| 15. Eliminate children's benefit if parents' income \$25,000..... | 3,622 | 84.0 | 473 | 136 | 61 |
| 16. Increase benefit computation by 3 yr..... | 2,473 | 58.0 | 989 | 624 | 206 |
| 17. Eliminate parents' benefit if child below age 6..... | 2,592 | 60.0 | 957 | 589 | 154 |
| 18. Cap disability benefits..... | 3,519 | 82.0 | 394 | 286 | 93 |
| 19. Increase quarters needed for disability..... | 2,878 | 67.0 | 740 | 537 | 135 |

Note.—Please send this form to: Office of Senator Rudy Boschwitz, U.S. Senate, Washington, D.C. 20510.

EXHIBIT 1

(In percent)

| | Total | | | Retired | | | Nonretired | | |
|---|-------|----|------------|---------|----|------------|------------|----|------------|
| | Yes | No | No opinion | Yes | No | No opinion | Yes | No | No opinion |
| Lower the COLA (except for the lowest 25 percent of recipients)..... | 66 | 27 | 9 | 59 | 34 | 6 | 74 | 19 | 7 |
| a. CPI less 3 percent for 4 yr..... | 39 | 36 | 24 | 39 | 36 | 25 | 39 | 38 | 23 |
| b. Average out CPI less \$8 (for 4 yr)..... | 60 | 25 | 15 | 57 | 26 | 17 | 63 | 26 | 11 |
| c. CPI Less 2 percent for 5 yr..... | 29 | 46 | 25 | 30 | 46 | 24 | 29 | 47 | 23 |
| d. CPI less 1 percent for 20 yr..... | 51 | 29 | 20 | 53 | 38 | 19 | 48 | 33 | 19 |
| Change bendpoint indexing: Social security benefits are based on percentages of a worker's average monthly earnings: 90 percent of first \$230; 32 percent from \$230 to \$1,388; 15 percent over \$1,388; \$230 and \$1,388 are bendpoints; increase these by 1/2 of the wage index instead of the full index..... | 56 | 20 | 24 | 53 | 18 | 29 | 58 | 22 | 20 |
| Change percentage where there is another Government pension..... | 63 | 24 | 13 | 54 | 27 | 19 | 71 | 21 | 8 |
| Survivor benefits. Eliminate benefits for minor children if 1 parent dies and the other has income exceeding \$25,000..... | 79 | 17 | 4 | 75 | 20 | 4 | 81 | 14 | 4 |
| Increase required number of quarters: Currently a person must work 40 quarters (10 yr) to qualify for benefits. Making exceptions for women who raise children. raise to 60 quarters..... | 66 | 23 | 11 | 67 | 18 | 14 | 64 | 28 | 8 |
| a. Keep at 40 (quarters)..... | 66 | 22 | 12 | 74 | 12 | 14 | 55 | 34 | 11 |
| b. Raise to 70..... | 41 | 34 | 24 | 46 | 22 | 31 | 34 | 48 | 18 |
| c. Raise to 80..... | 45 | 34 | 21 | 53 | 20 | 27 | 38 | 48 | 15 |
| d. Raise to 90..... | 8 | 56 | 36 | 14 | 34 | 52 | 4 | 71 | 24 |
| e. Raise to 100..... | 32 | 40 | 28 | 25 | 30 | 44 | 35 | 47 | 18 |

RESULTS OF SOCIAL SECURITY HEARINGS IN MINNESOTA PRESENTED BY SENATOR RUDY BOSCHWITZ—FEBRUARY 1983

(In percent)

| | Total | | | Retired | | | Nonretired | | |
|---|-------|----|------------|---------|----|------------|------------|----|------------|
| | Yes | No | No opinion | Yes | No | No opinion | Yes | No | No opinion |
| Part I: Commission Proposals: | | | | | | | | | |
| Advance the scheduled tax increases (1985 increase to 1984; 1990 increase to 1988)..... | 39 | 51 | 9 | 49 | 39 | 13 | 28 | 67 | 5 |
| Increase self-employed tax (now at 75 percent)..... | 36 | 54 | 10 | 38 | 50 | 12 | 31 | 61 | 8 |
| Tax 50 percent of social security for higher income recipients: Tax 50 percent of social security benefits for persons with income above \$20,000 (single) or \$25,000 (married)..... | 63 | 36 | 13 | 69 | 29 | 1 | 51 | 48 | 1 |
| Delay COLA (cost-of-living adjustment): The automatic COLA scheduled for July 1983 would be delayed until January 1984 (6 mo)..... | 55 | 42 | 3 | 59 | 37 | 4 | 50 | 48 | 2 |
| Federal Government employees: Compulsory coverage (new civilian employees) after Jan. 1, 1984..... | 70 | 23 | 7 | 72 | 20 | 8 | 66 | 27 | 7 |
| Part II: Boschwitz proposals: | | | | | | | | | |
| Raise the retirement age..... | 59 | 35 | 6 | 53 | 37 | 10 | 63 | 35 | 2 |
| a. 1 mo a yr until age 66..... | 48 | 39 | 13 | 52 | 32 | 16 | 42 | 48 | 10 |
| b. 1 mo a yr until age 67..... | 42 | 43 | 15 | 43 | 38 | 19 | 38 | 50 | 12 |
| c. 1 mo to 66 and then index..... | 58 | 30 | 12 | 58 | 28 | 14 | 58 | 32 | 10 |

Mr. CRANSTON. Mr. President, the combined work of many. The chairman of the Senate Finance Committee, the Senator from Kansas (Mr. DOLE), and the Senator from New

York (Mr. MOYNIHAN) both served upon the National Commission on Social Security Reform and played an enormously important role in guiding this legislation through the Finance Committee and the Senate. Developing a compromise proposal in an area of many so deeply felt views is an awesome task and the mere fact that the Commission was able to reach a compromise is commendable in and of itself. The Finance Committee's work adhered closely to the basic framework of the Commission's proposal.

Mr. President, I also pay tribute to the distinguished Senator from Louisiana (Mr. LONG), the ranking minority member of the Finance Committee. Senator LONG has contributed significantly to the refining of this proposal and I was pleased to cosponsor his amendment dealing with equitable implementation of the provisions in the legislation relating to coverage of Government workers. As always, the experience and wisdom of the Senator from Louisiana adds immeasurably to the legislation that emerges from the Senate Finance Committee.

Mr. President, I want to also recognize the enormous contribution and leadership which has come from the distinguished chairman of the House Rules Committee, Representative CLAUDE PEPPER. Representative PEPPER has long been the outstanding champion of the needs of older Americans and his support for this proposal has influenced the views of many Members of the Congress.

Mr. President, I intend to vote for H.R. 1900, as amended in the Senate. This is a decision I have not come to lightly. I have had, and I continue to have, grave reservations about certain aspects of this legislation. Certain provisions, if presented to the Senate alone, would not have my support. However, it is a reality of the legislative process that compromises must be reached in order that important goals can be achieved.

At stake here is the confidence of the American people in our ability to assure the continuation of the social security system. Social security affects the lives of every single American, whatever his or her age or walk of life. For older Americans, it is often the lifeline for basic survival. For young workers, it provides the security of knowing that they will be protected in the event of disability and in retirement. Every American has an enormous interest in the continuation and stability of the social security program, and each has an obligation to share in the process of restoring this important program to a stable and secure fiscal status.

The legislation before us seeks to spread the burden of stabilizing the social security program between the various segments of the population. While not necessarily agreeing with the exact balance reached, I recognize that this proposal does achieve to a

significant degree that important and fundamental purpose.

Mr. President, it is also important to point out what this legislation does not do. It does not alter the fundamental structure of social security or propose its replacement with some other system, as some have recommended. The Commission and the Congress in passing this bill are reaffirming the basic soundness, fairness, and necessity of continuing the social security system. That message needs to be communicated throughout the country.

RAISING THE AGE OF RETIREMENT

Mr. President, I do not intend to take the time of the Senate to discuss each and every provision of the legislation. However, there is one provision that has caused considerable concern—the raising of the age of retirement to 66 after the turn of the century—which I wish to discuss.

Mr. President, on January 26, I introduced legislation, S. 2, the proposed Employment Opportunities for Older Americans Act, which contains a number of provisions to encourage older workers to stay in the work force, particularly in part-time positions. Public opinion polls over the past few years have demonstrated that older workers in overwhelming numbers would generally like to remain in the work force. Demographic data also clearly indicate that in the next century we will be entering a labor scarce era when the contributions of older workers will be greatly needed. I believe that we ought to take every step possible to encourage employers to provide work opportunities for older workers and to encourage older workers to delay retirement. Two issues addressed in S. 2—the increase in the delayed retirement adjustment factor and modification of the earnings limitation test—are included in the legislation before us today and are aimed at encouraging continued work effort by older workers.

My bill focuses on creating incentives and eliminating or reducing disincentives for delayed retirement; it did not, as does the present bill, reduce significantly social security benefits for those who choose or must retire before age 66. I would prefer to follow the approach of S. 2—creating incentives, rather than penalties.

I also think that it is unrealistic and inequitable to raise the age of retirement without taking the necessary steps to assure that the employment opportunities will be available for these older workers and that adequate protections are provided to those individuals who will be unable to continue in the work force.

The amendment offered by the Senator from New Jersey (Mr. BRADLEY), to establish a new disability program for those over age 62 in ill health and unable to continue in their prior occupational fields, but not disabled enough to meet the current SSDI to-

tally disabled criterion, would deal with a portion of this problem.

Unfortunately, the Senate did not adopt this amendment. It is clear, however, that some type of protection along the lines proposed by the Senator from New Jersey for workers who fall into this category must be developed before the increase in the retirement age is implemented, and the amendment of the Senator from Pennsylvania to require a study of this matter should be helpful in moving toward the development and enactment in a timely fashion of provisions relating to early retirements forced by ill health.

There are other individuals, particularly older women and minority individuals, who are likely to lack employment opportunities as older workers. We need to take new steps to make sure that all segments of our population will have equal access and ability to continue working if the benefits are to be reduced for retirement before age 66. If we fail to do this, we will—very unfairly—be simply reducing benefits for those who have no alternatives to supplement their income.

Fortunately, the effective date of the increase in the age for full benefits is almost two decades away—longer under the House bill—and there will be ample opportunities to reassess the impact of these provisions and our progress in rectifying these problems in employment opportunities before a new retirement age actually takes effect.

However, I believe that it is in the interests of both our Nation and older workers themselves to begin a process of reevaluating our policies regarding retirement and older workers. Each year, thousands of older workers are forced against their wills out of the work force by mandatory retirement policies, age discrimination, and the existence of fiscal disincentives in public and private pension programs. I think it is time for our Nation to begin to foster a new perspective on retirement that would be premised upon a shift from the concept of an abrupt, total withdrawal from the labor force to one of gradual withdrawal where older workers are afforded the opportunity, if they choose, to reduce their work pace, shift to less demanding work roles, or participate in more flexible work schedules. My legislation, S. 2, is designed to encourage this shift and I intend to devote substantial effort to achieving its goals. In the near future, I plan to reintroduce S. 2 in two separate bills so that the provisions which relate to matters within the jurisdiction of the Labor and Human Resources Committee will be separated from those within the jurisdiction of the Finance Committee. If the two aspects of S. 2 in the legislation before us today are enacted, those provisions will be deleted. I very much hope that both committees will conduct hearings on these separate bills.

COVERAGE OF FEDERAL EMPLOYEES

Mr. President, I also have had strong reservations regarding the manner in which the committee bill dealt with Federal employees. The Commission recommended that new Federal employees be brought into the social security system, but also recommended the development of a supplemental civil service retirement program—like that available to private employees covered by social security—for Federal workers. The Finance Committee bill, however, dealt only with bringing new workers into social security; it provided no assurances that a new supplemental system would be developed or that the interests of present Federal workers in the existing civil service retirement system would be protected.

I was therefore pleased to be an original cosponsor of the amendment offered by the distinguished Senator from Louisiana (Mr. Long) to delay bringing new Federal employees into the social security system until such time as Congress has provided a modified Federal retirement system which coordinates benefits with the social security system and protects the integrity of the Federal retirement system. I was delighted that this amendment was adopted.

CONCLUSION

Mr. President, as I stated at the outset, I will support the social security reform legislation. I have strong reservations about certain aspects of the package but, on balance, the enormous importance of demonstrating to the American people that the social security system will continue overrides the specific shortcomings in the package.

Mr. PERCY. Mr. President, I support the Social Security Amendments of 1983 because they will restore financial solvency to the social security system and will, in future years, provide the reforms necessary to insure the stability of the system for tomorrow's retirees.

I want to commend all of those who have played a major role in fashioning this bipartisan, compromise package: Senator DOLE, the distinguished chairman of the Committee on Finance; Senator HEINZ, chairman of the Aging Committee, on which I have been honored to serve for many years; Senators MOYNIHAN and ARMSTRONG and the other members of the Finance Committee.

Putting together this package required making very difficult choices. I am not aware of one Senator that supports each and every provision of the bill. There are parts of it that I do not support. Many of my Illinois constituents have serious concerns about various provisions of the bill. I conducted a special survey of elderly Illinoisans—their concerns are quite evident. But even they as a group do not agree on which measures should be adopted. Given this disagreement on all parts of the bill and the urgency of dealing with the social security financing

problem, H.R. 1900 is a fair and reasonable compromise which should be supported.

The Social Security Amendments of 1983 are a major accomplishment for two reasons. First, it will allay the fears of millions of elderly Americans who have been living for 2 years with a social security system teetering on the brink of bankruptcy. H.R. 1900 will insure the timely payment of all social security benefits from 1983 to 1989, the 7-year period for which the National Commission on Social Security Reform has identified a \$165 billion deficit.

Second, the Social Security Amendments of 1983 address the long-range deficit expected to occur under the existing system when the baby boom generation begins to retire in the next century. Confronting this problem is even more significant because it has served to undermine the confidence and popularity the social security system has so long enjoyed. Recent polls have shown that three out of four people under age 45 believe the social security system will collapse before they reach retirement age. H.R. 1900 will eliminate the long-term deficit within a reasonable range of economic projections through several modifications in the system. Along with the automatic stabilizers included in the bill, these reforms will avert funding crises like the one we now face.

H.R. 1900 essentially embodies the recommendations of the National Commission on Social Security Reform. It is a solution that requires sacrifice on the part of all parties who have a stake in social security—current and future beneficiaries and taxpayers alike.

Contained in the bill are measures which restore the solvency of the system for the foreseeable future with no benefit reductions in current social security benefit levels and no increases in payroll tax rates above those already scheduled in the law. The bill reaffirms the soundness of the basic structure of social security by making balanced and minimal adjustments to provide immediate relief from the short-term financing problems and to restore the long-term solvency of the program.

First, the bill would expand coverage. Newly hired Federal employees, the President, Vice President, Members of Congress the Social Security Commission and employees of non-profit organizations would be covered by social security. State and local governments would no longer be granted the privilege of opting out of the system. To deal with the problem that will exist as long as coverage is not universal, windfalls will be eliminated for people who earn disproportionately large benefits because of long periods in noncovered employment. To moderate the impact of this provision, the bill would phase in the windfall provision and provide additional guar-

antees for persons with long periods of covered employment.

Second, the annual cost-of-living adjustment (COLA) of social security benefits and supplemental security income payments would be delayed by 6 months, from July to January. To protect the needy elderly during the transition to the new payment schedule, the maximum payment under the SSI program would be increased \$20 per month—\$30 for couples. This would allow the income of all SSI recipients to rise by \$20 per month beginning in July even though his or her COLA is delayed.

Third, for beneficiaries with high incomes, half of social security benefits would be included in taxable income. The "notch" resulting under the Commission's recommendation to tax one-half of benefits for persons with adjusted gross income of \$20,000 or more was eliminated by specifying that half of social security benefits be added to the individual's adjusted gross income and his income from tax-exempt obligations to determine whether any of his benefits will be subject to taxation. Counting adjusted gross income, tax-exempt interest and half of social security benefits in this manner result in thresholds of \$25,000 for an individual and \$32,000 for a couple. The lesser of one-half of social security benefits or one-half of income above the thresholds would be subject to income taxes.

Fourth, part of the payroll tax increases now scheduled by law would be accelerated, as recommended by the National Commission. The 1985 increase in the tax rate would take place in 1984, and part of the 1990 hike would take place in 1988. A direct credit against FICA tax would exactly offset the increase in the employee's tax in 1984 so that the acceleration in the rate increase originally set for 1985 will increase trust funds receipts without increasing an employee's tax liability.

Fifth, for the self-employed, the tax rate on self-employed income would be increased so as to equalize his or her contribution to the social security trust funds with the combined contribution paid by workers and their employers. To offset partially the increased tax burden, the bill would provide a tax credit against self-employment taxes equal to 2.9 percent of income in 1984, 2.5 percent in 1985, 2.2 percent in 1986, 2.1 percent for 1987 through 1989, and 2.3 percent in 1990 and thereafter.

Sixth, the bill would raise the age at which full retirement benefits are payable from 65 to 66, by 1 month a year, between 2000 and 2012. Early retirement benefits would continue to be payable at 62.

Seventh, H.R. 1900 would gradually reduce the level of present law benefits payable to people who retire after the turn of the century by about 5 percent. In conjunction with the rest of the bill's provisions, these two

changes would eliminate the long-term deficit projected by the National Commission on Social Security Reform.

Eighth, for the elderly who continue to work and who do not now receive an actuarially fair increase in benefits when they delay retirement, the delayed retirement credit would be increased from 3 percent to 8 percent a year.

Ninth, to further eliminate the disincentive for older persons who wish to continue working, the bill would gradually phase out the retirement earnings test for people 65 and older. I have long supported this change and applaud its inclusion in the Senate bill.

Tenth, the bill also includes several provisions designed to address a number of inequities that have mostly affected women. Benefits are improved for widows and widowers and for disabled widows and widowers.

Last, the social security amendments contain fail-safe and stabilizer provisions to insure that the social security system never again finds itself at the brink of bankruptcy. First, to stabilize the system, the bill includes the recommendation of the National Commission to trigger a new method of indexing benefits if reserves are critically low, beginning in 1988. H.R. 1900 also includes a provision that requires the Secretary of Health and Human Services to determine whether the full amount of the annual cost-of-living adjustment (COLA) can be paid without reserves falling below 20 percent of outgo. If reserves would fall below that amount, the Secretary is required to announce by the preceding July 1 the amount of the COLA that could be provided without further depleting reserves. Should Congress then fail to respond by providing the additional financing necessary to keep the reserves from falling, the lower COLA would then go into effect in January. The bill directs the Secretary to adjust the COLA first for persons with monthly benefits above \$250 to protect the elderly poor who receive social security benefits.

To further bolster the trust funds in the event of adverse economic conditions, the bill includes interfund borrowing among the three social security trust funds. Also, when trust funds are unable to pay at least 1½ months of benefits, the Secretary of the Treasury would be required to transfer to the old age and survivors and disability insurance trust funds on the first day of the month the full amount of payroll tax revenues expected to be collected during the month. This "normalizing" of tax transfers would provide income to the trust funds at the start of the month when benefit expenditures are heavily concentrated. Interest would be charged on the excess sums so transferred. Together these provisions will, for the first time, provide the safety valve necessary to insure the continued solvency of the

social security system during the eighties and beyond.

Mr. President, as I said before, this package strikes a balance which spreads the cost of a sound social security system among all of us. That is why I opposed a number of amendments offered on the floor of the Senate to make major changes in the bill.

I opposed two amendments which would have made reductions in the COLA. One would have eliminated the COLA for 1983 rather than delay it 6 months. The other would have had the effect of cutting next year's COLA.

I also voted against an amendment to raise the retirement age to 68, rather than 66 in the committee bill and to raise the early retirement age to 65. The committee bill preserves the age 62 early retirement option. I opposed this amendment for two reasons. First, the bill contains long-range reforms that will meet the deficit expected in the next century, according to the best economic assumptions we have. Second, splitting the long-run solution between raising the retirement age and reducing replacement rates spreads the added costs of financing the projected growth in beneficiary population equitably among those who will be beneficiaries in the 21st century. This in my view is a better approach than raising the early retirement option to age 65 because it would place the heaviest burden on those who are forced into early retirement by disability or job loss.

All three of these amendments would have essentially cut benefits beyond the reforms contained in this bill and beyond those needed to meet the estimated deficits in the short- and the long-term. They went beyond the commitment I have to my constituents to support measures necessary to put the system back on firm financial footing.

This brings me to my support of the Heinz amendment which would have removed from the Federal unified budget the old age and survivors insurance trust fund (OASI) and the disability insurance (DI) trust fund. I agree with Senator HEINZ that this measure is necessary to fully restore confidence in the social security system, to guarantee its independence now and in the future and to assure that the changes made here today are made for one and one reason only—to restore fiscal solvency to the system so that benefits can continue to be paid. There should be no fear that Congress will "balance the budget on the backs of the elderly." This fear is heightened every year during the annual debate on the budget resolution when, because the social security trust funds are included in the unified budget, we give the impression that the flow of benefits is dependent upon the health of the entire Federal budget. This is simply not true. The social security system is an independent one which

pays benefits with the contributions it receives from workers. Congress should not consider changes in the social security system beyond those necessary to insure that it can meet its own commitments. I regret that the amendment was not adopted by the full Senate.

Last, Mr. President, I voted against an amendment to delete coverage of new Federal workers, which was defeated by a vote of 86-12. I opposed the amendment because it would have eliminated a key part of the social security compromise package, creating a short-term deficit of \$9.3 billion and a long-range deficit of 0.2 percent of payroll in the long run, rather than the modest surplus now in the bill. I could not support the amendment because it would have unraveled the package.

I was, however, concerned about new Federal workers coming into the system without a supplemental pension plan which was recommended by the National Commission on Social Security Reform. For that reason, I supported an amendment to establish a timetable for developing a supplemental pension plan by October 1, 1985. This amendment was defeated by a majority of the Senate, and coverage of new workers was subsequently delayed until a supplemental pension plan can be developed.

On balance, Mr. President, the Social Security Amendments of 1983 are equitable and accomplish the very crucial task of preserving the social security system. I support this bipartisan compromise and urge my colleagues to join me in voting for it. It is a vote for maintaining the flow of benefits to today's retirees and a vote for restoring confidence in the future of the system for generations to come.

● Mrs. KASSEBAUM. Mr. President, the major elements of the social security financing package are widely known and have been thoroughly discussed and analyzed. This comes as little surprise, as these provisions will affect millions of Americans; and all of us find things to like and dislike about the package. I would like at this time to turn to several features of the measure which I like very much. They are not well known due to their more limited impact, but they can be enormously important to many people—particularly women.

These provisions take a number of positive steps toward improving the system in ways which are helpful largely to women. I commend the National Commission on Social Security Reform and the Finance Committee for having acknowledged the need in this area. Although these are small steps, I think it is useful to draw to the attention of the Senate the need for improvement and to the role of this legislation in meeting a part of it.

Discussion of the treatment of women under social security quickly becomes complex because the Social

Security Act, for the most part, is gender-neutral on its face. In fact, the few remaining gender-based distinctions in the law are eliminated in the House version of H.R. 1900. These distinctions are highly technical and many have already been effectively negated as a result of court actions.

The problems that many women experience occur because the assumptions upon which the act is based no longer hold true in an increasing number of cases. Social security is built on the assumption that a married couple is composed of a breadwinning husband and a homemaker wife. It further assumes that marriages last a lifetime and that a wife will outlive her husband by only a few years at most. These logical assumptions for the late thirties—when fewer than 20 percent of married women worked outside the home, when 1 in 7 marriages ended in divorce, and when life expectancies between men and women varied little. Today, the experiences of more and more women fail to fit the pattern which existed in the thirties.

What we now see is a diversity of patterns, each raising separate issues with respect to social security. The most useful framework for examining the changes made by this legislation is to look at its treatment of women as workers, as divorced spouses, and as widows.

WORKING WOMEN

Female participation in the paid work force has increased dramatically and is continuing to do so. From the standpoint of social security coverage, this trend is helpful in that women are increasingly able to establish independent entitlement to benefits. However, the work patterns of women vary from that of men as many workingwomen drop out of the labor force for some period of time to raise young children. These nonworking years are counted as zero-earnings years for the purpose of determining the average earnings upon which social security benefit amounts are based. Currently, up to 5 years of lowest career earnings are dropped before this calculation is made—thereby reducing the impact which low or zero-earnings have in bringing down average earnings levels.

The legislation reported by the Senate Finance Committee allows up to two additional "dropout" years for persons who leave the work force to care for a child under the age of 3 in the home. A worker must have no earnings during the year in order to take advantage of this new provision. This change will have the effect of increasing the social security benefits of women who interrupt their working careers for the purpose of child rearing, recognizing the growing prevalence of this pattern.

DIVORCED SPOUSES

The incidence of divorce has increased substantially since social security was first enacted, with the marriages of 1 in 3 women age 26 to 40 expected to end in divorce. Dissolution of

a marriage has particularly severe consequences for those women who have spent most of their adult lives working in the home. Without recent training or outside work force experience, these women experience serious difficulty in finding jobs. In addition, they have little time in which to build independent eligibility for benefits. The Social Security Act does recognize this situation through provisions which allow a divorced spouse to receive benefits based upon the earnings record of a former spouse if the marriage lasted 10 years or longer.

Thus, the current law is helpful, but not without its flaws. Because benefits made available to the divorced spouse are based on the earnings record of the former spouse, the dependent spouse—generally the woman—cannot receive any benefits until the working spouse receives benefits. Take the situation of a divorced couple, both aged 65. The former wife spent most of her adult life as a homemaker and, at age 65, is no longer able to find employment. If she has any independent entitlement to social security benefits at all, it is extremely small. Should her former husband choose to continue working until age 68 or 70, she would be unable to receive any benefits based on his record until that time. Alternatively, he may retire at age 65 and subsequently decide to return to work at age 67. If his earnings are high enough, he would not be receiving benefits; and benefits to his former wife would be terminated as well.

Although such situations are rare, they do impose substantial hardship and uncertainty upon older divorced women. This legislation addresses this problem by permitting spouses who have been divorced for at least 2 years to draw benefits at age 62 if the former spouse is eligible for benefits—even if the benefits are not being collected at that time.

WIDOWS

Approximately 75 percent of older men are married and living with their wives, while 52 percent of older women are widows. Currently, 59 percent of individuals 65 and older are women. At the oldest ages, women outnumber men 2 to 1.

Many of these widows have been dependent upon their husbands' incomes and long years of widowhood have often exhausted supplemental resources. On the average, total death benefits left by husbands to widows amount to \$12,000 from all sources. It is not surprising therefore to realize that older women living alone are among the poorest groups in our society.

Although changes in the Social Security Act alone cannot be expected to deal with all these serious problems, the legislation under consideration does offer assistance to certain groups of widows and widowers. First, the bill provides for changes in the method of indexing a deceased worker's earnings for purposes of determining a survivor

benefit. Under the measure, these earnings would be indexed to reflect economywide wage increases up to the year the worker would have reached age 60 or 2 years before the survivor becomes eligible for benefits—which ever is earlier. This change would provide particular assistance to survivors of workers who die long before their survivors are eligible for benefits. In these situations, surviving spouses now receive a benefit based on outdated wage levels. Under the bill, benefits would be calculated on a basis that more closely reflects current wage levels.

A second group which would benefit from this bill is disabled widows and widowers. In general, surviving spouses are first eligible to receive benefits at age 60 at an actuarially reduced level of 71.5 percent of the deceased workers' full benefit amount. However, disabled survivors may receive benefits between the ages of 50 to 59. Benefit amounts are also actuarially reduced, so that an individual who begins receiving benefits at age 50 receives a benefit amount equal to 50 percent of the full benefit. This benefit level is quite low—averaging about \$242 per month—particularly considering that the recipient's disability prevents him or her from working. This measure provides that benefits to disabled widows and widowers between the ages of 50 to 59 will equal 71.5 percent of the workers' benefit amounts—the same level provided survivors who begin receiving benefits at age 60.

Third, earlier today the Senate approved an amendment offered by the Senator from Michigan, Mr. LEVIN, which would provide transitional assistance to widows between the ages of 55 and 59. I was pleased to have joined in cosponsoring this amendment, which offers support at a critical time in the lives of many women confronting widowhood. Currently, a widow under age 60 does not qualify for social security benefits unless she is disabled or is caring for a child who is either disabled or under the age of 16. Consequently, there are a number of women who, having spent most of their adult years as homemakers, are ill-prepared for the paid labor force immediately upon the deaths of their husbands. The amendment would provide these women with 6 months of transitional benefits to permit them sufficient time to obtain training or to seek employment. These benefits would be subject to the social security outside earnings limitation, so that they would not be provided to individuals who do receive income after being widowed.

One final feature I want to mention is one which treats benefit eligibility upon remarriage in a consistent manner for all types of beneficiaries. Currently, surviving spouses may remarry after age 60—the time at which they first become eligible for benefits—and continue receiving benefits.

However, benefits for disabled surviving spouses and disabled divorced survivors are terminated if the individual remarries prior to age 60, even though they may first become eligible for benefits from age 50 to 59. Benefits are terminated for surviving divorced spouses upon remarriage at any age.

This measure eliminates these distinctions, providing that remarriage after the date of first eligibility for benefits will not result in the termination of benefits.

Obviously, the revisions made by the legislation fall short of meeting the broader concerns expressed regarding the treatment of women under social security. For example, many married women who have worked and paid social security payroll taxes for several years have expressed deep concern that they receive no more in benefits than they would have received had they never contributed to the system. The earnings sharing approach, allowing married couples to combine and divide their earnings records for purposes of establishing social security eligibility, is one which has received considerable attention as a more far-ranging reform of the system. During earlier consideration of this measure, the Senate adopted an amendment requiring the Secretary of Health and Human Services to prepare an implementation report on earnings sharing. This is an area which will continue to receive attention. I am pleased that my colleague from Kansas, Mr. DOLE, has indicated the intentions of the Senate Finance Committee to hold hearings this year on the issue of women and retirement income.

Again, I applaud the efforts of those who have worked hard on behalf of positive improvements in the system. ●

Mr. ROBERT C. BYRD. Mr. President, I cast my vote in support of this legislation after much reflection and despite the fact that I have grave reservations about many of its individual provisions.

This is a compromise bill, arrived at after many days of arduous and occasionally acrimonious debate, deliberation, and negotiation. Like every compromise, it contains its share of bitter pills to swallow.

I, for one, am especially troubled that this legislation will raise the retirement age to 66 in the next century. Raising the retirement age will mean real hardship for many older Americans who simply cannot continue to work until age 66, but who are not so totally disabled that they can qualify for disability benefits under the very stringent disability definition in current law. This provision will particularly hurt blue collar workers, those who earn their living by working with their hands. Many of these people will be forced to retire early at age 62, and will suffer even deeper reductions in their benefits as a penalty. It is my fervent hope that Congress will reconsider this change in future years, and substitute a better alternative for

meeting the long-term deficit facing the social security system.

Nor is this the only provision in this bill which I could not support, were it not part of a larger, bipartisan compromise. I do not like asking older Americans to delay their cost-of-living increase, or to pay taxes on their social security benefits. I do not like asking self-employed Americans to contribute a greater share to social security or asking working Americans and their employers to pay social security tax increases on an accelerated schedule. I wish that none of these provisions were part of this legislation.

Despite these serious concerns, I believe that this is a fair and reasonable package, one which meets the test of evenhandedness and balance in the sacrifice it asks of all our citizens to make the social security system whole again. Under this bill, all those who have a stake in social security's future—the 116 million Americans whose taxes support the system, the 36 million beneficiaries who depend upon social security for their livelihood, and those Federal workers and Members of Congress not now a part of the system—would share in the burden of restoring the system to solvency.

I wish that it were not necessary to ask that these sacrifices be made, but what is at stake here is nothing less than the very future of our most important and enduring social program, a system which touches the lives of virtually every American. Today, that system faces a financing crisis of unprecedented magnitude, as well as a crisis in confidence on the part of the American people, whose faith in the system has been deeply shaken by the recurrent crisis surrounding social security in recent years.

We must act decisively to end this crisis of confidence. We owe a debt of gratitude to all of those who worked so hard to bring this compromise bill before us, to the National Commission on Social Security Reform, to all the Members of the House and Senate who have worked to improve and pass this legislation, and to the many outside individuals and organizations that have contributed to its development.

In passing this legislation, we take the necessary steps to restore social security to both short- and long-term solvency. In voting for this bill, we send a clear message to the American people that this Congress has the political will to keep its promises to those Americans who have faithfully paid into social security in the expectation that it would be there for them when they retire.

In sum, I do not like this bill and I wish that the problem would just go away. But when faced with the alternative—bankruptcy of the social security system—I have no other choice.

● Mr. RIEGLE. Mr. President, I want to take this opportunity to comment on this critical legislation we have been considering over the last few

days designed to assure the financial integrity of the social security system. The social security system has been one of the most important initiatives undertaken by the Federal Government during this century. By providing a guarantee of basic retirement income for senior Americans, no longer will older workers have to fear retirement. While social security does not provide, nor was it ever intended to provide, a full retirement pension, it does nevertheless supply a basic income, protected against inflation, for retired workers and their families. This is not welfare or Government charity. Social security benefits are based on contributions made by workers and their employers throughout their working career. Congress has a solemn obligation to assure that social security remains on a sound financial footing, and that is the reason we are acting on the legislation before us today.

Mr. President, I strongly believe that the recommendations of the National Commission of Social Security Reform and the bill before us today are a remarkable achievement in compromise. The burdens resulting from the proposals contained in this legislation fall upon all sectors of society where all have been asked to sacrifice. Nevertheless, I have strong reservations regarding several of the proposals included in this package. We voted on many amendments, several of which were designed to lessen the inequitable hardships created by particular provisions. The Long amendment which I strongly supported, was adopted and that was an important improvement.

Mr. President, on balance, I believe this is the best possible compromise that can be achieved at this time with the Reagan administration in control of the executive branch of Government. It is profoundly in the national interest that we deal now with the financial problems facing social security growing out of years of major recession and high inflation. It is essential that the social security system be kept solvent and strong and absolutely guaranteed into the future for our workers, retirees, and their families. We must take social security out of the line of attack of the Reagan administration.

This package, while imperfect, is the best compromise we are able to achieve at this time. Perhaps we can make other positive modifications and changes in the future when the political balance of power again shifts in our country. For now, we have succeeded in the struggle to prevent the major cuts in benefits originally sought by the Reagan administration. That is a major accomplishment.

I did not cosponsor this legislation due to my reservations about several aspects of the package. Mr. vote for final passage does not withdraw those reservations. Further beneficial changes will have to come from future

fighters which I anticipate and intend to help lead.●

Mr. NICKLES. Mr. President, it is with a great deal of respect and sincerity that I commend my colleagues for their deliberations and hours of work represented in the legislation that the Senate has been considering the past 2 weeks. The members of the Finance Committee have labored very hard to bring to the full Senate a bill which the majority could accept.

However, after serious study of the provisions in the measure before us and participation in the debate on the bill, I regret to say that I cannot, in good conscience, support the legislation as the right solution for returning solvency to the social security system. In short, the package relies too heavily on tax increases, particularly in the short-range period between 1983 and 1989, with badly needed structural changes becoming effective much too far into the future.

In looking at the provisions of S. 1, legislative changes have been proposed which are promised to bring \$168 billion into the social security trust fund over the next 7 years. The breakdown of how much of the shortfall is raised through new or accelerated tax increases and how much is a result of true structural reform of the system is as follows:

| | |
|------------------------|----------------|
| | <i>Billion</i> |
| New taxes..... | 128 |
| Structural Reform..... | 40 |

In my opinion, this 3-to-1 ratio is unacceptable as reform. It is unacceptable for three reasons. First, and most obviously, it does not represent a balanced approach to the short-range problem. When I first began contributing to the social security system, taxes were 3 percent on \$4,800, today it is 6.7 percent on \$35,000 and by 1990 it will be 7.65 percent on \$57,000. Special groups, such as employees, the self-employed, the business community, nonprofit organizations, and new Government employees are targeted with particularly onerous tax increases. That is an enormous tax increase for individuals and employees alike to make.

Second, the \$128 billion tax increase in this measure cannot be viewed as separate from the tax increases which are already scheduled to take place between now and 1990. Even without the changes proposed under this bill, social security taxes are expected to increase from \$206 billion in 1983 to over \$400 billion in 1990. Americans will be paying double the social security taxes they now pay in only 7 years. Surely this rapid escalation of taxes should be adequate current revenue to provide economic protection to our elderly without adding another \$128 billion in tax increases, as proposed by this measure. When all of these tax increases are compared to the meager 40 billion dollars, worth of structural changes in this bill, the objections that I and many Americans

will have to this legislation become much more clearly focused.

Third, and finally, this ratio of tax increases versus structural reforms should be objectionable to all because of what history has taught us about the taxing approach in dealing with short-falls in social security. Only 6 years ago, Congress confronted an ailing social security system and selected tax increases as the least painful and most effective prescription. It was hailed as the final cure-all for generations to come. Unfortunately, we now see that this remedy only added to the already oppressive tax burden of our country and didn't keep social security solvent for even the duration of a decade. Surely, anyone can make a mistake once, but it would be sheer folly to hold out this same no-answer to Americans with the promise that it will bring solvency to social security when it so obviously failed in our past. In my opinion, there is too much danger that we will be back again perhaps in another 6 years or less, to raise taxes even higher—all because Congress neglected to address the underlying causes for such repeated short-falls.

In addition to the tax increases, my final objection to the bill before us is that it establishes a dangerous precedent of resorting to the use of general revenues in an effort to shore up social security. The creation of one-time or permanent tax credits in an effort to offset the increases in FICA taxes aimed at workers and select groups is another dead-end approach in trying to solve the problems of the social security system. Basically, we are robbing Peter to pay Paul—only Peter already owes about \$1 trillion to the Federal Treasury which is compounding at the rate of \$200 billion per year. We have no extra resources from which to bail social security out of its present woes. In fact, social security was never intended to become a borrower, but a self-financing insurance for our elderly and disabled. We break new and treacherous ground and do a great disservice to those who are dependent upon the program when we start trying to help social security out by dipping into nonexistent general revenues.

I do regret that changes were not adopted to keep the system both solvent and affordable for persons dependent on social security and for future generations.

Mr. DOMENICI. Mr. President, social security touches the lives of millions of Americans every day. Some 36 million people, including 172,000 in New Mexico, are now drawing benefits and another 116 million are paying into the system. Citizens of all ages have a stake in the program. Judging from the thousands of letters and phone calls I have received from New Mexicans, they are alarmed about its fate. Because we cannot risk having social security for the first time in over 40 years not pay out checks

promptly, I rise in support of the Social Security Amendments of 1983.

EXTENT OF TAXATION

This bill is the result of a bipartisan compromise involving both the National Commission on Social Security Reform, the Congress, and the President. As such, it contains elements which many of us, myself included, would not support if they were not part of the whole compromise. I have had two reservations about the legislation now before us. First, I am concerned that too many additional taxes will delay economic recovery either by adding to inflation or to unemployment levels. This economic recovery has to be our No. 1 priority because it will benefit everyone, both workers and those retirees drawing social security checks. Because of the heavy reliance on taxes to solve the short-term problem, we must avoid any effort to increase them further. I am, therefore, pleased that the Senate proposal to solve the long-term problem offers only a 1-year increase in the retirement age plus a slight reduction in the replacement rate formula—both to be phased in gradually in the next century.

I hope that we can persuade the House that this is a better combination. From the perspective of my own State, raising the retirement age by only 1 year is preferable to the House's increase to age 67 since the life expectancy of some of my constituents is below the national average. It is, however, imperative that we take action now to reduce the long-term deficit. Otherwise, we will never restore the confidence that younger workers must have in the program.

INCLUSION OF FEDERAL WORKERS

While the process of considering this legislation has allayed the fears of many Americans, it seems to have produced a new anxiety in another segment of our population. I am referring to the Federal civilian and postal workers. The confusion, anxiety, and resentment among their ranks cause my second concern about the bill.

I am pleased that the Senate was able to address my concern and provide that new Federal workers must be covered by a supplementary pension plan before they are brought under social security.

Despite my reservations about specific parts of this legislation, I have decided that, on balance, it must be supported. I am including for the Record a synopsis of the provisions and their budget impact. It must be supported to insure that the social security system does not run dry this summer. The bill restores social security to some measure of stability by providing about \$165 billion in new resources between 1983 and 1989. It closes the long-term funding gap in the retirement program. It introduces major reform in the medicare hospital insurance fund by offering incentives for these institutions to be cost-conscious.

I do not need to remind my colleagues about the severe financial problems we face in the near future in medicare.

Finally, the legislation contains additional unemployment benefits for the long-term jobless which are crucial to the many individuals who have exhausted their current benefits. Without swift passage of this legislation, hundreds of thousands of workers across the Nation will be left without any unemployment benefits. In my own State of New Mexico, 5,000 individuals will be affected immediately. In summary, the welfare of most Americans is affected by this bill and therefore, I must vote for it.

Mr. President, I ask unanimous consent that the synopsis be printed in the RECORD:

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

**SOCIAL SECURITY ACT AMENDMENTS OF 1983:
SUMMARY OF PROVISIONS**

The Senate Finance Committee-reported bill would correct the financial problems of the social security retirement trust fund, provide for a prospective reimbursement system in medicare, extend long-term benefits for the unemployed, and provide relief for states which must borrow to pay regular state unemployment benefits.

SOCIAL SECURITY (OASDI) PROVISIONS

Coverage of newly-hired federal employees.—Extend social security coverage to all new federal civilian employees, all current members of Congress and the President, and all employees of non-profit agencies (new federal employees would be brought under social security after a supplementary pension plan is established; non-profit employees would be covered effective January 1984). Prohibit state and local governments from terminating coverage for their employees.

Eliminate "windfall" benefits.—Reduce social security benefits for recipients who become eligible for pensions based on non-social security employment, subject to certain limitations.

Six month COLA delay.—Delay the cost-of-living adjustment by six months from July 1983 to January 1984 in the retirement and disability insurance programs and the supplemental security income (SSI) program. Increase the SSI benefit by \$20 for individuals and \$30 for couples to compensate for the COLA delay.

Emergency COLA provisions.—Scale back COLA increases when the trust funds are expected to dip below a 20 percent reserve ratio, continue to decline, and interfund borrowing is exhausted. Provide for COLAs equal to lower of wages or prices if the trust fund reserves dip below a 20 percent level in 1988 and beyond, with a "catch-up" when the reserves exceed 32 percent.

Increase delayed retirement credit.—Gradually increase, between 1990 and 1995, the delayed retirement credit from 3 percent to 8 percent per year.

Increase social security retirement age.—Gradually raise the social security retirement age to 66 by the year 2012, beginning with those who attain age 62 in 2000. Early retirement benefits would continue to be available at age 62 for workers and spouses, but the benefit reduction factors would be larger.

Long-range benefit change.—Reduce initial benefit levels by about 5 percent after the year 2000 by decreasing the percentage factors in the benefit formula.

Eliminate retirement earnings test.—Gradually phase out, between 1990 and 1994, the retirement earnings test for people 65 and older.

Child-care dropout years.—Allow two years to be dropped out of the formula for computing social security benefits for persons who leave the workforce to care for children under age 3 at home.

Tax social security benefits.—Subject social security benefits to income tax based on thresholds of \$25,000 for single taxpayers and \$32,000 for married taxpayers. To determine these thresholds, one-half of social security benefits and all tax-free income would be added to adjusted gross income. For taxpayers over the threshold, the lesser of one-half of social security benefits or one-half of the excess combined income over the threshold amount would be subject to income tax. Transfer the revenues to the trust fund.

Increase FICA taxes.—Revise the OASDI tax schedule so that the 1985 rate would be moved to 1984, the 1985-87 rate would remain as scheduled, part of the 1990 rate would be moved to 1988, and the rate for 1990 and beyond would remain unchanged. For 1984, a refundable tax credit would be provided for employees equal to the increase in the employee taxes. The credit would be allowed against 1984 employee FICA taxes rather than against income tax.

Self-employed tax increase.—Increase the social security and medicare tax rate for the self-employed to equal the rate paid by employers and employees. Provide a tax credit equal to about 15 percent of the combined social security tax rate.

Military transfer credit.—Require the Treasury to pay social security in fiscal year 1983 for free social security credits extended in the past to members of the armed services. Require the Treasury to credit the social security trust funds with uncashed benefit checks.

Reallocate OASDI tax rate.—Reallocate the OASDI tax so that both the OASI and DI trust funds will have about the same reserve ratios.

Extend interfund borrowing.—Authorize, through 1987, interfund borrowing between the OASI, DI, and HI trust funds, with protections provided for each fund.

Women's equity provisions.—Provide for several changes in the way women are treated under social security. These would affect divorced and surviving spouses, and disabled widows.

Alien benefits.—Eliminate benefits to alien workers who live abroad, except for certain aliens who would receive back their contributions plus interest. Also, prohibit social security benefits to aliens who have worked illegally in this country.

Miscellaneous provisions.—Eliminate benefits to felons; modify trust fund investment procedures; add two public members to the Board of Trustees; normalize tax transfers; expand the social security wage base to include certain deferred compensation; and provide that local governments shall directly deposit social security taxes to the U.S. Treasury rather than to the State government.

MEDICARE (HI AND SMI) PROVISIONS

Prospective payment.—Establish a prospective payment system for hospitals which would set a specific payment for each of 467 diagnoses.

Delay in Part B Premium.—Delay the increase in the Part B (medical insurance) premium from July 1, 1983, to January 1, 1984, to make it consistent with the delay in the social security cost-of-living adjustment.

Increase the tax on the self-employed.—Increase the hospital insurance tax paid by

the self-employed to the combined employer-employee rate of 2.6 percent of covered wages.

Cover employees of non-profit institutions.—Consistent with the extension of coverage in OASDI, require medicare coverage of employees of non-profit institutions.

Military wage credits.—Reimburse the hospital insurance trust fund for liabilities incurred as a result of providing credit toward medicare coverage based on pre-1957 military service.

UNEMPLOYMENT COMPENSATION PROVISIONS

Long-term benefits.—Extend and restructure the program of benefits for the long-term unemployed (FSC) which expires at the end of March 1983. Basic FSC benefits of up to 14 weeks would be available between April 1 and September 30, 1983, depending on a state's insured unemployment rate (New Mexico would receive 10 weeks of benefits, compared to 14 weeks under the current program). Additional FSC benefits of up to 8 weeks would be available to workers who have already exhausted all benefits (New Mexico would receive 4 weeks of benefits, compared to none under current law). Unemployed workers receiving benefits when the program ends on September 30, 1983, could continue to receive one-half of the remaining benefits.

Interest on loans.—Provide relief to states which owe interest on loans from the federal government made to pay regular state unemployment benefits. Make the interest provision permanent, but allow states to defer interest payments and pay a discounted interest rate if the state takes steps to ensure the solvency of the state's unemployment program.

Mr. GLENN. Mr. President, as a result of the work of the National Commission on Social Security Reform and the prompt consideration of the Commission's proposals by the House of Representatives and the Senate Finance Committee, we are today acting on H.R. 1900, the Social Security Act Amendments of 1983. All Americans have an interest in this legislation, for social security—in one way or another—affects us all.

The Commission faced a difficult challenge. The President proposed its creation only months after the end of a bitter and prolonged fight regarding the administration's early proposals to cut social security benefits by \$88 billion over 5 years. That May 1981 plan would have immediately and permanently made deep cuts in social security retirement and disability benefits. It was met with widespread outrage and protest from the public and the Congress. Several months later, after the President withdrew his social security plan and indicated his intention to separate social security from the politics of reducing the Federal budget, he established the National Commission on Social Security Reform.

The National Commission on Social Security Reform recognized that the retirement trust fund—the largest of the social security program—faces two separate financing problems. The first, between now and 1990, is largely the product of severe economic troubles. It began with an outburst of inflation when the OPEC cartel began flexing its muscle and the historic trend of

wage growth exceeding price increases reversed itself. It has been exacerbated by historically high real interest rates coupled with little economic growth and an unemployment rate rivaling the days of the Great Depression.

The Commission said that the retirement trust fund would begin building substantial reserves in the 1990's and would be unlikely to experience cash flow difficulties again until sometime after the year 2010, a little more than a quarter of a century away. This is the time when the demographics of our society are expected to substantially change as the "baby boom" generation retires.

I regret that we have lost so much time in deliberating the solvency needs of the social security system. The refinancing plan currently before the Senate bears little resemblance to the plan originally proposed by President Reagan in the spring of 1981. This complicated legislation has been brought before the Congress with limited time for consideration, for the need for action is real and urgent. Borrowing authority among social security's three trust funds has expired, and the savings called for by the National Commission on Social Security Reform cannot be fully realized without relatively quick enactment of legislation to implement its plan.

The second compelling factor guiding our consideration of this legislation today is the issue of fairness. Fairness must be the fundamental principle of any legislation that alters our Nation's social security system. That characteristic is essential in preserving the integrity upon which the social security program has been built.

The National Commission on Social Security Reform worked very hard to produce a balanced and fair package. Commission members deserve considerable recognition for their efforts. The bill presently before the Senate reflects the Commission's recommendations. About two-thirds of the bill's solvency provisions were reported unanimously from the Commission; the remainder in large part was supported by a majority of its members.

Like others, I want to see the enactment of a balanced plan of social security changes which will restore public confidence in the system without unfairly burdening either retirees dependent on their benefits or our Nation's business and labor force already hard hit by an economic downturn and high unemployment. Any changes in the social security system must be made with a view toward maintaining this public trust between our people and our Government.

The Commission's refinancing plan contains proposals which I could not support individually. Its enactment will mean larger tax increases for the self-employed than for others. Our farmers and small businessmen are essential to our economic well-being. The Congress has modified the Com-

mission's proposal to include an income tax credit for these workers, but it will only partially offset the amount of the tax increase. We have amended the bill to provide some assistance to small businesses and expect to be passing legislation to provide relief to our Nation's farmers. However, as our economy begins to approach recovery the impact of the increased taxation concerns me. We may have to reexamine this taxation down the road.

In the future, the plan will place new Federal employees under social security. We have a commitment to provide present and future Federal retirees with benefits they have earned and they deserve. The Congress must continue insuring financing for the present civil service retirement program and enact a responsible plan for new workers entering government service.

The bill will delay this year's cost-of-living adjustment for beneficiaries by 6 months. Subsequent COLA's may be reduced, absent congressional action, if the economy fails to recover and trust fund reserves fall. Additionally, the plan will provide for the partial taxation of benefits for a small percentage of social security recipients.

We can only have guarded faith in our ability to foresee America's future 75 years from now. Using the 75-year actuarial projections of the Social Security Administration, the bill before the Senate would meet social security's long-term financing needs in the 21st century. Two-thirds of the bill's actuarial savings would come from proposals that the Commission recommended unanimously, largely to meet the immediate financing needs of the program.

The other combination of proposals—while supported by many Commission members, but not part of the bipartisan refinancing package—were endorsed by the Finance Committee specifically to meet the projected long-term problem. Under the first provision, after the year 2000, social security benefits would be slightly lower, 5.3 percent, in relation to preretirement earnings than under current law. This change in the replacement rate would still allow for real increases in future benefits. Improvements in our standard of living are carried through to retirement years by wage-indexing in the benefit formula.

The second provision would phase in a 1-year increase in the social security retirement age for full benefits by 1 month yearly, after the year 2000. While early retirement benefits would continue to be available at age 62 for workers and spouses and at age 60 for widows and widowers, the actuarial reduction would be larger than under current law. The age for medicare eligibility would also rise with the retirement age for full benefits.

The retirement age proposal assumes workers will have the health and ability to work and that employ-

ment will be available for those who seek it. While we generally speak of age 65 as being the normal retirement age for social security, more than half of today's workers are retiring before that age. Analysis by the Social Security Administration and the Department of Labor has shown that a large majority of those people leaving the work force before age 65 are doing so for health reasons or because they cannot find a job.

For many workers presently seeking early retirement benefits it is not a "voluntary" choice. Ill health, longer periods of unemployment, obsolescent skills, and age discrimination push them into retirement. This is why the public was outraged by President Reagan's 1981 proposal to slash early retirement benefits by 40 percent for Americans approaching age 62. The early retirement penalties of the bill being considered by the Senate do not approach those endorsed previously by the administration, but the Congress will not be acting responsibly if it raises the retirement age in isolation.

Certain older workers will simply be unable to continue working, particularly those in physically demanding jobs or those with problems. We must provide a safety net for this segment of the labor force. These workers are often the most dependent on social security retirement protection and their benefits are generally lower than those of other workers. Senator BRADLEY offered an amendment earlier, which I cosponsored, to establish such a safety net.

For older workers in better health and in less physically demanding types of work, reducing benefits for early retirement may not produce the intended consequences of workers remaining in the labor force longer. The bill does provide some incentives for continuing employment, including the elimination of the earnings test and additional credits for delayed retirement. However, unless existing disincentives are remedied, a change in the retirement age may simply add a source of stress to older individuals who might want to continue working but are plagued by lengthy unemployment, age discrimination, outdated job skills, and relatively poorer health.

As ranking Democratic member of the Special Committee on Aging, I will be working to see that employment problems unique to the older worker are addressed. The goal of increasing employment among this segment of our society will grow in importance as the composition of our population changes. Beyond the issue of social security solvency, as the percentage of older Americans increases relative to younger workers, we will need the valuable human resources that older workers can provide even more so than we do today.

The bill does include some important equity provisions designed to benefit women. It recognizes the value

of a homemaker to our society by allowing individuals who leave the labor force to care for a child under the age of 3 to drop up to 2 years of earnings in computing their wage history. Additionally, as recommended by the National Commission, benefit protection would be improved for surviving, divorced, and disabled spouses.

In the near future, we must further reform social security so that the benefit structure is more reflective of marriage as an equal partnership. The legislation requires the Department of Health and Human Services to prepare a report by the end of the year on specific ways to implement an earnings sharing concept for the social security program. We need to take action soon, for poverty among the aged has become a women's issue. Older women represent the fastest growing poverty group in America. We must start now to change our retirement system so that younger women will not face the same economic hardship so many elderly women today and in the past have had to endure.

I am hopeful that the legislation presently before the Senate will adequately meet the social security system's financing needs through the year 1990, without imposing undue hardship on any one group. In some part, this will depend on our ability to revitalize our economy. In the first year of the Reagan Presidency, the Congressional Budget Office estimated that the social security system could meet its short-term cash-flow problems by interfund borrowing authority among the three trust funds. The CBO estimate was based upon economic assumptions more pessimistic than those upon which the administration's own tax-cutting and defense-spending plans were premised. As we reexamine the financing needs of the social security system, perhaps it is only appropriate to review these costly programs as well.

The National Commission on Social Security Reform unanimously agreed that the Congress, in considering financing options, should not alter the fundamental structure of the social security system or undermine its fundamental principles. The Commission determined that one of the best ways to uphold this commitment was to spread the financing sacrifice around so that the burden of keeping the system solvent would not be unduly borne by one group. Just as social security embodies a compact between generations, the bill requires that these generations share in the cost of keeping the system working.

Despite concerns regarding the Commission's refinancing package, I will support it. I am aware that some believe the agreement places too much of the financing burden on business and workers, and that elderly citizens have not been asked to sacrifice enough. To this argument, I can only say that our Nation has a compact with our aged to maintain their social

security benefits. Social security is the primary source of retirement income for a majority of recipients, and for many it is the sole source of support to keep pace with the cost of food, shelter and medical care. The average social security beneficiary now receives approximately \$5,000 annually, barely above the poverty level. I do not believe that we can ask people like this to sacrifice beyond what this reform plan requires of them.

Mr. THURMOND. Mr. President, I rise today in support of the Social Security Amendments of 1983, legislation that is vital to the financial solvency of the social security system and all who depend on it for retirement security.

The members of the Bipartisan National Commission on Social Security Reform, appointed by President Reagan in December 1981, deserve commendation for the job they have done in bringing to Congress the package of recommendations which forms the core of this bill. I also wish to pay tribute to the distinguished chairman of the Senate Finance Committee, BOB DOLE, to the brilliant and articulate chairman of the Social Security Subcommittee, BILL ARMSTRONG, to the distinguished ranking members of the Finance Committee and the Social Security Subcommittee, Senators LONG and MOYNIHAN, respectively. I also commend the other distinguished members of the Finance Committee of both parties who have diligently pursued the common objective of restoring financial health to the social security system, both in the immediate future and in decades to come.

Because the individual features of this bill have been described in detail in the Finance Committee report and in the opening statement of the manager of the bill, Senator DOLE, I shall not reiterate them here. Instead, I wish to briefly comment on the background, necessity for, and objectives of this virtually important legislation.

Mr. President, this bill is not perfect, in my opinion. Indeed, it probably does not satisfy any single Senator or Member of Congress. It is a fragile package whose whole is strengthened by its somewhat imperfect parts which require some reasonable sacrifice by retiree, wage earner, and wage payer alike. My fervent hope is that this legislation adequately addresses, as it is represented to do, both the short and long term financial needs of the social security old age, survivor and dependents insurance (OASDI) program, for that is our legislative task and responsibility in this endeavor.

Mr. President, in the first instance, this bill must effectively address the concerns of the millions of older Americans who presently look to social security for part or all of their retirement income. Some 36 million retired Americans, survivors of insured persons, and insured dependents count on social security for part or all of their income. These older Americans,

widows and widowers, and dependents are fearful that the imminent bankruptcy of the trust fund will cause an interruption of their checks unless corrective action is promptly taken. For those presently receiving social security, this bill provides the necessary assurance that their benefits will continue and, beyond this, that there will be no reduction in the current level of benefits.

Mr. President, I believe this bill is eminently fair and responsible to present recipients of social security. The only sacrifices asked of this group, many of whom depend on social security for their very survival, are, first, a 6-month delay in the next scheduled cost-of-living adjustment (COLA) from July 1, 1983 to January 1, 1984, with benefits to be increased for inflation annually thereafter at the beginning of each calendar year. Second, the bill incorporates a "fail-safe" mechanism beginning the latter part of this decade to insure that benefits are not increased disproportionately to increases in wages and the expected growth in trust fund receipts through increased FICA taxes. This latter provision is designed to prevent another solvency crisis in the OASDI trust fund in the event of either an unexpected resurgence in inflation or a future recession. Third, the bill will make subject to the Federal income tax up to one-half of social security benefits for the more affluent social security recipients, with those revenues earmarked for the social security trust fund.

In addition to reassuring those now dependent on social security, this bill should calm the fears of those still in the labor force who are within a few years of retirement. Many persons who are in their fifties or early sixties have been worried about possible bankruptcy of the OASDI system, which they have supported through FICA taxes throughout their working lives. They also fear that there will be either an abrupt reduction in retirement benefits or an abrupt increase in retirement age. The Bipartisan Social Security Commission, as well as the Congress, have been understanding of these concerns in crafting a bill that will not impose sudden changes on those who do not have sufficient time to alter their retirement income planning prior to their expected eligibility for social security retirement benefits. Those for whom retirement is just around the corner can take comfort in knowing that this bill maintains their expected level of benefits and will allow them to retire at the age for which they have planned.

Finally, Mr. President, this legislation should calm the skepticism among younger participants in the work force and provide reassurance to them that the social security system will remain financially solvent into the next century when they can expect to receive a return in benefits for their

years of wage tax contributions. I have received numerous communications from younger workers asking why they should pay higher and higher taxes to support a retirement system which may not be sufficiently solvent to even return their investment to them upon retirement, much less guarantee them the lifetime supplemental source of retirement income which their forced participation in the social security system entitles them and their families.

Mr. President, I certainly understand these concerns among young, and even middle-aged, employees and employers alike. That is why it is so vitally important that this legislation restore the social security system to actuarial soundness for the longer term, as well as meet the more immediate needs. The best actuarial estimates that can be obtained at this time project that this legislation will accomplish these goals. While I have reservations about the heightened FICA tax burden imposed under this bill, it is clear that some acceleration of already scheduled tax increases is both a political and a financial necessity to achieve enactment of this package and restore solvency to the trust fund.

As we move forward with this essential legislation, Mr. President, it is important that Congress recognize and emphasize the purpose and limits of the social security program. Social security was intended to be, at best, only a supplemental retirement income source. Congress must resist the temptation to add new benefits or expand existing benefits beyond levels which can be afforded by those who support the system through employment taxes.

Similarly, it would be unwise and irresponsible for Congress to make social security into another welfare program, as some wish to do, by destroying its nature as an earned entitlement. As we know, social security benefits are paid to those who have earned them through tax contributions, rather than being allocated based solely on need. Several of the provisions of this bill edge toward a needs-based welfare program, a tendency which I feel is ill-advised. Again, however, this legislation must be taken together as a package, and on balance, I have concluded that the package is necessary and worthy of support.

Mr. President, I would like to especially take note of two provisions of this bill which I believe are meritorious and needed. First, the bill will phase-out, by 1994, the so-called earnings test, which limits the amount which social security retirees under age 70 can earn from continued employment without suffering a reduction in their social security checks. Consistent with my view of social security as an earned benefit, and also with my belief that our Government policies should not discourage from working those who, regardless of age,

are willing and able to do so, I believe elimination of the earnings test is long overdue. As one who has for a number of years either sponsored or cosponsored legislation to do away with this limitation on earned income for older Americans receiving social security, I only regret that the phaseout does not occur sooner.

Mr. President, I also strongly approve of the provision in this bill which limits social security benefits for aliens to the amount of their FICA tax contributions plus interest. This concept is similar to that of a bill I have cosponsored with Senator LUGAR. It has been strengthened by adoption of the Nickles amendment, which I also cosponsored. The social security system is simply not rich enough to provide overly generous benefits to those who have entered this country illegally, or who only worked here for a period of time before returning to their home abroad.

I am also pleased that the State took care of several potential problem areas relating to those who receive deferred compensation through adoption of the Bentsen amendment, which I cosponsored.

In conclusion, Mr. President, I wish to reiterate my support for this legislation, which is the product of much hard work and compromise. The social security program simply must be restored to a sound financial condition, which makes prompt passage of this bill absolutely necessary. That goal of financial solvency must be accomplished in a way that is fair and reasonable to both those who are supporting the social security system through taxes and those who are receiving social security benefits that have been earned. I believe this legislation satisfies these fundamental criteria of fairness and reasonableness, and I hope it will be enacted.

Mr. PELL. Mr. President, I rise to speak concerning final passage of H.R. 1900, the social security reform bill. I voted in favor of this measure, but I would like my colleagues and the people of my State to know the reservations that I had concerning the bill, and the reasons which overcame my reservations and convinced me to vote for this bill.

There is no doubt, Mr. President, that the social security trust funds will be in deep trouble in a short time unless the present law is changed. There is no one that disputes the enormity of the deficit that faces social security in this decade under present law: Expenditures will exceed revenues in this decade by \$150 to \$200 billion. And there is no one that disputes that social security law must be changed now, this year, in order to prevent that deficit from taking place in a system that is designed to be self-sufficient.

The National Commission on Social Security Reform worked long and hard to arrive at a package of changes for the social security system. Many of

the changes proposed by the Commission or adopted by the Senate Finance Committee, however, detract rather than add to the fundamental fairness that should be the hallmark of this bill.

There are three elements of this bill that deeply disturb me. One element is the 6-month delay in the cost-of-living adjustment. A delay of 6 months in this annual adjustment for inflation may seem minor, but for the 65 percent of social security recipients who rely on their benefits as their primary source of income, it works as a cut in income. The 4-percent increase in inflation we have seen in the past year means a 4-percent cut in benefits for the retired, unless their benefits are adjusted. Asking many recipients to wait for another 6 months for their cost-of-living adjustment is asking them to continue surviving with less and less money for food, for heat, and for rent.

Another element of this bill that I find disturbing is the inclusion of new Federal workers. The future of the civil service retirement system is a crucial factor in the fairness of this bill toward Federal employees, yet the future of civil service retirement has been left entirely unclear. This uncertainty, coupled with the administration's proposals for major changes in civil service retirement, place an extraordinary burden on Federal employees. Taken as a whole, these proposals clearly threaten the future of the civil service retirement system. That would be a tragic loss, not only to Government workers, but also to the public which depends on qualified Federal workers for essential services.

The third element which concerns me is the combination of reduced benefits and a higher retirement age that would take place after the year 2000. At the same time that we would reduce benefits for our younger workers, we propose to raise payroll taxes for them. Such a triple blow to today's workers seems unduly harsh.

Despite these reservations, Mr. President, I have voted in favor of passage of this bill. I have done so because of my larger concern that the social security system, the basic bridge between Government and retirees, cannot wait for another compromise bill which could be months or years in the making. The expected failure of the National Commission on Social Security Reform, and the last-minute saving of its mission by the hard negotiations and compromises by Commission members, demonstrate the fragility and difficulty of compromise on so sensitive a problem. I believe that the compromise package worked out by the National Commission and reflected in the House bill and in the Senate bill before us offers the best possibility for saving social security benefits that we have.

I am not in favor of delaying the COLA. I am not in favor of including

Federal workers within social security without agreement on a supplemental civil service retirement system, and I am not in favor of raising the retirement age while lowering benefits and raising taxes. I am in favor of a solution to the social security crisis which can be agreed on by Democrats and Republicans, liberals and conservatives, and I think that the bill before us offers us the best, and the only, solution in sight. As much as there are elements with which I very much disagree, there are other elements strongly opposed by Senators with different points of view. A bill which no one is happy with, yet most Senators can accept, is a rare and valuable means to resolve a complex and emotional problem. I have therefore voted in favor of the social security bill, and I will work in the future with my constituents and my colleagues to soften and change the elements which need improvement.

DRG REGIONS

● **Mr. BIDEN.** Mr. President, inflation in the health care industry has continued to rise at double digit levels even though the Consumer Price Index rose only 3.9 percent in 1982. This has had especially grave implications for the Federal budget as medicare spending has risen an average of 19.2 percent over each of the last 4 years.

Clearly, Mr. President, something must be done to curb health care inflation. In this spirit, the Department of Health and Human Services has proposed a system in which hospitals would be reimbursed by medicare according to a series of diagnostic related groups (DRG's); 467 classifications of diagnoses would be established, and hospitals would receive a flat rate for whatever particular ailment has brought a patient to the hospital. Reimbursement levels for the various diagnoses would be set on a regional basis, depending upon health care cost patterns and hospital utilization rates within that region. The House has already approved one version of this proposal providing for nine regions, and the Senate Finance Committee has approved a version providing for four regions.

There is, however, a problem. Mr. President. While I believe the DRG system should be given a chance to prove itself, I am afraid the regions provided for in the House bill, and to a greater extent those provided for in the Senate bill, would have unintended effects on urban hospitals in various States, especially in the Middle Atlantic area.

For example, Mr. President, take the cases of Delaware and the District of Columbia. Under the House bill, Delaware and Washington D.C. have been placed in the South Atlantic region, together with States such as Georgia and South Carolina. The Senate version goes even further, adding States such as Mississippi, Louisiana, and Oklahoma to the region including Delaware and Washington D.C.

Clearly, Mr. President, the State of Delaware and the District of Columbia have little in common with these States. Just as clearly, Mr. President, these two jurisdictions have much more in common with States in the Northeastern region.

I am not planning to offer an amendment to address this problem, Mr. President. I do hope, however, that the conferees who will meet to iron out differences in the House and Senate versions of this legislation will give this problem special consideration. If I may offer a suggestion, Mr. President, I hope the conferees will consider crafting language in the conference report so as to allow the Secretary of Health and Human Services to take into account regional differences and give him or her the authority to make such adjustments in the regional structure as may be necessary to insure equitable treatment of all States under the DRG legislation.●

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. TSONGAS. Could I inquire why we are waiting?

Mr. BAKER. Before we go to third reading, I have a commitment that all Senators have had an ample opportunity to present amendments. There is one additional Member on this side who may have an amendment, but I am not sure of that. It is the traditional role of the leadership on both sides of the aisle to protect their Members.

Mr. D'AMATO addressed the Chair.

The **PRESIDING OFFICER.** The Senator from New York.

Mr. D'AMATO. Mr. President, I certainly do not wish to prolong the session. I was going to rise to offer an amendment because I feel very strongly that what we did in accepting the provision which includes income from municipal bonds when calculating taxes to be paid on the portion of social security above the threshold ignores the damage that provision will do.

The results will be devastating to the finances of already hard-pressed local municipalities.

There are some people who will put that aside because they want to create the perception of equity, the perception of fairness. So while I will not offer my amendment, I want you to know, Mr. President, I feel quite strongly, and would like to take just 3 minutes to touch on the facts.

The Finance Committee says that that revenue provision does not actually place a tax on bond interest income. But it does, in essence, use the income from previously tax-exempt municipal bonds in the calculation of this tax. It

will raise \$5 million over 7 years. That is what it is going to raise. And it is going to play havoc with the financial markets for State and local bonds.

Local governments are going to have to raise money to pay higher interest rates, and those taxes are going to be raised by increases in sales and real property taxes.

Of course, the magnitude of the negative impact of this provision on the municipal bond market will be a serious one. The questions of this decision to use tax-exempt interest to calculate tax increases will raise in the minds of bond-market buyers is something that is very important.

I have spoken to three municipal finance officers within the past 20 minutes.

Bob Odell, city treasurer of the city of Los Angeles, indicated to me that it will cost Los Angeles a minimum of 25 basis points. That minimum means that it will cost the city of Los Angeles \$1 million every year.

We should be proud of ourselves because we have raised \$5 million over 7 years, less than \$1 million per year.

Let me go further. David Shuman, commissioner of finances of one county, Westchester County, N.Y., said that this would increase the cost of borrowing for taxpayers, citizens of one county, Westchester, by \$300,000 annually. But, after all, we have created the perception of equity, the perception of fairness. The act that it only enhances revenues by raising less than \$1 million a year, but will cost the taxpayers, the villages, the towns, the States, and the counties anywhere from \$240 million up; we put that aside.

Finally, I spoke with the president-elect of the Municipal Finance Association, Mr. Karl White, who is also the director of finances for the city of San Antonio. Let me tell you what he said.

He said that this is going to cost the city of San Antonio a minimum next year of \$5 million. But we can be proud because we can say to the people that we have created an asterisk? Maybe \$5 million over 7 years, less administrative costs.

Nationally, the Finance Committee says less than \$1 million a year, but local governments will pay at least \$240 million a year.

I will not send that amendment to the desk. If we go home, if we can leave this as it is, fine, but I do not want it to be said that, "D'AMATO prolonged this." He prolonged it by 3 minutes. Now, you go home and tell the cities, the counties, the villages, the towns, and the States that we cost them hundreds of millions of dollars more by not striking this provision.

Let me read to you a letter I just received from the Municipal Finance Officers Association. It says:

The Municipal Finance Officers Association estimates the effect of including interest on formerly totally tax-exempt municipal bonds will produce annual increased

costs to States and governments totaling \$700 million.

I told you the bottom estimate was \$240 million. But let us keep this provision in because it causes a perception, it is the asterisk in this bill which produces a perception of fairness.

We should be proud of ourselves.

Thank you, Mr. President.

● Mr. CHAFEE. Mr. President, this is not a complicated issue. If you can cut through all the mathematical calculations and threats of constitutional crises, you come down to an issue of simple fairness.

Congress is about to require that individuals earning income in excess of \$25,000—\$32,000 for couples—pay income tax on a portion of their social security. That is already in this bill.

Also in this bill is a requirement that all income be taken into consideration when calculating the \$25,000 threshold—not just taxable income such as wages and pensions, but tax-exempt interest income from investments in municipal and State government bonds.

The purpose of this provision is to preserve fairness and equity in the law. It will help prevent individuals from avoiding tax on their social security benefits simply because they have the flexibility to shift their assets into tax-exempt securities.

If we do not preserve the bill the way it is, it will be possible for people earning hundreds of thousands of dollars in tax-free income to also avoid the new tax on one-half of social security benefits, while most other retirees receiving pensions will have to pay the tax.

If we had adopted the Long amendment a few hours ago, we would be creating a brandnew incentive for people to invest in tax-exempts. I do not think we want to go down this road, especially when we realize it leads to inequity and unfairness among social security recipients.

The social security bill before us does not in any way affect the tax status of municipal bonds. That is a phony argument. It does, however, affect the taxation of social security benefits which we all want to be implemented as fairly as possible.

Also, this bill will not affect the municipal bond market. It is strange to hear the critics claim, on one hand, that this provision in the bill raises no revenue for the Treasury, so why bother. And on the other hand, that we are going to dramatically upset the municipal bond market costing State and local governments hundreds of millions of dollars in higher borrowing costs. Which is it? One cannot have it both ways.

The truth is, there will be no effect on the bond market because this is in no way, shape, or form a tax on tax-exempt bonds.

The truth is, this provision in the bill is there for simple fairness. It requires that all income be considered when determining the \$25,000 thresh-

old at which point a portion of social security benefits becomes taxable.

The Senate has made a wise decision in retaining this provision.●

The PRESIDING OFFICER. Are there any further amendments?

Mr. DOLE. Mr. President, I move we adopt the committee amendment in the nature of a substitute, as amended.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), is necessarily absent.

I further announce that if present and voting, the Senator from Maryland (Mr. MATHIAS), would vote "yes".

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from South Carolina (Mr. HOLLINGS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 88, nays 9, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—88

| | | |
|-------------|------------|-----------|
| Abdnor | Glenn | Murkowski |
| Andrews | Goldwater | Nunn |
| Armstrong | Gorton | Packwood |
| Baker | Grassley | Pell |
| Baucus | Hart | Percy |
| Bentsen | Hatfield | Pressler |
| Biden | Hawkins | Proxmire |
| Bingaman | Hecht | Pryor |
| Boren | Heinz | Quayle |
| Boschwitz | Huddleston | Randolph |
| Bradley | Humphrey | Riegle |
| Bumpers | Inouye | Roth |
| Burdick | Jackson | Rudman |
| Byrd | Jepsen | Sarbanes |
| Chafee | Kassebaum | Sasser |
| Chiles | Kasten | Simpson |
| Cochran | Kennedy | Specter |
| Cohen | Lautenberg | Stafford |
| D'Amato | Laxalt | Stennis |
| Danforth | Leahy | Stevens |
| DeConcini | Levin | Thurmond |
| Denton | Long | Tower |
| Dixon | Lugar | Trible |
| Dodd | Matsunaga | Tsongas |
| Dole | Mattingly | Wallop |
| Domenici | McClure | Warner |
| Durenberger | Melcher | Weicker |
| Eagleton | Metzenbaum | Wilson |
| Exon | Mitchell | |
| Ford | Moynihan | |

NAYS—9

| | | |
|-------|----------|----------|
| East | Heflin | Nickles |
| Garn | Helms | Symms |
| Hatch | Johnston | Zorinsky |

NOT VOTING—3

Cranston Hollings Mathias

So the bill (H.R. 1900) as amended was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. JEPSEN) appointed Mr. DOLE, Mr. DANFORTH, Mr. CHAFEE, Mr. HEINZ, Mr. LONG, Mr. BENTSEN, and Mr. MOYNIHAN conferees on the part of the Senate.

Mr. DOLE. Mr. President, the Senator from New York has argued quite eloquently in favor of the amendment offered by Senator LONG, and defeated earlier today, that would have excluded tax-exempt income from the preliminary determination of the taxability of benefits. The Senator suggests that rejecting the Long amendment will result in higher costs for bond issuers. As my statement earlier today indicated, this could be true, only if one assumes that the starting point for such a calculation of increased costs is not the reality of current law, but a hypothetical law, where the Long amendment, and the bill we are debating tonight were in effect.

In fact, in relation to current law, S. 1 will actually reduce costs for bond issues, because it will create a small incentive to invest in tax-exempt bonds that does not exist today. The Senator from New York would prefer the creation of a larger incentive, but there is no basis to the suggestion that the enactment of S. 1 will actually worsen the position of bond issues.

I thank my colleagues on both sides of the aisle. I thank the distinguished Senator from Louisiana (Mr. LONG) for his assistance in moving this legislation through the Finance Committee and on the floor. I also want to thank the distinguished Senators from New York (Mr. MOYNIHAN), from Pennsylvania (Mr. HEINZ), and from Colorado (Mr. ARMSTRONG). These Members served on the National Commission, whose work provided the key to successful enactment of legislation to deal with the urgent financing problems of social security. Without the assistance of these Members, and of the others who served on the National Commission, we would not have passed this bill.

There is no doubt about it, this is a major legislative achievement. It took a concerted effort on the part of many hard-working, dedicated people to read the agreement that formed the basis

of S. 1 and H.R. 1900. The leadership of President Reagan and Speaker O'Neill, as well as our distinguished majority leader, Senator BAKER, was of course crucial to our success. But I believe I may be forgiven if I specially mention Senators MOYNIHAN, HEINZ, and ARMSTRONG, because they served both on the National Commission and the Finance Committee as well as here on the floor. Each of them had a major impact on this agreement, and they were there from the beginning. Whatever disagreements we may have had, I congratulate them for their hard work and dedication.

Mr. President, I also want to extend special thanks to my staff and the staff of Members on both sides of the aisle, the joint committee staff, the staff of the Social Security Administration, and many many individuals in other agencies who helped us to put this package together.

Most of all, I thank the majority leader and the minority leader for helping us and keeping us moving and, finally, for the successful passage of this landmark legislation.

We will go to conference tomorrow morning at 8:30. It is our hope that we will complete the conference by midafternoon. I should think that with the overwhelming vote of 88 to 9 in favor of the legislation, we might be able to move rather quickly on the conference report.

Mr. BAKER. Mr. President, first, let me say to every Senator that I am grateful for their cooperation and understanding in the difficult matter of moving this complex piece of legislation through the Senate in a relatively brief time.

We have spent part of 6 days on this measure, more than 41 hours of debate. We conducted 23 rollcall votes all together. We considered 72 amendments; 49 of them were agreed to, 14 were rejected, 1 was tabled, and 4 were withdrawn. That is a considerable legislative undertaking.

I wish especially to congratulate the distinguished managers of the bill: The chairman of the Finance Committee, Senator DOLE, without whose expert guidance and legislative skill this package could not have passed; Senator LONG, the ranking minority member, who is so adept and skilled at the legislative procedure that his contribution is always felt and always valuable in the business of facilitating the expression of the will of the entire Senate.

Mr. President, I also pay tribute at this time to the members of the Social Security Commission, the so-called Greenspan Commission. While they were not involved directly in the deliberations on the floor, except to the extent that some Members of the Senate were members of that Commission, their presence was felt every moment during this debate. Their courageous act in initiating recommendations for fundamental changes in the social security system, for the first

time in decades, led the way and perhaps made it possible for the House and the Senate to act on these politically explosive matters.

So I especially pay tribute to the members of the Commission for a job well done, and particularly to those Members of the Senate—such as Senator MOYNIHAN, Senator DOLE, Senator ARMSTRONG, Senator HEINZ, and others—who participated so effectively in the deliberations of the Commission.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, I join the distinguished majority leader in expressing commendation to Mr. DOLE and to Mr. LONG, who have shown great dedication and who have worked hard in the deliberation of this bill.

I do not like the bill. I wish the problem would just go away. I did not want to vote for the bill. But when confronted with the alternative, the destruction of the social security system, bankruptcy of the social security system, I was left no choice. Undoubtedly, I speak for all Senators on both sides of the aisle.

I also want to express my compliments and my thanks to those on the Commission.

At this point, I want to thank publicly the majority leader for allowing me to select two members of that Commission from my side of the aisle. He did not have to do that, but he was characteristically fair in the matter. I am proud of the two members I selected—Mr. MOYNIHAN, the ranking minority member of the Social Security Subcommittee of the Committee on Finance, and Lane Kirkland.

I also compliment the Republican Members chosen by Mr. BAKER. They performed a difficult task and spent many hours in the effort.

As I say, this is a piece of legislation that I wish we had not had to vote on, but we had no choice.

So I compliment and thank all who participated. I think this has been a fine demonstration of bipartisanship on an extremely complex and difficult matter.

Mr. BAKER. I thank the minority leader. May I say that without his assistance in facilitating the business of the Senate, even though on occasion he disagreed with the action that was presented to the Senate on particular matters, and had it not been for his cooperation and steadfast determination to see the Senate function as an effective legislative body, we could not have brought this matter to a conclusion. I wish to publicly acknowledge his enormous contribution and the valuable contribution he has made to the business of the Senate in this matter and in many other ways.

Mr. BYRD. Mr. President, I thank the majority leader.

APPOINTMENT OF CONFEREES
ON H.R. 1900, SOCIAL SECURITY
ACT AMENDMENTS OF
1983

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that if and when the clerk receives a message from the Senate indicating that that body has passed the bill (H.R. 1900) to assure the solvency of the social security trust funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, with an amendment or amendments, insisted upon its amendment or amendments and requested a conference with the House, that the House be deemed to have disagreed to the Senate amendment or amendments and agreed to the conference requested by the Senate, and that the Speak-

er be deemed to have appointed conferees without intervening motion.

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. **ROSTENKOWSKI**, **PICKLE**, **JACOBS**, **FORD** of Tennessee, **SHANNON**, **CONABLE**, **DUNCAN**, and **ARCHER**.

MAKING IN ORDER ON THURSDAY, MARCH 24, 1983, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON H.R. 1900, SOCIAL SECURITY ACT AMENDMENTS OF 1983

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it be in order to call up the conference report to accompany the bill (H.R. 1900) to assure the solvency of the social security trust funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, on Thursday, March 24, 1983, or any day thereafter, and that all points of order against the conference report or its consideration are hereby waived, and that the conference report be considered as having been read when called up.

The **SPEAKER**. Is there objection to the request of the gentleman from Illinois?

There was no objection.

**COMPARISON OF PROVISIONS OF
H.R. 1900, THE SOCIAL SECURITY
ACT AMENDMENTS OF 1983**

**As Passed by the House and including all revisions in the
Senate Finance Committee Amendment made by the Senate
through 10 p.m. March 22, 1983. (See addendum for addi-
tional revisions made prior to final Senate passage.)**



March 23, 1983

Prepared for the use of the Conferees

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SOCIAL SECURITY ACT AMENDMENTS OF 1983

TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

| Item | Current Law |
|---|--|
| <p>1. Extension of coverage a. Federal employees (Section 101 of House bill; section 101 of Senate amendment)</p> | <p>Permanent civilian employees of the Federal government are not covered by social security (OASDI). (Part-time temporary civilian employees and members of the armed forces are covered by social security.) By far the greatest number of Federal employees not covered by social security (2.7 million) participate in the Civil Service Retirement System (CSRS) on a mandatory basis. Legislative branch employees are not covered by social security, and have the option of not participating in CSRS. Members of Congress, the President and the Vice-President are not covered under social security. As of January 1, 1983, Federal employees are covered under the medicare program and pay the medicare portion of the social security payroll tax.</p> <p>Presently, the compensation paid to Federal judges—either in Senior (or inactive) status or in retirement—is not considered wages and thus is not subject to social security taxes nor is it considered for purposes of the retirement test.</p> |

House Bill

Senate Amendment

Provides for coverage under social security of the following groups: (1) all Federal employees hired on or after January 1, 1984, including those with previous periods of Federal Service if the break in Federal service lasted at least 365 days; (2) legislative branch employees on the same basis, as well as current employees of the legislative branch who are not participating in the Civil Service Retirement System as of December 31, 1983; (3) all Members of Congress, the President and the Vice President effective January 1, 1984; (4) all sitting Federal judges, and all executive level and senior executive service political appointees, as of January 1, 1984. Federal judicial salaries would be reported as wages for social security earnings test and payroll tax purposes.

Similar to House bill, but would not cover Federal judges and executive level and senior executive service political appointees in service as of December 31, 1983 (except for the Commissioner of Social Security).

The provision also states that "Nothing in this Act shall reduce the accrued entitlement to future benefits under the Federal retirement program system of current and retired Federal employees and their families."

Net effect on tax income and benefit payments (II-B):

| Calendar year (OASDI, in billions): | |
|-------------------------------------|-------|
| 1984..... | \$0.2 |
| 1985..... | .7 |
| 1986..... | 1.2 |
| 1987..... | 1.8 |
| 1988..... | 2.4 |
| 1989..... | 3.1 |
| Total..... | 9.5 |

Long-range, as percent of taxable payroll (OASDI): 0.28

Net effect on tax income and benefit payments (II-B):

| Calendar year (OASDI, in billions): | |
|-------------------------------------|-------|
| 1984..... | \$0.2 |
| 1985..... | .7 |
| 1986..... | 1.2 |
| 1987..... | 1.8 |
| 1988..... | 2.4 |
| 1989..... | 3.1 |
| Total..... | 9.4 |

Long-range, as percent of taxable payroll (OASDI): 0.28

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|--|---|
| <p>1. Extension of coverage—Con.</p> <p>b. Employees of nonprofit organizations (Section 102 of House bill; section 102 of Senate amendment)</p> | <p>Participation in the social security system is optional for nonprofit organizations (charitable, religious, and educational). Most such organizations have chosen to participate, but about 15 percent of employees of nonprofit organizations are presently not covered. A nonprofit organization which has elected to participate can file to withdraw from social security after it has been in the system for 8 years, and termination is effective two years after the end of the calendar quarter in which the notice was filed.</p> |

House Bill

Senate Amendment

Extends social security coverage on a mandatory basis to all employees of nonprofit organizations as of January 1, 1984. (Terminations of coverage would not be permitted on or after March 31, 1983.) Nonprofit employees age 55 or older affected by this provision would be deemed to be fully insured for social security benefits after acquiring a given number of quarters of coverage, according to the following sliding scale:

Similar to House bill, except that terminations would not be permitted after enactment. Also, does not include special provision deeming persons to be fully insured under liberalized quarter-of-coverage requirements.

| If on January 1, 1984, the person is— | The number of quarters needed is— |
|---------------------------------------|---|
| Age 60 or over | 6 |
| Age 59 | 8 |
| Age 58 | 12 |
| Age 57 | 16 |
| Age 55-56 | 20 |

Notices of termination now pending would not take effect on or after March 31, 1983.

Net effect on tax income and benefit payments (II-B): (Cost estimates same as for House bill.)

| | OASDI | HI |
|---|-------------|------------|
| Calendar year (in billions): | | |
| 1984 | \$1.3 | \$0.3 |
| 1985 | 1.5 | .4 |
| 1986 | 1.8 | .5 |
| 1987 | 2.1 | .5 |
| 1988 | 2.6 | .6 |
| 1989 | 3.1 | .7 |
| Total..... | 12.5 | 3.0 |
| Long-range, as percent of taxable payroll (OASDI): 0.10 | | |

Source: Office of the Actuary.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|---|
| 2. Termination of coverage by State and local governments (Section 103 of House bill; section 103 of Senate amendment) | Participation in social security is optional for State and local governments. Once a government has chosen to join social security, it may withdraw, after 5 years of coverage, by providing the Federal government with two years advance notice of its intent to withdraw. A notice of termination becomes effective at the end of the calendar year two years after the notice is filed. Governments that have withdrawn are not allowed to rejoin. (About 70 percent of all State and local government employees are presently covered by social security.) |

House Bill

Senate Amendment

Prohibits State and local governments from terminating coverage for their employees if the termination has not taken effect by the date legislation is enacted. In addition, allows State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

Same as House bill.

Net effect on tax income and benefit payments (II-B): (Cost estimates same as for House bill.)

| | OASDI | HI |
|--|-------|------------------|
| Calendar year (in billions): | | |
| 1984..... | \$0.1 | (¹) |
| 1985..... | .2 | \$0.1 |
| 1986..... | .4 | .1 |
| 1987..... | .6 | .1 |
| 1988..... | .8 | .2 |
| 1989..... | 1.1 | .3 |
| Total..... | 3.2 | .8 |
| Long-range, as percent of taxable payroll (OASDI):0.06 | | |

¹ Less than \$50 million.

Source: Office of the Actuary.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|---|
| 3. Windfall benefits for persons with pensions from noncovered employment (Section 113 of House bill; section 112 of Senate amendment) | <p>Social security benefits are determined through a formula based on average lifetime earnings in jobs covered by social security. The benefit formula is weighted so that persons with low average lifetime earnings receive a proportionally higher rate of return on their contributions to social security than workers with relatively high average lifetime earnings.</p> <p>Workers with short periods of covered work also receive this advantage, because their few years of earnings are averaged over a 35-year period to determine their average monthly covered earnings on which the benefit is based.</p> <p>This high rate of return for persons who have spent a short period of time in covered employment is what is often characterized as a "windfall" benefit.</p> |

House Bill

Senate Amendment

(1) Applies a different benefit formula to workers who are eligible for a pension based wholly or in part on noncovered employment. Under the current formula, benefits are 90% of the first \$254 of average monthly earnings, 32% of earnings from \$254 to \$1,538, and 15% of earnings above \$1,538. The new formula applicable to those with pensions from noncovered employment would substitute 61% for the 90% factor. (2) Provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-half the amount of the noncovered pension. (3) This provision will be applicable to persons reaching age 60 after December 31, 1983.

Similar to House provision, except substitutes a 32% factor in benefit formula, phased in over a 5-year period as follows:

| Year of first eligibility under OASDI: | First factor in formula (percent) |
|--|-----------------------------------|
| 1984 | 78.4 |
| 1985 | 66.8 |
| 1986 | 55.2 |
| 1987 | 43.6 |
| 1988 and after..... | 32.0 |

Provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-third of the portion of the worker's pension based on service which was not covered.

Provides further a guarantee that persons with 30 years or more of covered service would not be affected. For persons with less than 30 but more than 24 years of substantial social security employment, the 90% factor in the benefit formula would be reduced by 10 percentage points for each year below 30 years of covered employment. This would not reduce benefits by more than the regular windfall provision, however. (A year of substantial employment would be a year in which covered earnings were at least 25 percent of the wage base. For years after 1977, the base used would be the 1977 base with adjustments for increased earnings after that date.)

The provision provides for periodically recomputing the offset based on changes in the pension rate. The provision also provides that pensions based on noncovered employment of less than a year would not be subject to the offset.

The provision would be effective on January 1, 1984, for retired or disabled workers who first become eligible for a noncovered pension and for social security after 1983.

Net effect on benefit payments (II-B):

| Calendar year (OASDI, in billions): | Outlay reduction |
|-------------------------------------|------------------|
| 1984 | |
| 1985 | |
| 1986 | (1) |
| 1987 | (1) |
| 1988 | \$0.1 |
| 1989 | .1 |
| Total..... | .3 |

Long-range, as percent of taxable payroll (OASDI): 0.03.

| Calendar year (OASDI, in billions): | Outlay reduction |
|---|------------------|
| 1984 | (1) |
| 1985 | (1) |
| 1986 | (1) |
| 1987 | (1) |
| 1988 | 0.1 |
| 1989 | .1 |
| Total..... | .3 |

Long-range, as percent of taxable payroll (OASDI): 0.05.

¹ Less than \$50 million.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|--|---|
| 4. Delay cost-of-living adjustment (Section 111 of House bill; section 111 of Senate amendment) | (a) Social security benefits are adjusted automatically every June (July check) to reflect increases in the consumer price index. This cost-of-living adjustment is measured from the average CPI of the first quarter of the previous year in which a benefit increase was provided to the average of the first quarter of the current year. No cost-of-living increase is provided in any year in which the increase in the CPI is less than 3 percent. |

House Bill

Senate Amendment

Delays the June 1983 cost-of-living adjustment until December (January 1984 check), and provides all subsequent cost-of-living adjustments in December (January checks). This adjustment would be based on the CPI for the first quarter of 1983 over that for the first quarter of 1982. All subsequent adjustments would be based on the CPI increase from the third quarter of the last year in which a cost-of-living adjustment was provided to the third quarter of the current year. For the December 1983 adjustment only, the 3 percent trigger is waived.

Same as House bill. (A floor amendment also provides that the OASDI COLA delay be accompanied by a corresponding delay in a 1982 Reconciliation Act provision to round down certain veterans' pensions.)

Trust fund effect:

(Cost estimates same as for House bill.)

| Calendar year (OASDI, in billions): | Outlay reduction |
|-------------------------------------|---------------------|
| 1983 | \$3.2 |
| 1984 | 5.2 |
| 1985 | 5.4 |
| 1986 | 5.5 |
| 1987 | 6.2 |
| 1988 | 6.7 |
| 1989 | 7.3 |
| Total | 39.4 |

Long-range percent of taxable payroll (OASDI):
0.30

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|------|--|
| | (b) The medicare monthly premium for part B physician coverage increases each July 1. (For those people receiving social security cash benefits, the premium is deducted from their checks.) |

House Bill

Senate Amendment

Also, postpones from July 1, 1983, to January 1, 1984, and to each January thereafter, the effective date of increases in medicare premiums to coincide with the proposed delay in the cost-of-living increases in social security cash benefit payments. For the six-month period from July 1, 1983 to January 1, 1984, the general revenue contribution would replace the lost premium revenue.

Similar provision except that the general revenue contribution would not replace lost premium revenue.

Net budget effect:

(Same estimates as for House bill)

| Fiscal year | SMI | HI | Medic- aid offset | Net budget impact |
|-------------|-------|------------------|-------------------------|-------------------------|
| 1983..... | \$114 | \$1 | \$9 | \$106 |
| 1984..... | 63 | (¹) | -5 | 58 |
| 1985..... | -90 | (¹) | 7 | -83 |
| 1986..... | -201 | (¹) | 15 | -186 |
| 1987..... | -206 | (¹) | 16 | -190 |

¹ Less than \$0.5 million.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|--|
| 5. Taxation of Social Security (OASDI) Benefits for Higher-Income Persons (Section 121 of House bill; section 131 of Senate amendment) | Social security benefits and railroad retirement benefits are excluded from gross income for purposes of the Federal income tax. |

House Bill

Senate Amendment

Beginning in 1984, a portion of social security and tier I railroad retirement benefits would be included in taxable income for taxpayers whose adjusted gross income combined with 50 percent of their benefits exceeds a base amount. The base amount would be \$25,000 for an individual, \$32,000 for a married couple filing a joint return and zero for married persons filing separate returns. The amount of benefits that could be included in taxable income would be the lesser of one-half of benefits or one-half of the excess of the taxpayers' combined income (AGI + one-half of benefits) over the base amount.

Same as House bill, except that interest on tax-exempt bonds is added to adjusted gross income for the purpose of determining whether an individual's income exceeds the base amount above which a portion of benefits would be subject to tax.

The proceeds from the taxation of benefits, as estimated by the Treasury Department, would be transferred to the appropriate trust funds. An annual report from the Secretary of the Treasury concerning the transfers would be required.

Same as House bill.

Special rules would be provided to adjust for repayments by individuals of benefits previously received and subsequently determined to be overpayments. Special rules also would be provided for attributing appropriate portions of lump-sum benefit payments to the years for which they had been paid. Benefits subject to tax would include any workmen's compensation receipt of which caused a reduction in disability benefits.

Same as House bill, except that benefits subject to tax do not include certain worker's compensation benefits.

Annual information returns would be filed by the Social Security Administration and the Railroad Retirement Board with the IRS and furnished to individual beneficiaries.

Same as House bill.

The 50 percent of social security benefits received by non-resident aliens would be subject to the 30 percent withholding tax (or a lower rate if so fixed by treaty) applicable to periodic payments made to such individuals under current law. (The IRS would be authorized to disclose to SSA and RRB certain tax return information for purposes of administering this provision.)

Same as House bill.

Net effect on tax income (II-B):

Calendar year (OASDI, in billions):

| | |
|-----------|-------|
| 1984..... | \$2.6 |
| 1985..... | 3.2 |
| 1986..... | 3.9 |
| 1987..... | 4.7 |
| 1988..... | 5.6 |
| 1989..... | 6.7 |

Total..... 26.6

Long-range, as percent of taxable payroll (OASDI): 0.61

Net effect on tax income (II-B):

Calendar year (OASDI, in billions):

| | |
|-----------|-------|
| 1984..... | \$2.6 |
| 1985..... | 3.2 |
| 1986..... | 3.9 |
| 1987..... | 4.7 |
| 1988..... | 5.6 |
| 1989..... | 6.7 |

Total..... 26.7

Long-range, as percent of taxable payroll (OASDI): 0.62

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law | | |
|---|--|------|--------------|
| <p>6. 1984-1990 Social Security Tax Rates and 1984 Credit (Section 123 of House bill; section 132 of Senate amendment) a. FICA Tax Rates</p> | <p>Several increases in payroll tax rates are already scheduled to take effect between 1984 and 1990 as indicated below:</p> | | |
| | Employer-Employee Rate (Each) | | |
| | OASDI | HI | OASDI- HI |
| 1984..... | 5.4 | 1.30 | 6.70 |
| 1985..... | 5.7 | 1.35 | 7.05 |
| 1986..... | 5.7 | 1.45 | 7.15 |
| 1987..... | 5.7 | 1.45 | 7.15 |
| 1988..... | 5.7 | 1.45 | 7.15 |
| 1989..... | 5.7 | 1.45 | 7.15 |
| 1990..... | 6.2 | 1.45 | 7.65 |

House Bill

Senate Amendment

Advances the payroll tax increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988, as indicated below:

Same as House bill.

| | Employer-Employee Rate (Each) | | |
|-----------|-------------------------------|------|--------------|
| | OASDI | HI | OASDI- HI |
| 1984..... | 5.70 | 1.30 | 7.00 |
| 1985..... | 5.70 | 1.35 | 7.05 |
| 1986..... | 5.70 | 1.45 | 7.15 |
| 1987..... | 5.70 | 1.45 | 7.15 |
| 1988..... | 6.06 | 1.45 | 7.51 |
| 1989..... | 6.06 | 1.45 | 7.51 |
| 1990..... | 6.20 | 1.45 | 7.65 |

House Bill

Senate Amendment

A credit of 0.3% of wages would be allowed against 1984 employee FICA taxes to reduce the net FICA rate to 6.70%. Appropriations to Trust Funds would be based on a 7.00% rate. Employee's annual withholding statements (form W-2) would indicate the net amount of FICA tax (i.e., the 6.7% of taxable wages actually deducted from their paychecks).

Same as House bill except that employee's annual wage statements (form W-2) would indicate both the gross FICA tax (7.0% of taxable wages) and the FICA credit (0.3% of taxable wages).

Net effect on tax income:

(Cost estimates same as for House bill.)

[In billions, (—) indicates revenue loss, H-B, Joint Committee on Taxation]

| Calendar year ¹ | Trust Fund Effect (OASDI) | Credit Effect | Unified Budget Effect |
|---|------------------------------------|------------------|-----------------------------|
| 1984..... | \$8.6 | -\$4.4 | \$4.2 |
| 1985..... | .3 | | .3 |
| 1986..... | | | |
| 1987..... | | | |
| 1988..... | 14.5 | | 14.5 |
| 1989..... | 16.0 | | 16.0 |
| Total..... | 39.4 | -4.4 | 35.0 |
| Long-range, as percent of taxable payroll (OASDI): | | | |
| +0.03 | | | |

¹ Calendar year estimates represent only the additional tax income from wages and salaries and therefore do not include the additional tax income from self-employment earnings.

Conforming changes would be made in Tier I railroad retirement tax rates and the credit against 1984 employee taxes would be allowed against employee railroad taxes.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|---|
| 7. Tax on Self-Employment Income (Section 124 of House bill; section 133 of Senate amendment) | <p>The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Currently, self-employed persons pay an OASDI tax at a rate approximately equal to 75 percent of the combined employer-employee rate and an HI tax at a rate that is 50 percent of the combined employer-employee rate.</p> <p>No deduction or credit is available for SECA taxes.</p> |

House Bill

Senate Amendment

Beginning in 1984, the OASDHI rates for self-employed persons would be equal to the combined employer-employee OASDHI rate.

Same as House bill.

For 1984, self-employed persons would be allowed a credit (comparable to the credit allowed employers against the FICA tax) against SECA tax equal to 0.3 percent of net self-employment income. In addition, beginning in 1984, self-employed persons would be entitled to a permanent credit against SECA tax. For 1984-87, the amount of the credit would be 1.8 percent of net self-employment income. For 1988 and subsequent years, the credit would be 1.9 percent. The SECA tax credit may be directly taken into account in computing SECA liability for a taxable year and estimated tax payments for that year.

Same as House bill, except that the total credit rate would be 2.9 percent of self-employment income in 1984, 2.5 percent in 1985, 2.2 percent in 1986, 2.1 percent in 1987, 1988, and 1989, and 2.3 percent in 1990 and thereafter.

Appropriations to the trust funds would be based on the full SECA tax rates without regard to the credit allowed against such taxes.

Same as House bill.

Net effect on tax income:
Net effect on tax income:

[In billions, (-) indicates revenue loss, II-B, Joint Committee on Taxation]

| Calendar year ¹ | Trust Fund Effect (OASDHI) | Credit Effect | Unified Budget Effect | Calendar year ¹ | Trust Fund Effect (OASDHI) | Credit Effect | Unified Budget Effect |
|----------------------------|----------------------------|---------------|-----------------------|----------------------------|----------------------------|---------------|-----------------------|
| 1984 | \$1.5 | -\$0.7 | \$0.8 | 1984 | \$1.5 | -\$0.9 | \$0.6 |
| 1985 | 4.4 | -2.0 | 2.5 | 1985 | 4.4 | -2.7 | 1.7 |
| 1986 | 4.5 | -1.9 | 2.6 | 1986 | 4.5 | -2.5 | 1.9 |
| 1987 | 4.8 | -2.0 | 2.8 | 1987 | 4.8 | -2.4 | 2.4 |
| 1988 | 5.4 | -2.2 | 3.2 | 1988 | 5.4 | -2.5 | 2.9 |
| 1989 | 6.2 | -2.4 | 3.9 | 1989 | 6.2 | -2.6 | 3.6 |
| Total | 26.9 | -11.1 | 15.8 | Total | 26.9 | -13.7 | 13.1 |

Long-range, as percent of taxable payroll (OASDI): 0.19

Long-range, as percent of taxable payroll, (OASDI): 0.19

¹ Calendar year estimates include the additional tax income on self-employment earnings which results from advancing payroll tax increases.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|---|
| 8. Credit for the elderly and disability income exclusion (Section 122 of the House bill) | |
| a. Credit for the elderly | <ol style="list-style-type: none">1. <i>Eligible individuals and credit rate.</i>—Individuals age 65 or over, or under 65 and with income from a public retirement system, are eligible for a credit equal to 15 percent of a base amount. 2. <i>Base amount.</i>—The initial amount of the base is:<ul style="list-style-type: none">\$2,500—married with one spouse eligible or unmarried\$3,750—married, joint return, both spouses eligible\$1,875—married filing separately <p>For individuals under age 65, the initial amount is limited to income from a public retirement system.</p> |

1. *Eligible individuals and credit rate.*—Same as present law, except that individuals under age 65 are eligible only if they retired with a permanent and total disability and have disability income from a public or private employer on account of that disability. No provision.
2. *Base amount.*—The initial base amount is:
\$5,000—married with one spouse eligible or unmarried
\$7,500—married, joint return, both spouses eligible
\$3,750—married filing separately

For individuals under age 65, the initial amount is limited to disability income.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---------------------------------------|--|
| a. Credit for the elderly—Con. | <p>The initial amount is reduced by:</p> <ol style="list-style-type: none">1. Pensions or annuities received under Social Security, Railroad Retirement, and certain other pensions and annuities otherwise excluded from gross income, and2. One-half of the excess of adjusted gross income over:<ul style="list-style-type: none">\$7,500—single returns\$10,000—married, joint return\$5,000—married, separate return <p>This reduction does not apply to individuals under age 65. Instead, the initial amount is reduced by certain amounts of earned income.</p> |
| b. Disability income exclusion | <p>Amounts received under an employer's disability income plan generally are includible in gross income to the extent attributable to employer contributions. However, permanently and totally disabled individuals who have retired on disability and are under 65 may exclude such income within certain limits. The excluded amount is limited to \$100 per week and is reduced by the excess of adjusted gross income over \$15,000.</p> |

House Bill**Senate Amendment**

The initial amount is reduced by:

1. Same as present law except that Social Security and Railroad Retirement disability benefits, as well as pensions or annuities, leads to a reduction in the initial amount.

2. Same as present law.

The same rules for reducing the initial amount would apply to all eligible individuals.

The disability income exclusion is repealed. Affected individuals are made eligible for the credit for elderly and disabled persons to the extent of disability income (see above). No provision.

Effective date.—The provision applies to taxable years beginning after December 31, 1983.

Revenue effect:

[In millions, II-B, Joint Committee on Taxation]

| Calendar year: | Revenue increase |
|----------------|------------------|
| 1984 | (1) |
| 1985 | (1) |
| 1986 | \$6 |
| 1987 | 7 |
| 1988 | 9 |
| 1989 | 10 |
| Total | 37 |

¹ Less than \$5 million.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|--|---|
| 9. Reallocation of OASI and DI Trust Funds (Section—of House bill; section 141 of Senate amendment) | The OASDI tax rate is allocated as indicated below: |

| [Percent] | | |
|------------------------------|--------|--------|
| | OASI | DI |
| Employees and employ- | | |
| ers, each: | | |
| 1984 | 4.575 | 0.825 |
| 1985-89 | 4.750 | 0.950 |
| 1990 and after..... | 5.100 | 1.100 |
| Self employed: | | |
| 1984 | 6.8125 | 1.2375 |
| 1985-89 | 7.1250 | 1.4250 |
| 1990 and after..... | 7.6500 | 1.6500 |

- 10. Benefits for Certain Widows, Divorced and Disabled Women**
- a. Benefits for Surviving Divorced or Disabled Spouse Who Remarries (Section 131 of House bill; section 113 of Senate amendment)**

Current law permits the continuation of benefits for surviving spouses who remarry after age 60. However, benefits for disabled widow(er)s and disabled surviving divorced spouses (payable from age 50 to 60) and for surviving divorced spouses (payable at age 60) are terminated if the individual remarries.

House Bill

Senate Amendment

OASDI tax allocated so that both funds will have about the same fund ratios, as indicated below:

The OASDI tax would be allocated so that both funds will have about the same fund ratios as indicated below:

| | [Percent] | |
|---------------------------------------|-----------|--------|
| | OASI | DI |
| Employees and employers, each: | | |
| 1983 | 4.775 | 0.625 |
| 1984-87 | 5.200 | .500 |
| 1988-89 | 5.560 | .500 |
| 1990 | 5.600 | .600 |
| Self-employed persons: | | |
| 1983 | 7.1125 | 0.9375 |
| 1984-87 | 10.4000 | 1.0000 |
| 1988-89 | 11.1200 | 1.0000 |
| 1990 | 11.2000 | 1.2000 |

| | [Percent] | | |
|---------------------------------------|-----------|-------|-------|
| | OASI | DI | OASDI |
| Employers and employees, each: | | | |
| 1984 | 5.075 | 0.625 | 5.7 |
| 1984 to 1987..... | 5.20 | .50 | 5.7 |
| 1988 to 1989 | 5.53 | .53 | 6.06 |
| 1990 to 1999..... | 5.60 | .60 | 6.20 |
| 2000 and later..... | 5.55 | .65 | 6.20 |
| Self-employed persons: | | | |
| 1983 | 10.4625 | .9375 | 11.40 |
| 1984 to 1987..... | 10.40 | 1.00 | 11.40 |
| 1988 to 1989 | 11.06 | 1.06 | 12.12 |
| 1990 to 1999..... | 11.20 | 1.20 | 12.40 |
| 2000 and later..... | 11.10 | 1.30 | 12.40 |

Allows the continuation of benefits for disabled and surviving divorced spouses upon remarriage if that marriage takes place after the age of first eligibility for benefits. Effective for benefits for months after December 1983.

Same as House bill.

(No change would be made in the current dual entitlement provision of the law which allows an individual to receive only the highest benefit for which such individual is eligible.)

TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM—Continued

| Item | Current Law |
|---|--|
| <p>10. Benefits for certain Widows, Divorced and Disabled Women—Con.</p> <p>b. Change in Indexing Deferred Survivor Benefits (Section 133 of House bill; section 114 of Senate amendment)</p> | <p>Survivor benefits are based on the amount of benefits that would have been payable to the deceased worker as determined by applying a benefit formula to the worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.</p> <p>Should the worker die long before retirement age, the benefit to which the widowed spouse ultimately becomes eligible in old-age (or at disability) is based on outdated wages. Thus, women who become widowed at a relatively young age, but do not become eligible for benefits for many years, are deprived of their husband's unrealized earnings as well as the economy-wide wage increases that may have occurred since the death of their husbands.</p> |
| <p>c. Benefits for Divorced Spouses Regardless of Whether A Former Spouse Is Drawing Benefits (Section 132 of House bill; section 115 of Senate amendment)</p> | <p>A divorced spouse, eligible for benefits at age 62, may not begin to draw social security benefits until the former spouse begins to draw benefits. For some divorced women, this means that they must wait several years beyond their own retirement age (because their former spouse delays retirement or otherwise fails to apply for benefits) before they can begin to draw benefits.</p> |
| <p>d. Increased Benefits for Disabled Widows and Widowers (Section 134 of House bill; section 116 of Senate amendment)</p> | <p>Social Security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e. 100 percent of the worker's primary insurance amount) at age 65, and at reduced rates at ages 60-64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits are also payable at reduced rates to disabled widows and widowers aged 50-59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).</p> |

House Bill**Senate Amendment**

In the case of deferred survivor benefits, continues indexing the worker's earnings to reflect economy-wide wage increases rather than price increases. Such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow's benefits, whichever is earlier. Effective for newly eligible survivors after December 1984. Same as House bill.

Allows divorced spouses (who have been divorced for at least 2 years) to draw benefits at age 62 if the former spouse is eligible for retirement benefits, whether or not benefits have been claimed or suspended because of substantial employment. Effective for benefits for months after December 1984. Same as House bill except for technical difference.

Increases benefits of disabled widow(er)s age 50-59 to 71.5 percent of the primary insurance amount, the amount to which widow(er)s are entitled at age 60. Effective for benefits for disabled widows and widowers for months after December 1983. Same as House bill.

Net effect on benefit payments (II-B) for all four provisions: ¹ (Cost estimates same as for House bill.)

| Calendar year (OASDI, in billions): | |
|-------------------------------------|--------|
| 1984 | -\$0.2 |
| 1985 | -.2 |
| 1986 | -.2 |
| 1987 | -.2 |
| 1988 | -.3 |
| 1989 | -.3 |
| Total | -1.6 |

Long-range, as percent of taxable payroll (OASDI): -0.07

¹ Minus (-) indicates cost to the fund.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|--|--|
| 11. Stabilizer (Section 112 of House bill; section 117 of Senate amendment) | <p>Social security benefits are adjusted automatically every June to reflect increases in the Consumer Price Index. Such adjustments are made without regard to the status of the trust fund reserves.</p> <p>Income to the social security system depends on the level of wages on which social security contributions are made. When increases in prices outrun increases in wages, income to the trust fund falls behind increases in benefit payments. Cash flow problems may then result, depending on whether accumulated fund reserves are sufficient to make up the gap between income and outlays.</p> <p>There is no mechanism under current law to adjust trust fund outlays and revenues to take account of economic fluctuations.</p> |

House Bill

Senate Amendment

Beginning with 1988, if the fund ratio of the combined OASDI Trust Funds as of the beginning of a year is less than 20.0%, the automatic cost-of-living (COLA) adjustment would be based on the lower of the CPI increase or the increase in average wages. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" benefit payments would be made during the following year, as supplements to monthly benefits otherwise payable, to the extent necessary to increase overall benefit levels in order to make up for any losses in inflation protection that result from basing COLA's on wages rather than prices. Such payments would be made only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32.0%.

Similar to House bill, except that the catch-up payments would supplement monthly benefits otherwise payable to make up for the cumulative dollar losses that could result from basing the adjustment on wages rather than prices.

Trust fund effect:

Under the alternative II-B assumptions, this provision is estimated to have no trust fund impact in either the short range or the long range.

Same as House bill.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|--|
| 12. Procedures to Assure Continued Benefit Payments (Fail-Safe) (Sections 141, 142, and 143 of House bill; sections 125, 142, and 149 of Senate amendment) | <p>Social security benefits are financed by a payroll tax fixed in the law. While benefits are paid out within the first five days of each month, payroll tax revenues are estimated daily by the Treasury, and credited to the trust fund accounts each day.</p> <p>If at any point revenues from the payroll tax exceed amounts needed for benefit payments, the excess is placed in the trust fund reserve. If revenues fall short of the amount needed, the reserves are drawn on to make up the difference. If the reserves are not adequate to make up the shortfall, under current law the trust funds have no way of making benefit payments on time. (Thus, it is considered critical to have at least one month's benefit payments in reserve at the beginning of each month, and to have enough of a reserve to continue benefit payments through any decline in revenues during the year.) The Board of Trustees is required to report immediately to the Congress if any of the trust funds is unduly small.</p> <p>Interfund borrowing was authorized during 1982, but this authority terminated at the end of the year.</p> |

House Bill

Senate Amendment

a. *Fixed Monthly Tax Transfers*: Provides for a revision of accounting procedures under which the Treasury would credit to the OASDHI trust funds, at the beginning of each month, the amount of payroll tax revenues estimated to be received during the month. These amounts would be invested by the trust funds as all other trust fund assets are invested; interest will also be paid by the trust funds on amounts transferred to the trust funds in advance of procedures in effect on January 1, 1983. Effective on the first day of the month following enactment.

b. *Interfund borrowing*: Authorizes interfund benefit borrowing between the OASI, DI and HI funds for calendar years 1983-87, with provisions for repayment to the lending fund(s) of the principal and interest of all such loans (including amounts borrowed in 1982) at the earliest feasible time but not later than the end of calendar year 1989. Borrowing would be permitted only to the extent there is sufficient balance in the lending fund to meet its own obligations.

a. Similar to House provision, except that tax receipts would only be advanced for months the Secretary of the Treasury determines that the balances of the OASDI trust funds are less than 20% of outgo. Also, the interest paid to the General Treasury on the excess sums so transferred would be at the rate equal to the average 91-day Treasury bill rate during the month, with such interest being payable at the end of each month. *Effective*.—On enactment through 1989.

b. Similar to House bill, except that (1) interest would be paid monthly to HI on any outstanding loans to OASDI; (2) OASDI could not borrow from HI in any month in which the HI trust fund ratio is under 10 percent (with no more to be borrowed than would reduce such ratio to 10 percent); (3) in 1983-87, OASDI would repay loans from HI whenever the OASDI fund ratio at the end of the year exceeds 15 percent; and (4) in 1988-89, OASDI would repay HI, in 24 equal monthly payments, the loan balance outstanding at the end of 1987 (plus interest on any outstanding loan balance). Faster payment would be authorized.

Similar protections would be provided for the OASI and DI trust funds in the event that HI were to borrow from OASDI

c. *Managing Trustee Report to the Congress Concerning Trust Fund Shortfalls:* Requires the Board of Trustees to report immediately to the Congress whenever it is of the opinion that the amount of any of the trust funds may become unduly small and recommend a specific legislative plan to adjust the inflow and outgo of funds to remedy this shortfall with due regard to the economic situation that created the problem and the amount of time available to act in a prudent manner. It is the intent that such legislative action would be effective only so long as is necessary to restore the fund to solvency.

c. Requires the Secretary of Health and Human Services to make an annual evaluation of the projected balances in the OASDHI trust funds, taking into account cost-of-living increases. If at the start of any year after 1984 the OASDHI reserve ratio is projected to decline from the start of the next year to the start of the following year and to then be less than 20 percent of a year's benefits, the Secretary would be required to notify the Congress by the preceding July 1 that action to limit the next COLA will be necessary. If no action is taken, the Secretary would be required to scale back the COLA to the extent necessary to prevent a decline in the reserve ratio. (For years after 1987, the fund ratios only for OASDI would be considered.) Insofar as possible, the limitation of the COLA would be applied to people whose benefits are based on a primary benefit level of more than \$250 per month. The determination as to whether a limitation on the cost-of-living increase was necessary would be made only after taking into account all other statutory provisions for assuring adequate funds.
Effective for determinations beginning July 1, 1984.

Trust fund effect:

Under alternative II-B assumptions, this provision is estimated to have no financial impact in either the short range or the long range.

**TITLE I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL
SECURITY SYSTEM—Continued**

| Item | Current Law |
|---|--|
| <p>13. Delayed Retirement Credit (Sections 114 and 332 of House bill; section 118 of Senate amendment)</p> | <p>Persons who delay retiring—and claiming social security benefits—beyond age 65 receive increases in their benefits amounting to 3 percent per year for each year they delay retirement up to age 72.</p> |
| <p>14. Reimbursement to Trust Funds for Military Wage Credits and Uncashed OASDI Checks</p> <p style="padding-left: 20px;">a. Military Wage Credits (Section 151 of House bill; sections 144 and 145 of Senate amendment)</p> | <p>Gratuitous military wage credits are provided to persons who served in the military after September 16, 1940. Although members of the armed forces were compulsorily covered under social security in 1957, wage credits continue to be provided to military personnel in recognition of the value of non-cash compensation received.</p> <p>The cost of the additional benefits and the administrative expenses arising from these non-contributory wage credits are borne by the General Fund on a retroactive reimbursement basis (i.e., the costs are reimbursed only after benefits have been paid).</p> |
| <p style="padding-left: 20px;">b. Uncashed OASDI Checks (Section 152 of House bill; section 143 of Senate amendment)</p> | <p>The trust funds are not credit for any uncashed OASDI benefit checks. Instead, the value of benefit checks which are not cashed remains in the General Fund of the Treasury.</p> |

House bill

Senate amendment

Gradually increases the delayed retirement credit from 3% to 8% per year for persons who attain age 65 between 1990 and 2008. In order to conform to the reduction in the age at which the earnings test no longer applies, lowers the age after which the delayed retirement credit will no longer be given from age 72 to 70 for those who attain age 70 after December 1983.

Similar to House bill except would first apply to people attaining age 62 in 1990, rather than 65 in 1990, and would be fully phased in by 1995. In addition, would remove the upper age limit on receipt of delayed retirement credits, effective January 1984 (floor amendment).

Net effect on tax income and benefit payments (II-B): ¹

Net effect on benefit payments (II-B):

Long-range, as percent of taxable payroll (OASDI): -0.10

Long-range, as percent of taxable payroll (OASDI): -0.12

¹ Minus (-) indicates increased outlays.

¹ Minus (-) indicates increased outlays.

Provides for a lump-sum payment to the OASDI trust funds from the General Fund for: (i) The present value of the estimated additional benefits arising from the gratuitous military service wage credits for service before 1957; (ii) the amount of the combined employer-employee OASDI taxes on the gratuitous military service wage credits for service after 1956 and before 1983. In addition, the HI trust fund would be credited with the combined employer-employee HI taxes on gratuitous military wage credits for service after 1965 and before 1983. (In the future, the trust funds would be reimbursed on a current basis for such employer-employee taxes on such wage credits for service after 1982.)

Similar to House bill, except that the lump sum reimbursement for the post 1956 wage credits includes 1983.

Provides for a lump-sum payment to the OASDI trust funds from the General Fund representing the amount of uncashed benefit checks which have been issued in the past plus appropriate amounts of interest. In addition, requires the implementation of a procedure under which: (1) the Treasury Department would make it possible to distinguish OASDI checks from other government checks; and (2) the trust funds would be credited on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of 6 months.

Similar to House bill, except that unnegotiated checks are defined to be those outstanding for a period 12 months after issuance, and no interest is payable to the trust funds on unnegotiated checks.

Net effect on tax income (II-B):

(Cost estimates same as for House bill except OASDI trust fund effect is \$19.2 billion for 1983 and \$17.2 billion for 1983-89 because no interest is payable on unnegotiated checks.)

| Calendar year (in billions) | Trust Fund Effect | | Unified Budget effect |
|--------------------------------|-------------------|-------|-----------------------|
| | OASDI | HI | |
| 1983..... | \$19.7 | \$3.3 | 0 |
| 1984..... | -.4 | -.1 | 0 |
| 1985..... | -.4 | -.1 | 0 |
| 1986..... | -.3 | -.1 | 0 |
| 1987..... | -.3 | -.1 | 0 |
| 1988..... | -.3 | -.1 | 0 |
| 1989..... | -.3 | -.1 | 0 |
| Total..... | 17.7 | 2.5 | 0 |

Long-range, as percent of taxable payroll (OASDI): 0.01

TITLE II. ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

| Item | Current Law |
|---|---|
| Adjustments in the normal retirement age (Section 201 of House bill; sections 119 and 120 of Senate amendment) | <p>Normal retirement age (i.e., the age at which full retirement benefits can be received) is age 65. Early retirement benefits are available at age 62 at a rate of 80 percent of the full benefit. Medicare and SSI benefits are also available at age 65. Unreduced retirement benefits are available to workers, spouses, and widows and widowers at age 65. Actuarially reduced benefits are available at age 62 for workers and spouses and at age 60 for widows and widowers.</p> <p>In computing social security benefits, a worker's earnings under social security are averaged and a benefit formula is applied to those average indexed monthly earnings (AIME) to arrive at the initial basic benefit amount called the primary insurance amount (PIA). The PIA is the amount a worker is eligible to receive at 65. Dependents' and survivors' benefits are based on the worker's PIA.</p> <p>The formula for a worker who becomes eligible for benefits in 1983 is: 90 percent of the first \$254 of AIME, plus 32 percent of the AIME from \$254 through \$1,528, plus 15 percent of the AIME over \$1,528.</p> <p>The two dollar figures in the formula, \$254 and \$1,528, are raised (indexed) each year to reflect increases in average wages in the economy. Thus, a new formula is created each year for the new group of workers becoming eligible for benefits in that year.</p> <p>The annual adjustment of the benefit formula by the full amount of the increase in average wages leads to higher initial benefits over time and to replacement rates—the percentage of a worker's prior earnings that are replaced by his social security benefit—that remain at approximately the same level.</p> <p>Social security beneficiaries under age 70 who work and have earnings are subject to a one dollar reduction in benefits for every two dollars of earnings, when their earnings exceed certain exempt amounts. For 1983, the annual exempt amount is \$6,600 for people age 65 and older. The annual exempt amount is increased each year according to increases in wages.</p> |

House Bill

Senate Amendment

- (1) Raises the normal retirement age to 67 in two steps.
 - (A) Raises retirement age to 66 by increasing the age for full benefits by two months a year for six years so that provision would be fully effective beginning with those attaining age 62 in 2005 (66 in 2009).
 - (B) Raises retirement age from 66 to 67 by increasing the age for full benefits by two months a year for six years so that the provision would be fully effective beginning with those attaining age 62 in 2022 (67 in 2027).
- (2) Age 62 benefits would be maintained at an ultimate rate of 70 percent of full benefits. (After age for full retirement is changed to 67.) No changes would be made in Medicare or SSI benefits.
- (3) Requires the Secretary, by January 1, 1986, to conduct and submit with recommendations to Congress a comprehensive study and analysis of the implications of the change in retirement age for those individuals affected by this change who, because they are engaging in physically demanding employment or because they are unable to extend their working careers for health reasons, may not benefit from improvements in longevity.
- (4) Makes no changes in the current law earnings test.

- (1) Raises the normal retirement age to 66, by increasing the age for full benefits one month a year for 12 years (between 2000 and 2011) so that the provision would be fully effective beginning with those attaining age 66 in 2015. The first age of eligibility for Medicare would shift in tandem with the new retirement age.
- (2) Early retirement benefits would continue to be payable at age 62, but at an ultimate rate of 75 percent of full benefits (after age for full retirement is changed to 66.)
- (3) Requires the 1987 Social Security Advisory council to study the effect of raising the retirement age and requires recommendations on changes to the DI, SSI and unemployment compensation programs to meet the special needs of older workers. In addition, provides for the appointment, subject to approval by the Chairmen of the Committees on Finance and Ways and Means, of Council representatives of organized labor and experts on the problems of older workers, disability and unemployment and the labor market.
- (4) Between 2000 and 2007, gradually reduces initial benefit levels by 5.3 percent for future beneficiaries. The percentage factors in the benefit formula would be reduced by two-thirds of one percent each year for 8 years, beginning with those first becoming eligible in the year 2000, and would be fully effective for those becoming eligible in 2007. The benefit factor reduction would be phased-in under the following schedule:

| For initial eligibility (or death) in— | The applicable percentage | | |
|--|--------------------------------|--|---------------------------------|
| | Up to the first bend point is— | Between the first and second bend points is— | Above the second bend point is— |
| 1979-99 (current law). | 90.0 | 32.0 | 15.0 |
| 2000..... | 89.4 | 31.8 | 14.9 |
| 2001..... | 88.8 | 31.6 | 14.8 |

| | The applicable percentage | | |
|-------------------|--------------------------------|--|---------------------------------|
| | Up to the first bend point is— | Between the first and second bend points is— | Above the second bend point is— |
| 2002..... | 88.2 | 31.4 | 14.7 |
| 2003..... | 87.6 | 31.1 | 14.6 |
| 2004..... | 87.0 | 30.9 | 14.5 |
| 2005..... | 86.4 | 30.7 | 14.4 |
| 2006..... | 85.8 | 30.5 | 14.3 |
| 2007 and after .. | 85.2 | 30.3 | 14.2 |

House Bill

Senate Amendment

(5) Gradually phases out, beginning in 1990, the retirement earnings test for people 65 and older. The exempt amount of earnings (as it would be automatically increased by wage trends) would be further increased by \$3,000 in 1990 and by a further \$3,000 in each of the next four years, with the earnings test (for people 65 and older) completely eliminated in 1995.

Net effect on benefit payments (II-B):

Net effect on benefit payments (II-B):

Long-range, as a percent of taxable payroll (OASDI):

Increase the retirement age to 66 0.42
Increase the retirement age to 67 0.26

Total..... 0.68

Source: Office of the Actuary.

Long-range, as a percent of taxable payroll (OASDI):

Increase retirement age to 66 0.40
Decrease benefits by 5 percent..... 0.43
Eliminate earnings test..... -0.03

Total..... 0.80

Source: Office of the Actuary.....

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS

| Item | Current Law |
|---|--|
| 1. Cash management a. Float allowance revision (Section 301 of House bill) | Social security benefit checks are issued to beneficiaries on the third day of each month. Current Treasury procedures allow a two-day float before trust fund monies are actually transferred to the Treasury in order to pay the checks which have been issued. |
| b. Interest on late State deposits (Section 302 of House bill) | The annual interest rate charged on late payments of social security taxes due on the earnings of State and local employees is 6 percent per annum. |
| c. Trust Fund Investment Procedures (Section 303 of House bill; section 146 of Senate amendment) | Payroll tax revenues which are in excess of the amount necessary to pay current benefits generally must be invested in "special issue" obligations available for purchase only by the trust funds. Such obligations have maturities fixed with due regard for the needs of the trust funds and bear an interest rate equal to the average market yield on all marketable, interest bearing obligations of the U.S. which are not due or callable within 4 years. |

House Bill**Senate Amendment**

Requires the Secretaries of Treasury and Health and Human Services to conduct a study consisting of two separate investigations. The first concerns the actual average length of time between the issuance of benefit checks and their redemption; the second would deal with the feasibility and desirability of providing for the transfer on a daily basis to the general fund from the appropriate trust fund amounts equal to the amounts of benefit checks which are paid by the Federal Reserve Banks on that day.

No provision.

The Secretary of the Treasury would be required to promulgate regulations to implement the changes found appropriate by these investigations.

Changes the rate of interest charged on late payments of social security contributions due on the earnings of state and local employees to a rate equal to the average interest rate earned by new special obligations of the trust funds during the period of the delinquency. (Effective with respect to payments due for wages paid after Dec. 31, 1983.)

No provision.

Requires the managing trustee of the Social Security Trust Funds to redeem most current trust fund investments and make all future investments in a new type of Treasury public debt obligation bearing interest at a rate that varies from month to month. For each month, the interest rate on the new type of obligation will be equal to the higher of (1) the average market yield over the preceding month on all public-debt obligations (other than "flower bonds") with maturities of more than 4 years or (2) the average market yield for similar obligations with 4 years or less to maturity.

Similar to House bill, except that the interest rate to be applied to the social security investments would be the same long-term, special-issue rate used under current law. The redeemed investments and all future funds would be invested in special depository accounts, rather than new special issue obligations.

Requires that annual reports of the Social Security Boards of Trustees to the Congress include a certification by the chief actuary of the Social Security Administration that the reports meet generally accepted standards within the actuarial profession.

Also, requires actuarial statement, but does not have to certify the reasonableness of the assumptions and cost estimates underlying the trustee's report (floor amendment).

Allows the 1983 annual reports to be filed any time before 45 days after enactment.

No provision.

Trust fund effect:

The Office of the Actuary with II-B assumptions estimates a reduction in investment income of \$1.9 billion.

Similar to House bill.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS

| Item | Current Law |
|---|--|
| d. Separate Treatment of Trust Fund Operations Under Unified Budget (Section 304 of House bill) | Beginning with 1969, the financial operations of the social security trust funds have been included in the unified budget of the Federal Government. |

House Bill**Senate Amendment**

Provides for the display of OASI, DI, HI and SMI fund operations as a separate function within the budget. Beginning with fiscal year 1989, these trust fund operations (except for SMI) would be removed from the unified budget.

No provision.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|--|
| 2. Elimination of Gender-Based Distinctions Under the Old-Age, Survivors, And Disability Insurance Program | |
| a. Divorced husbands (Section 311 of House bill) | The Social Security Act provides for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives but benefits are not provided for similarly situated men. |
| b. Remarriage of Surviving Spouse before age 60 (Section 312 of House bill) | Widows and widowers who remarry before age 60 are treated differently with respect to their eligibility for benefits based on their deceased spouses' earnings. A woman may qualify for benefits as a surviving spouse, even though she has remarried, so long as she is not married at the time she applies for benefits. A man, however, under current law loses forever his eligibility as a surviving spouse of his deceased wife worker if he remarries before age 60. Since the decision of <i>Mertz v. Harris</i> (1980), SSA has paid benefits to remarried widowers on the same basis as to remarried widows. |
| c. Illegitimate Children (Section 313 of House bill) | An illegitimate child may be eligible for benefits based upon a man's earnings, without regard to the appropriate State intestate laws, if among other things, the man has been decreed by a court to be the father of the child, or the man is shown by evidence satisfactory to the Secretary to be the father of the child. Similar provisions do not currently apply when an illegitimate child claims a benefit based upon his mother's earnings. |
| d. Transitional Insured Status (Section 314 of House bill) | Certain workers who attained age 72 before 1969 are eligible for social security benefits under transitional insured status provisions which require fewer quarters of coverage than would ordinarily be required. Wives and widows of eligible male workers who reached 72 prior to 1969 also are eligible for benefits under this provision, but husbands and widowers of eligible female workers are not. |
| e. Equalization of Special Age 72 Benefits under Section 228 (Prouty Benefits) (Section 315 of House bill) | Special payments are provided to persons who attained age 72 before 1968 and who have no quarters of coverage and to persons age 72 in 1968 or after who have at least three quarters of coverage for every year after 1966 and before the year of attainment of age 72. However, even though each spouse must meet the same eligibility requirements if he or she were not married, once the eligibility of both is determined, the couple is treated as if the husband were the retired worker and the wife were the dependent. The benefit is allocated so that the husband is paid two-thirds of the benefit and the wife is paid one-third. |

House Bill**Senate Amendment**

Unless otherwise noted, the proposed amendments concerning the elimination of gender-based distinctions would be effective with respect to benefits payable for months after the month of enactment.

Amends the statute to conform to court decisions by providing social security benefits for aged divorced husbands and aged or disabled surviving divorced husbands based on their former wives earnings records. (SSA is currently complying with court decisions.) No provision.

Amends the statute to conform to court decisions by making the requirements for widowers' and widows' benefits consistent. (SSA is currently complying with the aforementioned court decisions.) No provision.

Provides that illegitimate children would be eligible for benefits based on their mother's earnings as they are currently for benefits based on their father's earnings. No provision.

Extends to husbands and widowers the transitionally insured status provisions which currently apply to wives and widows. No provision.

Provides that where both husband and wife each qualify for Prouty benefits under Section 228 of the Social Security Act, each would receive a full monthly benefit. No provision.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|--|
| f. Father's Insurance Benefits (Section 316 of House bill) | A young wife, widowed mother or surviving divorced mother who has an entitled child under age 16 in her care receives a benefit for both herself and her child based upon the earnings of her husband. Under the law a similarly situated father cannot qualify for benefits based on his retired, disabled, or deceased wife's earnings. |
| g. Effect of marriage on childhood disability and other dependents' or survivors' benefits (Section 317 of House bill) | When a childhood disability beneficiary is married to another childhood disability beneficiary or to a disabled worker beneficiary, and the disability benefits of one of the beneficiaries is terminated because the beneficiary recovers or engages in substantial work, the continued eligibility of the other spouse depends upon the spouse's sex. A woman's childhood disability benefits end when her husband's disability benefits end. However, a man's childhood disability benefits are not terminated when his wife's disability benefits end. |
| h. Effect of Marriage on Other Dependents' or Survivors' Benefits (Section 317 of House bill) | If a childhood disability beneficiary or disabled worker beneficiary marries a person receiving certain kinds of social security dependent or survivor benefits, the benefits of each individual continue. If the disabled beneficiary is a male and he recovers or engages in substantial work and his benefits are terminated, his wife's benefits also end. If, however, the disabled beneficiary is a woman, her husband's benefits are not terminated when her disability benefits end. |
| i. Credit for military service (Section 318 of House bill) | A widow (but not a widower) is permitted, under certain circumstances, to waive the right to a civil service survivor's annuity and receive credit (not otherwise possible) for military service prior to 1957 for purposes of determining eligibility for and the amount of, social security survivors' benefits. |

House Bill**Senate Amendment**

Amends the statute to conform to court decisions by providing social security benefits for a father who has in his care an entitled child of his retired, disabled, or deceased wife (or deceased former wife). (SSA is currently complying with the aforementioned court decisions.)

No provision.

Continues the benefits of a childhood disability beneficiary, regardless of sex, when the beneficiary's spouse is no longer eligible for benefits as a childhood disability beneficiary or disabled worker beneficiary.

No provision.

Continues social security payments to an individual, regardless of sex, who is receiving dependents' or survivors' benefits, when his or her spouse is no longer eligible for childhood disability benefits or benefits as a disabled worker.

No provision.

Allows widowers to exercise the option to waive the right to a civil service survivor's annuity in the same way as is currently permitted for widows.

No provision.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|--|---|
| 3. Coverage | |
| a. Foreign affiliates of American employers (Section 321 of House bill). | Work by a U.S. citizen outside the U.S. for a foreign subsidiary of a domestic corporation is covered by social security if the domestic corporation arranges for coverage by entering into a voluntary agreement with the Internal Revenue Service; the agreement applies to all citizens subsequently employed by the subsidiary if their work would be covered if performed in the U.S. |
| | A “foreign subsidiary” of a domestic corporation is defined as a foreign corporation of which: not less than 20 percent of its voting stock is owned by a domestic corporation; or more than 50 percent of its voting stock is owned by another foreign corporation and at least 20 percent of the latter corporation’s voting stock is owned by a domestic corporation. |
| | A domestic corporation which has entered into a voluntary agreement providing for social security coverage of U.S. citizens employed by its foreign subsidiary can also elect to include such U.S. citizens in its qualified pension, profit-sharing, stock bonus, etc. plans. A similar rule applies to U.S. citizens employed by a domestic corporation’s domestic subsidiary that operates primarily abroad. |

Broadens the availability of social security coverage to American citizens working abroad by: (1) permitting coverage of American citizens working outside the United States for a foreign affiliate of an American employer; and (2) reducing the ownership interest in the foreign affiliate that is required to be held by the American employer from 20 percent to 10 percent (either directly or through one or more entities). These changes would be effective upon enactment.

No provisions.

In addition, coverage would be extended to include employees of American employers and affiliates who are residents of the United States as well as American citizens. (This provision applies generally to remuneration paid after December 31, 1983.)

Conforming changes would be made in the provisions relating to the extension of coverage under qualified pension, profit-sharing, stock bonus, etc. plans for employees of a domestic corporation's subsidiary.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|---|
| b. Foreign Earned Income Exclusion (Section 323 of House bill) | <p>U.S. citizens and resident aliens who are not residents of a foreign country for a full year compute their net self-employment income for purposes of social security taxes (SECA) without regard to the foreign earned income exclusion. However, no coverage is provided for these taxable earnings.</p> <p>U.S. citizens who are residents of a foreign country compute their net self-employment income excluding amounts which are also excluded for income tax purposes by the foreign earned income exclusion.</p> |
| c. Including elective fringe benefits and nonqualified deferred compensation in the social security wage base (Section 329 of House bill; section 150 of Senate amendment) | <p><i>Cash or deferred arrangements (Code section 401(k)).</i>—Under a cash or deferred arrangement forming a part of a qualified profit-sharing or stock bonus plan, a covered employee may elect to have the employer contribute an amount to the plan on the employee's behalf or to receive such amount directly in cash. Amounts contributed to the plan pursuant to the election are treated as employer contributions and are excluded from the employee's taxable income and social security wage base.</p> <p><i>Cafeteria plans (Code section 125).</i>—Under a cafeteria plan of an employer, an employee may choose among taxable fringe benefits (including cash) and nontaxable fringe benefits (including a cash or deferred arrangement) offered under the plan. If certain requirements are met, amounts applied toward nontaxable fringe benefits are excluded from the employee's taxable income and generally from the social security wage base.</p> |

House Bill**Senate Amendment**

Provides that foreign earned income which is currently subject to social security self-employment tax would be creditable for social security coverage purposes, effective with respect to taxable years beginning after December 31, 1981.

No provision.

Provides that all net self-employment income would be computed for SECA purposes without regard to the foreign income exclusion, effective with respect to remuneration paid after December 31, 1983.

An employer's plan contributions on behalf of an employee under a qualified cash or deferred arrangement would be includible in the social security wage base for tax and coverage purposes to the extent that the employee could have elected to receive cash in lieu of the contribution, effective for remuneration paid after Dec. 31, 1983.

Same as House bill.

Amounts subject to an employee's designation under a cafeteria plan would be includible in the social security wage base to the extent that such amounts may be paid to the employee in cash or property or applied to provide a benefit for the employee not excluded from the FICA wage base effective for remuneration paid after Dec. 31, 1983.

Same as House bill, except applies only to cafeteria plans which include a cash-or-deferred arrangement as one of the optional fringe benefits.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|--|
| c. Including elective fringe benefits and nonqualified deferred compensation in the social security wage base—Con. | <p><i>Tax-sheltered annuities (Code section 403(b)).—</i> Subject to certain limitations, amounts paid by the employer for the purchase of a tax-sheltered annuity for an eligible employee are excluded from the employee's taxable income and social security wage base. Tax-sheltered annuities may be purchased for employees of educational institutions and certain tax-exempt organizations. Tax-sheltered annuities may be purchased pursuant to a salary reduction agreement.</p> <p><i>Nonqualified deferred compensation plans.—</i> Amounts deferred under a nonqualified deferred compensation plan generally are taxable when they are paid or when there is no substantial risk of forfeiture, depending upon whether or not the plan is unfunded or funded. However, if the plan is a retirement plan or the amounts are paid on account of retirement, the amounts are generally excludible from FICA and FUTA. These plans may be utilized by (1) taxable employers to provide retirement benefits in excess of those permitted under tax-qualified retirement plans or coverage limited primarily to highly compensated or management employees, (2) tax-exempt employers, and (3) State and local governments.</p> |
| d. Standby Pay (Section 324 of House bill; section 150 of Senate amendment) | Any payment (other than vacation or sick pay made to an employee after the month in which he or she attains age 62, where the employee did not work for the employer in the period in which such payment is made, is excluded from the definition of wages for both benefit and tax purposes. |

House Bill

Senate Amendment

Amounts paid by an employer for a tax-sheltered annuity for an employee will be includible in the social security wage base.

Any amounts paid by an employer to a tax-sheltered annuity by reason of a salary reduction agreement between the employer and the employee would be includible in the social security wage base.

No provision.

The amount deferred under a deferred compensation plan will be includible in the social security wage base as of the later of (1) when the services are performed or (2) when there is no substantial risk of forfeiture of the rights to the amounts. In the case of a governmental plan, a deferred compensation plan will only include certain nonqualified plans of State and local governments.

Includes in the statutory definition of wages, payments made to an individual with the expectation that he or she will subsequently render services (effective with respect to calendar years beginning after the sixth month after date of enactment).

Same as House bill, except it would be effective for remuneration paid after 1983.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|--|---|
| e. Codification of Rowan decision with respect to meals and lodging (Section 330 of House bill; section 151 of Senate amendment) | In <i>Rowan Companies, Inc. v. United States</i> , 452 U.S. 247 (1981), the Supreme Court held the definition of “wages” for FICA purposes must be interpreted in regulations in the same manner as for income-tax withholding purposes. At issue in <i>Rowan Companies, Inc.</i> was the exclusion, for FICA tax purposes, of employer provided meals and lodging from gross income under code sec. 119. |

House Bill**Senate Amendment**

With the exception of the value of meals and lodging provided for the convenience of the employer, the determination of whether or not amounts are includible in the social security wage base is to be made without regard to whether such amounts are treated as wages for income tax withholding purposes. In addition, the bill provides that the definition of wages for social security tax and benefit purposes is revised to exclude the value of employer provided meals and lodging if such value is excluded from the employee's gross income. The provision applies to remuneration paid after December 31, 1983.

Net effect on tax income or benefit payments (provisions C, D and E):

Long-Range: 0.02 percent of taxable payroll.

Same as House bill.

Net effect on tax income or benefit payments (Provisions C, D, and E):

Long-Range: 0.03 percent of taxable payroll.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|--|---|
| f. Exclusion of Employer Payments Made Under Simplified Employee Pension Plans (Section 325 of House bill; section 152 of Senate amendment) | In 1978, the Internal Revenue Code was amended to exclude from wages for social security tax purposes employer payments to or on behalf of an employee under a simplified employee pension (SEP) plan. However, no corresponding change was made to the Social Security Act definition of covered wages. |
| g. Definition of Employer for Withholding on Sick Pay (Section 328 of House bill) | <p>Present law includes in the definition of wages for the purpose of social security and railroad retirement taxes, payments made under a sick pay plan to an employee or any of his dependents by a third-party on account of the employee's illness.</p> <p>Proposed Treasury regulations would require a third-party payor (for example, an insurance company) to withhold social security or railroad retirement taxes on the sick pay payments they make as if they were paying wages. However, the third-party payor would be permitted to shift responsibility for the employer's portion of the tax to the last employer for whom the employee worked.</p> |

House Bill**Senate Amendment**

Amends the Social Security Act to exclude in the definition of covered wages for social security coverage purposes employer contributions to a simplified employee pension (SEP) plan. Effective with respect to remuneration paid after December 31, 1983.

Same as House bill, except also changes definition for FUTA purposes effective January 1, 1985.

Provides that, to the extent permitted in regulations, a multi-employer plan which makes sick pay payments will be treated as the agent of the employer for whom services are normally rendered.

No provision.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|--|---|
| h. Conforming amendments to FUTA wage base | The definition of wages subject to tax under the Federal Unemployment Tax Act (FUTA) is similar to the definition of wages subject to FICA. |
| i. International Social Security Agreements (Section 322 of House bill) | An international Social Security agreement is to establish "methods and conditions for determining under which system [i.e., the foreign system or our own] employment; self-employment, or other service shall result in a period of coverage". However, through an inadvertent drafting error earnings that are intended to be covered under the U.S. system pursuant to an international social security agreement are not covered because U.S. social security taxes cannot be imposed on the earnings. |
| j. State and local employee groups in Utah (Section 326 of House bill) | Utah is permitted to extend social security coverage to specific entities listed in the law as separate coverage groups. The names of some of the entities specifically listed in the law have changed since the provision was enacted. |
| k. Effective dates of international social security agreements (Section 327 of House bill) | Totalization agreements can only become effective after the expiration of a period during which each House of the Congress has been in session on each of 90 days. (This has been interpreted to mean that both Houses of Congress must be in session on a particular day for it to count in the 90-day calculation.) |

House Bill

Senate Amendment

No provision.

The bill amends FUTA to conform to changes made in the FICA wage base by this bill and P.L. 97-123 with respect to elective compensation, standby pay, the *Rowan* decision, simplified employee pensions, and sick pay (items above).

Provides for the imposition of social security taxes if an international social security agreement provides for coverage under the U.S. social security system. (Effective for taxable years after the date of enactment.)

No provision.

Amends the provision in the Social Security Act listing entities for which Utah may arrange social security coverage to provide that coverage would not be affected by a subsequent change in the name of any of the entities.

No provision.

Provides that totalization agreements can become effective after the expiration of a period during which only one House of the Congress must be in session on each of 60 days.

No provision.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|--|---|
| 4. Additional Amendments | |
| a. Technical and Conforming Amendments to the Maximum Family Benefit Provisions (Section 331 of House bill) | When children are simultaneously entitled to benefits on the records of two or more workers, the Maximum Family Benefits payable on each record are combined for the purposes of determining the benefits payable to those children. The law contains a limit, however, on the highest possible combined Maximum Family Benefit, sometimes referred to as the super maximum. Whenever the wage base increases (in January of every year), the super maximum is recomputed. In addition, in June of each year the super maximum is increased when the cost-of-living adjustment is made in general benefit levels. Thus, families whose benefits are limited by the super maximum can have their benefits unexpectedly increased or decreased each January when the super maximum is recomputed. |
| b. Relaxation of Insured Status Requirements for Certain Workers Previously Entitled to Disability Insurance Benefits (Section 333 of House bill) | Workers who are disabled before age 31 have a lower insured status requirement than older workers. However, such a worker who recovers from his or her disability and subsequently becomes disabled again at age 31 or later may have difficulty establishing entitlement to disability benefits at that time because he or she has not had sufficient time to obtain the necessary 20 quarters of coverage before the subsequent disability. |
| c. Illegitimate Children of Disabled Beneficiaries—First Month of Entitlement (Section 334 of House bill) | The first month for which certain benefits are paid is delayed from the month <i>during which</i> the individual satisfied the various entitlement conditions to the first month <i>throughout which</i> those conditions were satisfied. This provision does not apply to the benefits of illegitimate children of retired beneficiaries. However, this provision does apply to the illegitimate children of disabled workers. |

House Bill**Senate Amendment**

Provides that after initial entitlement, a family's super maximum would be adjusted each year when a cost-of-living increase is provided to everyone on the benefit rolls. No provision.

Provides that a worker who had a period of disability which began before age 31, recovered, and then became disabled again at age 31 or later would again be insured for disability benefits if he/she had quarters of coverage in half the calendar quarters after age 21 and through the quarter in which the later period of disability began (up to a maximum of 20 out of 40 quarters). Effective generally for applications filed after enactment. No provision.

Provides social security monthly benefits to the illegitimate child of a disabled worker for a month in which the child satisfied all other entitlement conditions but was not eligible for benefits because the acknowledgment or court decree or order establishing parenthood occurred later than the first day of that month. Effective on enactment. No provision.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|--|
| d. One Month Retroactivity of Widow's and Widowers' Benefits (Section 335 of House bill) | The payment of retroactive benefits is prohibited if such payment would require the lowering of future benefits. |
| e. Clarify the Provision in Social Security Law Exempting Benefits Under SSA-Administered Programs from Assignment (Section 336 of House bill) | Since 1935, the Social Security Act has prohibited the transfer or assignment of any future social security or SSI benefits payable and further states that no money payable or rights existing under the Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. Based on the legislative history of the Bankruptcy Reform Act of 1978, some bankruptcy courts have considered social security and SSI benefits listed by the debtor to be income for purposes of a Chapter XIII bankruptcy and have ordered SSA in several hundred cases to send all or part of a debtor's benefit check to the trustee in bankruptcy. |
| f. Use of Death Certificates to Prevent Erroneous Benefit Payments to Deceased Individuals (Section 337 of House bill) | There are currently no well-developed procedures or arrangements to permit SSA to determine on a timely basis when a beneficiary has died. |
| g. Study of SSA as an Independent Agency (Section 339 of House bill) | The Social Security Administration is currently part of the Department of Health and Human Services. |

House Bill**Senate Amendment**

| | |
|--|--|
| Allows an aged widow or widower to receive actuarially reduced benefits for the month in which the insured spouse died, if the application is filed in the following month, even though the retroactive payment would result in lower future monthly benefits than would be the case if benefits were not paid retroactively. Effective for applications filed after the second month following the month of enactment. | No provision. |
| Specifically provides that social security and SSI benefits may not be assigned notwithstanding any other provisions of law, including P.L. 95-598, the "Bankruptcy Reform Act of 1978". Effective on enactment. | No provision. |
| Provides authority for the Secretary of HHS to contract with states for death certificate information. This information would be matched with SSA benefit records to help ensure that benefit payments are promptly terminated when the beneficiary dies. | Same as House (except incorporates GAO and SSA comments). (Floor amendment.) |
| Authorizes a feasibility and implementation study with respect to establishing SSA as an independent agency. Such study shall include but not be limited to the following points: the feasibility of changing the current status of SSA; how to manage the transition; what authorities would need to be transferred or amended; what programs would be involved; what agency administrative relationships would need to be adjusted, etc. The study would be conducted (in consultation with the Commissioner of Social Security) by a panel of administrative experts appointed by the House Committee on Ways and Means and the Senate Committee on Finance, with a report and recommendations to be submitted to the Committees no later than April 1, 1984. | Similar to the House provision except (1) commission would be appointed by the President with advice and consent of the Senate, (2) report would be due no later than April 1, 1984, and (3) implementation, not feasibility, of independent SSA, is included in study mandate. |

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|---|
| h. Public Pension Offset (Section 338 of House bill) | <p>Under a provision enacted in 1911, people becoming eligible for a public pension on their own account after November, 1982, will generally have the amount of any social security dependents or survivors' benefits reduced dollar-for-dollar on account of that public pension.</p> <p>Under a provision adopted last year, persons who become eligible for a public pension after November 1982 and before June 1983 who meet a "one-half support" dependency test are exempt from the offset.</p> |

House Bill**Senate Amendment**

For persons who become eligible for public pension after June 1983, the amount of the public pension used for purposes of the offset against social security benefits would be one-third of the public pension. No provision.

Net effect on Tax Income or Benefit Payments (II-B): ¹

Short-range (1983-89): -\$0.1 billion

Long-range: Less than -0.005 percent of taxable payroll.

¹ A minus sign indicates increased outlays.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|--|--|
| i. Child-Care Drop Out Years (Section 122 of Senate amendment) | In computing a worker's covered earnings history under social security (upon which family benefits are based), up to five years of low earnings are dropped. |

House Bill**Senate Amendment**

No provision.

The provision would allow up to two additional years to be dropped for persons who leave the workforce to care for a child under 3 in the home. To qualify for a child-care drop year, the worker can have no earnings at all during the year.

Effective for persons first eligible for benefits after 1983.

Net effect on tax income and benefit payments (II-B): ¹

Calendar year (OASDI, in billions):

| | |
|-------------|------------------|
| 1984 | (²) |
| 1985 | -\$0.1 |
| 1986 | -.1 |
| 1987 | -.2 |
| 1988 | -.4 |
| 1989 | -.5 |
| Total | -1.3 |

Long-range, as percent of taxable payroll: -0.04.

¹ A minus sign indicates increased outlays.

² Less than \$50 million.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|---|
| j. Public Members on the Board of Trustees (Section 147 of Senate amendment) | The Board of Trustees of the four social security trust funds (Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplemental Medical Insurance) consists of, ex officio, the Secretaries of the Treasury, Health and Human Services, and Labor, with the Secretary of the Treasury serving as the managing trustee. Among other responsibilities, the Board of Trustees is required to report to Congress each year on the operation and status of the trust funds, review the general policies followed in managing the trust funds, and recommend changes in such policies. |
| k. Limitation on Benefits to Aliens (Section 124 of Senate amendment) | There are no citizenship or residence requirements for receiving social security cash benefits (OASDI). Any alien in the U.S.—whether legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he has engaged in covered employment and otherwise meets the eligibility requirements. Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker. |

House Bill**Senate Amendment**

No provision.

Add two public members to the Board to Trustees of the OASDI, HI, and SMI trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party. Trustees would not be considered fiduciaries and would not be personally liable for actions taken in such capacity with respect to the trust funds.
Effective upon enactment.

No provision.

Limitations would be placed on the payment of benefits to alien workers, their dependents and survivors who reside abroad. Benefits would continue to be paid only under the following conditions:

- (1) the worker is the citizen of a country with which the United States has a treaty or totalization agreement; and
- (2) until total benefits paid to the wage earner (after any income taxes paid) and dependents equal social security taxes payable by the wage earner plus interest.

This provision would apply to new eligibles on or after January 1, 1985.

In addition, prohibits the payment of social security benefits to noncitizens who are unable to establish at the time they apply for benefits that they had ever been legally admitted to work in the United States.

Effective for those first eligible after December 1983, (Floor amendment.)

Also, in the case of beneficiaries who are under final orders of exclusion, departure or voluntary departure in lieu of deportation and can be shown by the Attorney General to have earned social security credits during periods of illegal work, those credits would not be used in computing social security benefits, thereby potentially eliminating benefits. (Floor amendment.)

Net effect on benefit payments (II-B):¹

Total 1983-89: \$0.1 billion

Long-range: 0.01 percent of taxable payroll

¹ A positive number indicates decreased outlays.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current Law |
|---|--|
| l. Limitation on Prisoners Benefits (Section 123 of Senate amendment) | <p>Persons imprisoned for the conviction of a felony may not receive student benefits (which are being phased out anyway), and are not eligible for disability benefits unless they are participating in a court-approved rehabilitation program. (Dependents benefits are not affected.) Also, impairments resulting from the commission of a crime cannot be the basis for disability benefits and impairments occurring during imprisonment cannot be the basis for disability benefits during the period of imprisonment. Presently, benefits may continue to be paid to incarcerated felons who are either retired workers, widow or widower beneficiaries, spouses of retired or disabled workers, and to those DI beneficiaries in a court-approved rehabilitation program.</p> |
| m. Accelerate State and Local Deposits (Section 148 of Senate amendment) | <p>Requires the deposit of withheld social security taxes for State and local employees within thirty days after the end of the month in which the applicable wages were paid.</p> <p>By contrast, the frequency with which deposits of social security taxes and income taxes are made by private employers is determined under regulations issued by Treasury and vary in accordance with the tax liability of the employer. Deposits are required as frequently as every week for employers with large liabilities and as infrequently as every three months for employers with smaller liabilities.</p> <p>Although State and local governments are now governed by the same rules as private employers with regard to depositing withheld income taxes, deposits of social security taxes continue to be treated differently.</p> |

House Bill

Senate Amendment

No provision.

The provision would eliminate all benefits to felons during their period of incarceration. In addition, would prohibit payments to inmates of facilities for the criminally insane (Floor amendment). Benefits of dependents and survivors of incarcerated felons would not be affected.

Effective for benefits paid for the month after enactment.

No provision.

The provision would apply the same social security tax deposit requirements to State and local governments that now apply to private employers.

Effective for deposits required to be made after December 1983.

Net effect on tax income (II-B):

Calendar year (OASDI, in billions):

| | |
|-------------|-------|
| 1984 | \$1.4 |
| 1985 | .1 |
| 1986 | .1 |
| 1987 | .1 |
| 1988 | .3 |
| 1989 | .2 |
| Total | 2.2 |

Long-range effect is less than 0.005 percent of taxable payroll.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Present Law |
|--|---|
| n. Exclusion from social security coverage for services performed by members of certain religious sects (Section 104 of the Senate amendment) | In general, social security (FICA) tax is imposed on every individual who receives wages with respect to employment. In addition, social security tax is imposed on employers who pay wages with respect to employment. There is no exemption, under present law, for employers or employees who are members of religious sects that oppose the social security system. However, present law does provide an exemption from self-employment tax (SECA) for members of religious sects that are conscientiously opposed to the acceptance of private or public insurance and which make provision for the care of their dependent members. |
| o. Increase in FICA and Withholding Tax Deposit Threshold | In general, employers that have \$500 or more of undeposited FICA and withholding taxes at the end of any month must deposit those taxes within 15 days after the end of that month. However, employers that have \$3,000 or more of undeposited taxes at the end of any eighth-monthly period must deposit those taxes within 3 days after the close of the eighth-monthly period. |

House Bill

Senate Amendment

No provision.

The provision will exempt from social security tax wages paid by individuals who are exempt from self-employment taxes because of their religious beliefs to individuals who are members of religious sects that conscientiously oppose the acceptance of private or public insurance and which make provisions for the care of their dependent members. This exemption applies both to the employer and employee portion of social security tax.

The exemption applies only in the case of religious sects that have been in existence at all times since December 31, 1950.

Effective for remuneration paid after 1983.

Net effect on tax income and benefit payments (II-B, OASDI, in billions):

Total 1984-89, -\$0.2

Long-range effect is less than 0.005 percent of taxable payroll.

No provision.

Eighth-monthly deposits for any month will not be required until the employer has at least \$5,000 of undeposited taxes. Once this \$5,000 threshold is reached, the employer will be required to make further eighth-monthly deposits so long as there is \$3,000 or more of undeposited taxes at the end of any eighth-monthly period falling within the same month.

The provision is effective for months beginning after December 31, 1983. (Floor amendment)

Net Effect on Tax Income:

| | OASDI and HI | Unified Budget |
|----------------------------|--------------|----------------|
| Fiscal year (in billions): | | |
| 1984 | -\$0.2 | -\$0.5 |
| 1985 | (1) | -.1 |
| 1986 | (1) | -.1 |
| 1987 | (1) | -.1 |
| 1988 | .2 | .5 |
| 1989 | (1) | (1) |
| Total | -\$0.1 | -\$0.3 |

¹ Reduction of less than \$50 million.

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Present Law |
|---|---|
| p. Application of Common Paymaster Rules to Certain Nonprofit Organizations Employing Medical School Faculty Members | <p data-bbox="771 310 1387 587">Present law generally requires an employer to pay FICA taxes with respect to a given employee only up to the amount of annual wages referred to as the wage base. Thus, if an employee works for more than one employer during the year and if his annual wages exceed the tax base, employer FICA taxes, taking into account all the employers for whom the individual worked, may be paid on amounts in excess of the wage base.</p> <p data-bbox="771 623 1387 983">There is a “common paymaster” exception to these general rules which provides that if two or more related corporations concurrently employ the same individual and compensate him through a common paymaster that is one of the corporations, then the common paymaster is considered to be the only employer regardless of the fact that the individual performed services for other related corporations. Under one of the tests provided in regulations, two corporations are related if 30 percent or more of one corporation’s employees are concurrently employees of the other corporation.</p> |

House Bill

Senate Bill

No provision.

A State university that employs health care professionals as faculty members at a medical school and a tax-exempt faculty practice plan that employs faculty members of the medical school would be deemed to be related corporations for purposes of the common paymaster rules, provided that 30 percent or more of the employees of the plan are concurrently employed by the medical school. Remuneration that is disbursed by the faculty practice plan to an individual employed by both the plan and the university which, when added to remuneration actually disbursed by the university, exceeds the contribution and benefit base will be deemed to have been actually disbursed by the university as a common paymaster and not to have been disbursed by the faculty practice plan.

The provision is effective on enactment (Floor amendment).

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Present Law |
|---|---|
| q. Elective Coverage for Ministers as Employees | Under present law, ministers are not employees for social security tax (FICA) purposes. However, ministers generally are subject to the self-employment (SECA) tax. |

House Bill

Senate Amendment

No provision.

The provision allows ministers and their churches to treat services performed by ministers as employment for FICA tax purposes. Remuneration for such services would not be subject to the SECA tax. Once made, this election is irrevocable.

The provision is effective with respect to service performed on or after the first calendar quarter beginning after the date of enactment. (Floor amendment)

TITLE III. MISCELLANEOUS AND TECHNICAL PROVISIONS—Continued

| Item | Current law |
|--|---|
| r. Study of feasibility of implementing social security option accounts. | No provision. |
| s. Earnings Sharing Implementation Study (Section 161 of Senate amendment). | Earnings are credited for social security purposes to the record of the worker to whom they are paid. |
| t. Cashing of Checks Issued to Deceased Beneficiaries. | OASDI checks do not include a notice stating that cashing of a check to deceased individuals constitutes a felony. |
| u. Administrative Reorganization of Veterans' Administration Los Angeles Data Processing Center. | The Veterans' Administration is generally prohibited from reducing the staff at any of its offices by more than 10 percent in any fiscal year without advance notice to the Congress approximately 8 months prior to the beginning of that fiscal year. |

| House Bill | Senate Amendment |
|---------------|---|
| No provision. | Requires an 18-month study by Treasury of a plan to permit workers to have part of their (and their employers') social security taxes allocated to an IRA type account. The designated deposits would be tax deductible. Subsequent social security benefits would be reduced to take IRA deposits into account. (Floor amendment.) |
| No provision. | By January 1, 1984, requires the Secretary of Health and Human Services to report to the House Committee on Ways and Means and the Senate Committee on Finance on proposals that combine earnings of a husband and wife during the period of their marriage and divide them equally for social security benefit purposes. The study will analyze the impact of earnings sharing proposals on social security beneficiaries, and include recommendations (1) to provide adequate protection to particular classes of beneficiaries where necessary and (2) with respect to a feasible time period for implementation. In addition, the study will include cost estimates. (Floor amendment.) |
| No provision. | Requires that all checks issued, and the envelopes in which they are mailed, include a notice that cashing or attempted cashing of a check which was erroneously issued to a deceased person constitutes a felony punishable under section 208 of the Social Security Act. Effective for checks issued for months after December 1983. (Floor amendment.) |
| No provision. | Waives the requirements of veterans law (section 210(b)(2)(A) of title 38, USC) in the planned administrative reorganization at the Veterans Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees. |

TITLE IV. SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS

| Item | Current Law |
|---|---|
| 1. Increase in Federal Benefit Standard (Section 401 of House bill; Section 201 of Senate Amendment) | <p>The current maximum monthly SSI benefit is \$284.30 for a single person and \$426.40 for married couples.</p> <p>Benefits are indexed to the Consumer Price Index (CPI). Cost-of-living increases are provided annually in July if the CPI for the first quarter of the calendar year increases by at least 3 percent over the first quarter of the previous year. Benefits are increased by the same percentage as social security benefits. This occurs through a reference in the SSI law to the social security cost-of-living provision. For example, the current payment level of \$284.30 per individual, which became effective July 1982, represents an increase of 7.4 percent (or \$19.60 monthly) from the previous July 1981 level of \$264.70.</p> |

House Bill

Senate Amendment

The Federal SSI benefit payment is increased by \$20 per month for individuals and \$30 per month for couples, effective July 1, 1983.

Same as House bill (with technical correction).

The next Federal SSI cost-of-living adjustment (COLA) is delayed from July 1983 until January 1984. Federal SSI benefits will be adjusted in January 1984, and every January thereafter, by the same percentage and under the same procedures as OASDI benefits. The provision to pay the lower of the increase in wages or prices, which is applicable to OASDI benefit increases beginning in 1988, would apply to SSI. As with title II, the 1983 COLA, to be paid in January 1984, will be provided even if the CPI increase is less than 3 percent.

Same as House bill, except that the provision to pay the lower of the increase in wages or prices, which is applicable to OASDI benefit increases beginning in 1988, would not apply to SSI.

Net budget effect:

Net budget effect:
Identical CBO budget estimates.

[In millions, CBO]

| | SSI | Food Stamp and Medicaid offsets | Net budget impact |
|--------------|-----|---------------------------------|-------------------|
| Fiscal year: | | | |
| 1983..... | 250 | -40 | 210 |
| 1984..... | 750 | -130 | 620 |
| 1985..... | 845 | -120 | 725 |
| 1986..... | 840 | -115 | 725 |

**TITLE IV. SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS—
Continued**

| Item | Current law |
|---|---|
| 2. Adjustment in Federal Pass-Through provisions. (Section 402 of House bill; Section 202 of Senate amendment) | <p>P.L. 94-585, enacted October 21, 1976, established Federal SSI "pass-through" requirements, effective with the cost-of-living increase provided in July 1977. These provisions provide States with two options for meeting the pass-through requirements:</p> <ul style="list-style-type: none">(1) <i>Aggregate Spending Level Option.</i>—A State may make State supplementary payments in any current 12-month period that are no less, in the aggregate, than were made in the previous 12-month period (17 States use this option);(2) <i>Individual Payment Level Option.</i>—A State may maintain the supplementary payment levels that were in effect for categories of individual recipients in December 1976. (All other States use this measure, except Texas and West Virginia which have no State supplementation program.) <p>An amendment in P.L. 97-248 allows a State that shifts from the aggregate spending option to the individual payment level option to maintain State supplementation levels in effect in the previous December rather than the levels in December 1976.</p> |

House Bill

Senate Amendment

States would be allowed the following options in meeting the pass-through requirement:

(1) *Aggregate Spending Level Option.*—Same as present law.

(2) *Individual Payment Level Option.*—Modifies current law (1) by substituting the State supplementary payment levels in effect in March 1983 for those in effect in December 1976 as the levels that States must maintain in complying with the payment level passthrough requirement; and (2) with regard to the \$20/\$30 increase in the Federal SSI standard in July 1983, by requiring States to pass through only as much as would have been required if the SSI COLA were not changed from July 1983 to January 1984.

States would be allowed the following options in meeting the pass-through requirements:

(1) *Aggregate Spending Level Option.*—Same as present law.

(2) *Individual Payment Level Option.*—Modifies current law to provide that the March 1983 State supplementary payment levels would be an additional option for complying with the payment level passthrough provision rather than a substitute for the December 1976 levels (that is, it would not prohibit a State from reducing levels to December 1976 levels as the House bill would).

**TITLE IV. SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS—
Continued**

| Item | Current Law |
|--|---|
| 3. SSI Eligibility for Temporary Residents of Emergency Shelters for the Homeless (Section 403 of House bill) | Under current law, aged, blind or disabled individuals who are residents of <i>private</i> emergency shelters are eligible for SSI. However, such residents of <i>public</i> shelters cannot receive SSI. |

House Bill**Senate Amendment**

Aged, blind or disabled individuals who are temporary residents of public emergency shelters could receive SSI payments for a period of up to three months during any 12-month period. Effective for months after enactment.

No provision.

Net budget effect:

[In millions, CBO]

| Fiscal year: | Outlay increase |
|--------------|--------------------|
| 1983 | 1 |
| 1984 | 3 |
| 1985 | 3 |

**TITLE IV. SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS—
Continued**

| Item | Current Law |
|---|---|
| 4. Disregarding Emergency and Other In-Kind Assistance Provided by Nonprofit Organizations (Section 404 of House Bill) | <p>SSI: In-kind assistance (other than assistance to meet home energy needs) that is provided by a private nonprofit organization to aged, blind, or disabled individuals must generally be counted as income under the SSI program.</p> <p>AFDC: Under HHS rules, States have the authority to decide whether or not to count in-kind assistance as income. There is no provision in the AFDC statute (except in the case of assistance to meet home energy needs) which specifically provides that authority.</p> |

House Bill

Senate Amendment

SSI: Effective upon enactment until September 30, 1984, any support or maintenance assistance provided in kind by a private nonprofit organization to aged, blind, or disabled individuals must be disregarded under the SSI program, if the State determines that the assistance is provided on the basis of need for such support or maintenance.

No provision.

AFDC: The AFDC statute would be amended to give States specific authority, at their option, to disregard such assistance in determining AFDC benefits. This would be effective from enactment until September 30, 1984.

Net budget impact:

[In millions,CBO]

| Fiscal year: | Outlay increase |
|--------------|--------------------|
| 1983 | 1 |
| 1984 | 2 |

**TITLE IV. SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS—
Continued**

| Item | Current Law |
|---|---|
| 5. Notification Regarding SSI (Section 203 of Senate Amendment) | There is no statutory requirement that OASDI beneficiaries be contacted and informed of potential eligibility for Supplemental Security Income (SSI) payments. However, since the beginning of the SSI program, the Social Security Administration has undertaken a number of outreach efforts to identify those potentially eligible. SSA routinely provides information about SSI eligibility and takes applications for SSI payments at the time of application for OASDI benefits, if the applicant is potentially eligible for SSI payments. In addition, many State agencies and other private relief groups routinely refer clients to SSA. Presently, about 6.9 percent of elderly social security recipients also receive SSI. |

House Bill

Senate Amendment

No provision.

Prior to July 1, 1984, the Secretary of Health and Human Services would be required to notify, on a one-time basis, all elderly OASDI beneficiaries who are potentially eligible of the availability of SSI and encourage them to contact their district offices. In addition, the provision would require that the same information be included with the notification to OASDI beneficiaries of upcoming eligibility for Supplemental Medical Insurance.

Net budget effect:

[In millions, CBO]

| Fiscal year: | Outlay increase |
|--------------|--------------------|
| 1983 | (¹) |
| 1984 | 30 |
| 1985 | 120 |
| 1986 | 115 |
| 1987 | 115 |
| 1988 | 115 |

¹ Less than \$0.5 million

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS

| Item | Current Law |
|---|--|
| 1. Extension of Federal Supplemental Compensation (FSC) program (Sections 501-504 of House bill; Sections 401-403 of the Senate Amendment) | <p>Under the current FSC program, which became effective on September 12, 1982, and expires March 31, 1983, additional weeks of Federally financed unemployment compensation benefits are provided to jobless workers who have exhausted all other State and Federal unemployment benefits. The number of weeks of FSC benefits that jobless workers may receive depends on (a) the number of weeks of State unemployment benefits received by each claimant, and (b) the State in which the claimant qualified for or receives the benefits.</p> <p>As originally enacted, the FSC program, depending upon State insured unemployment rates (IUR),¹ provided a maximum of 10, 8, or 6 additional weeks of benefits. As amended by provisions contained in the Surface Transportation Assistance Act of 1982 (P.L. 97-424), beginning with the week of January 9, 1983, the FSC program provides the following maximum weeks of benefits:</p> <ol style="list-style-type: none">(1) 16 weeks in States with a 13 week average insured unemployment rate (IUR) of at least 6.0 percent;(2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983;(3) 12 weeks in the remaining States that have a 13 week average IUR of at least 4.5 percent;(4) 10 weeks in the remaining States that have a 13 week average IUR from 3.5 percent to 4.4 percent; and(5) 8 weeks for all other States. <p>The number of weeks of FSC a qualified individual may receive is the lesser of 65 percent of the number of weeks of regular State benefits he received or the maximum number of weeks of FSC payable in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in the State in which he qualified for FSC benefits.</p> <p>To qualify for FSC an individual must have exhausted all State and extended benefits to which he is entitled, and he must meet State and extended benefit qualification requirements. This means he must have worked at least 20 weeks or have the equivalent in wages during the base period.</p> |

¹ The Insured Unemployment Rate (IUR) is the percentage of workers covered under the State unemployment compensation law who are claiming State unemployment benefits in a particular week. The number of weeks of FSC payable in a State depends upon the average IUR measured over a moving 13 week period.

House Bill

Senate Amendment

The FSC program is extended for 6 months, from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(a) *Basic FSC benefits*: Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

- (1) 14 weeks in States with average IUR 6.0 percent and above;
- (2) 13 weeks in States with average IUR 5.0 to 5.9 percent;
- (3) 11 weeks in States with average IUR 4.5 to 4.9 percent;
- (4) 10 weeks in States with average IUR 3.5 to 4.4 percent;
- (5) 8 weeks in all other States.

(b) *Additional FSC benefits*: Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks equal to three-fourths of the basic FSC entitlement payable in the State, up to a maximum of:

- (1) 10 weeks in the 14 basic week States (average IUR 6.0 or above)
- (2) 8 weeks in the 13 and 11 basic week States (average IUR 4.5 to 5.9)
- (3) 6 weeks in the 10 and 8 basic week States (average IUR 4.4 and below)

(c) *Transitional FSC Benefits*.—Individuals who begin receiving FSC before April 1, and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

The FSC program is extended for 6 months from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(a) *Basic FSC Benefits*.—Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

- (1) 14 weeks in States with average IUR 6.0 percent and above;
- (2) 12 weeks in States with average IUR 5.0 to 5.9 percent;
- (3) 10 weeks in States with average IUR 4.0 to 4.9 percent; and
- (4) 8 weeks in all other States.

The maximum number of weeks payable in a State after April 1, 1983 could be no more than 4 weeks less than the maximum number payable on March 27, 1983.

(b) *Additional FSC benefits*.—Individuals who exhaust before April 1, 1983 could receive additional weeks of FSC benefits up to a maximum of:

- (1) 8 weeks in States with IUR at 6 percent and above
- (2) 6 weeks in States with IUR at 5 percent to 5.9 percent
- (3) 4 weeks in all other States.

(c) *Transitional FSC Benefits*.—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

House Bill

Senate Amendment

(d) No provision.

(d) *Phaseout FSC Benefits.*—Individuals who have not exhausted their FSC entitlement on September 30, 1983, when the program expires, would be eligible to receive up to 50 percent of their remaining FSC entitlement. No new claimants would be added to the FSC program on or after September 30, 1983.

(e) No provision.

(e) Claimants must have worked at least 26 weeks or have earned the equivalent in wages during their base year to qualify for FSC. This applies only to claimants becoming eligible for FSC on or after April 1, 1983.

(f) Section 503 provides for the coordination of the FSC extension with the Trade Readjustment program.

(f) No provision.

Net budget effect:

Net budget effect:

| | Fiscal year— | | |
|-----------------------------------|--------------|------|------|
| | 1983 | 1984 | 1985 |
| UC outlays..... | 2,380 | | |
| Food stamp and AFDC offset. | -155 | | |
| Revenue increase | 0 | 155 | |
| Impact on unified budget deficit. | 2,225 | -155 | |

| | Fiscal year— | | |
|-----------------------------------|--------------|------|------|
| | 1983 | 1984 | 1985 |
| UC outlays..... | 2,070 | 120 | |
| Food stamp and AFDC offset. | -135 | -8 | |
| Revenue increase | 0 | 142 | |
| Impact on unified budget deficit. | 1,935 | -30 | |

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|--|---|
| 2. Option for Voluntary Health Insurance Deduction from Unemployment Benefits (Section 511 of House bill) | Section 3304(a)(4) of the Federal Unemployment Tax Act prohibits States from withdrawing money from the State unemployment trust fund for anything except the payment of unemployment compensation benefits or to refund certain taxes erroneously paid by employers. |

House Bill

Senate Amendment

Provides States the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits. Effective upon enactment.

No provision.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|---|---|
| 3. Treatment of Certain Organizations Who Were Retroactively Granted 501(c)(3) Status (Section 512 of House bill) | <p>Unemployment insurance coverage was extended to employees of certain nonprofit organizations in 1970 and then extended to employees of generally all nonprofit organizations in 1976. Under the 1970 and 1976 amendments, nonprofit organizations were given the option of financing unemployment benefits paid to their former employees through the State unemployment payroll tax system that applies to private employers (contribution method) or by retroactively reimbursing the State trust fund for the amount of benefits paid to their former employees (reimbursement method).</p> <p>Nonprofit employers who had voluntarily covered their employees prior to the 1970 or 1976 amendments and financed benefit costs by the contribution method, and after enactment of the 1970 or 1976 amendments chose to switch to the reimbursement method of financing, were permitted to apply any accumulated balance in their accounts toward costs incurred in the future and paid for on a reimbursement basis. The authority to make such a transfer, however, was available for a limited period of time that expired shortly after enactment of the 1976 and 1970 amendments.</p> |

Allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under the following conditions:

- (1) the organization did not elect to switch to the reimbursement method under prior authority because during these periods the organization was treated as a 501(c)(4) organization by the IRS, but the organization has been subsequently determined by the IRS to be a 501(c)(3) organization; and,
- (2) the organization elects to switch to the reimbursement method before the earlier of 18 months after such election was first available to it under State law or January 1, 1984.

Effective upon enactment.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|--|--|
| 4. Cap on Credit Reduction (Section 412 of Senate Amendment) | <p data-bbox="771 310 1382 783">The Federal Unemployment Tax Act (FUTA) imposes a Federal unemployment compensation (UC) tax on employers in all States at a rate of 3.5 percent on a taxable wage base of \$7,000. However, employers in States generally receive a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. States with insufficient State unemployment compensation revenues to meet State unemployment compensation obligations may borrow from the Federal Unemployment Account. If a State defaults on its loans from the Federal account, employers in the State begin to lose the FUTA tax credit at the rate of at least .3 percent a year. For example, because of overdue Federal UC loans, sixteen States experienced a reduction in the 2.7 credit for tax year 1982.</p> <p data-bbox="771 817 1382 1257">Specifically, if a Federal UC loan is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of that year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc). Additional offset credit reductions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1975-1980 for States satisfying specific requirements.</p> <p data-bbox="771 1291 1382 1570">The 1981 Budget Reconciliation Act made two major changes in loan payment conditions, effective from January 1, 1981 to December 31, 1987: (1) interest of up to 10 percent is charged on loans made after April 1, 1982 (except those made for "cash flow" purposes and repaid by the end of the fiscal year in which they occur); and (2) States were allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met.</p> <p data-bbox="771 1604 1382 1708">In a State that qualifies for the cap, the tax credit reduction is limited to the higher of 0.6 percent, or the rate that was in effect for the State for the preceding calendar year.</p> |

No Provision.

(a) Makes the credit reduction cap provisions in present law permanent.

(b) A State would still be required to meet all four conditions in present law to qualify for the full credit reduction cap. The amendment would, however, provide two lower annual credit reductions, if a State does not qualify for the total cap: (1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the annual credit reduction would be reduced by 0.1 percentage points; and (2) If a State meets the first two credit reduction cap conditions and qualifies for the interest deferral as a result of substantial changes in its unemployment compensation law, the annual credit reduction would be reduced by 0.2 percentage points.

A substantial change is action (certified by the Secretary of Labor) taken after March 31, 1982, which would increase revenues and decrease benefits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first interest deferral is requested. Deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made.

The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities.

Effective upon enactment.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|---|---|
| 4. Cap on Credit Reduction (Section 412 of Senate Amendment)—Con. | <p>The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State trust funds to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability.</p> <p>In order to qualify for the cap on the automatic credit reductions, a State must demonstrate that:</p> <ol style="list-style-type: none">(1) the net solvency of its UC system has not diminished (effective for taxable years 1981-1987);(2) there have been no decreases in its unemployment tax effort (effective for taxable years 1981-1987);(3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983-1987); and(4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983-1987; the comparable year for taxable year 1983, however, is 1981). |

House Bill

Senate Amendment

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|---|---|
| 5. Deferral of Interest Provision (Section 411 of Senate Amendment) | Present law imposes interest of up to 10 percent per year on Federal unemployment compensation loans obtained by the States after April 1, 1982, except for "cash flow" loans that States repay by the end of the fiscal year in which the loans were obtained. A State with high unemployment can defer payment of, and extend the payment for, 75 percent of interest charges due in any year. The State must pay one-third of the deferred amount in each of the three years following the fiscal year for which it is due. Interest is charged on the deferred interest. In order to qualify for this deferral and extension of the payment period, the State insured unemployment rate must have equaled or exceeded 7.5 percent during the first 6 months of the preceding calendar year. |

No provision.

- (a) Makes the provisions imposing interest on loans to the States permanent.
- (b) Allows states to defer 80 percent of the amount due for the fiscal year, effective for interest accrued only for fiscal years 1983, 1984, and 1985. The deferred amount would be payable in 4 installments in the succeeding years equal to at least 20 percent of the original amount of interest due. A State would be required to meet conditions 1 and 2(A) or 2(B) below to qualify for the deferral:
- (1) no action has been taken to reduce its tax effort or trust fund solvency; and
 - (2) (A) action (certified by the Secretary of Labor) after March 31, 1982, has been taken which would increase revenues and decrease benefits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first deferral is requested. Deferral of the interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made; or (B) for taxable year 1982, total State UC tax revenues equaled at least 2 percent of total wages covered under the State UC law.
- (c) Interest will not be charged against any interest for which payment is deferred under current law deferral provisions or those added by this bill and summarized in (b) above.
- (d) Allows a State to delay for up to 9 months the payment of interest due for any calendar year after 1982 during which the average total unemployment rate in the State was 13.5 percent or higher. Interest will *not* be charged against interest for which payment is delayed.
- (e) Allows states to receive a discounted interest rate that would be one percentage point below the interest rate that would otherwise apply. This would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. It would be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

Effective on date of enactment.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|---|--|
| 6. Average Employer Contribution Rate (Section 413 of Senate amendment) | <p data-bbox="797 296 1379 625">Present law provides that a state, in the second year in which the offset credit reduction is imposed to repay outstanding loans, may be subject to an additional credit reduction equal to the amount by which the State's average tax rate is lower than 2.7 percent. The average tax rate and the 2.7 percent are computed from the ratio of taxes collected to State and Federal taxable wages, respectively. Taxable wages are determined by the taxable wage base. Any wages above the taxable wage base are therefore not included.</p> <p data-bbox="771 653 1379 875">In States where the taxable wage base exceeds the Federal taxable base of \$7,000, the ratio of the State's UC tax revenues to the State's taxable wages will be lower than it would be if the taxable wage base was \$7,000. This could activate the additional credit reduction in the second year even though these States have relatively higher tax efforts.</p> |

House Bill**Senate Amendment**

No provision.

Changes the calculations so that all wages instead of just taxable wages are counted in the denominators of the State tax rates and the 2.7 percent. Each State's tax rate on all wages subject to contributions under the Federal Unemployment Tax Act (FUTA) is compared to an estimate of the national percentage of all wages subject to FUTA contributions that 2.7 percent of taxable wages represents. The 2.7 percent factor is calculated as the product of 2.7 percent and the ratio of the Federal taxable wage base (\$7,000) and the national average annual covered wage (roughly \$16,000).

Effective for taxable years beginning with 1984.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|--|---|
| 7. Date for payment of interest (Section 414 of Senate amendment) | Present law requires that interest is due no later than the first day of the next fiscal year. If the next fiscal year falls on a weekend, interest is due in the prior fiscal year. Otherwise, it is due on the first day of the next fiscal year. |
| 8. Penalty for Failure to Pay Interest (Section 415 of Senate amendment) | If a State does not pay interest when it is due, there are no provisions in present law through which the Federal Government can penalize the State or enforce the collection of interest charges. |

House Bill**Senate Amendment**

No provision.

Requires payment of interest before the first day of the next fiscal year. Effective on date of enactment.

No provision.

Provides that, if a State fails to pay interest charges when they are due, (a) Federal unemployment compensation and employment service administrative funds would be withheld and (b) the State's unemployment compensation program would lose its Federal certification, which would result in employers in the State losing eligibility for the credit against the Federal unemployment tax.
Effective upon enactment.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|--|--|
| 9. Treatment of Employees Providing Services to Educational Institutions (Section 421 of Senate amendment) | The Federal Unemployment Tax Act (FUTA) covers employees of educational institutions. FUTA <i>requires</i> States to deny benefits between academic years or terms to certain professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term. FUTA gives the States the <i>option</i> of applying the same denial of benefits provision to nonprofessional employees of educational institutions. |

House Bill**Senate Amendment**

No provision.

(a) *Requires* States to deny benefits between academic years or terms to nonprofessional employees if the employees have a reasonable assurance of returning to work in the next academic year or term.

(b) States would be required to deny benefits between terms to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency.

The provisions would be effective on or after April 1, 1984. States in which there is no legislative session before that date, however, would be given additional time to comply with this provision.

TITLE V. UNEMPLOYMENT COMPENSATION PROVISIONS—Continued

| Item | Current Law |
|---|---|
| 10. Extended Benefits for Individuals who are Hospitalized or on Jury Duty (Section 422 of Senate amendment) | Present law disqualifies claimants from receiving Extended Benefits or Federal Supplemental Compensation if they are not actively seeking work. Moreover, the disqualified claimant must go back to work for at least 4 weeks and earn at least 4 times his weekly benefit amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation. |

House Bill

Senate Amendment

No provision.

Permits States to determine weekly eligibility based on availability for work for claimants of Extended Benefits and FSC who are serving on jury duty or are hospitalized for treatment of an emergency or life-threatening condition. A State must treat these individuals in accordance with their own State unemployment compensation law.

Effective upon enactment.

TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT HOSPITAL SERVICES

| Item | Current Law |
|----------------|--|
| Summary | Basic medicare reasonable cost reimbursement was modified last year in P.L. 97-248 (TEFRA) to provide: (1) expanded "section 223" reimbursement limits applying to total (not only to routine) inpatient operating costs; and (2) temporary rate of increase limits (expiring after fiscal year 1985) rising annually by one percentage point plus the increase in the "market-basket" of goods and services purchased by hospitals. |

House Bill**Senate Amendment**

Medicare payment for inpatient operating costs of hospitals would be determined in advance and made on a per case basis. A fixed amount would be paid for each type of case, identified by the "diagnosis related group" (DRG) into which the case is classified.

Similar provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--------------------------------------|---|
| 1. Prospective Payment Amount | Medicare payment amounts are retrospectively determined based upon a hospital's reasonable costs, subject to the limits established by TEFRA. Certain reimbursement limits are applied to (1) hospital inpatient operating costs ("section 223" limits) and (2) the rate of increase in inpatient operating costs (this limit expires after FY 1985). |

House Bill

Senate Amendment

The Secretary would be required to determine prospectively a payment amount for each hospital discharge. Hospital cases (discharges) would be classified into "diagnosis related groups" (DRG's).

Same provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|---------------|
| 2. DRG Rates | No provision. |
| a. Separate rates | |
| | |
| b. Termination of regional adjustments | |

House Bill

Senate Amendment

Separate payment rates would apply to urban and rural areas in each of the 9 census divisions (the 50 States and the District of Columbia).

Separate payment rates would apply to urban and rural areas in each of the 4 census regions (the 50 States and the District of Columbia).

Regional adjustments (i.e., by census divisions) would no longer apply after the fourth year of the program.

Regional adjustments (i.e., by census regions) would no longer apply after the third year of the program.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|---|
| 3. Effective Date/Transition a. Phase-in period | Under present law, the section 223 limits are authorized indefinitely; the rate of increase limits will not apply to hospital cost reporting periods beginning on or after October 1, 1985. |
| b. Calculation of cost-based portion of payment | |

Implementation of the new prospective payment system would be phased in over a 3-year period, starting with each hospital's first cost reporting period beginning on or after October 1, 1983. During year one, 25% of the payment would be based on regional DRG rates; 75% of the payment would be based on each hospital's cost base. In year two, 50% of the payment would be based on regional DRG rates and 50% on each hospital's cost base. In year three, 75% of the payment would be based on regional DRG rates and 25% would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the DRG payment methodology. In year five, 100% of the payment would be determined under a national DRG payment methodology.

For the first 2 reporting periods, the calculation of that portion of a hospital's payment which is cost-based would be the lesser of the hospital's payment under the rate of increase limits, without the penalties and bonuses of present law, or the section 223 limits without regard to any exemptions, exceptions or adjustments thereto. For the third reporting period, the calculation of the cost-based portion would be the hospital's payment under the rate of increase limit only.

Similar provision, except that during year one, 25% of the payment would be based on a combination of national and regional DRG rates (25% national, 75% regional); 75% would be based on each hospital's cost base. In year two, 50% of the payment would be based on a combination of national and regional DRG rates (50% each); 50% would be based on each hospital's cost base. In year three, 75% of the payment would be based on a combination of national and regional DRG rates (75% national, 25% regional); 25% would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the national DRG payment methodology.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|---|
| 3. Effective Date/Transition—Con. c. Maintenance of cost-reporting system | Hospitals are required to file annual cost reports which are used to determine the amount of each hospital's reasonable cost reimbursement. |

House Bill

Senate Amendment

The Secretary would be required to maintain a system of cost reporting during the period of transition to the new prospective payment system and for at least two years after full implementation of the new payment program (at least until the end of fiscal year 1988).

No provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|-------------------------|---|
| 4. Area Wage Adjustment | An adjustor, using Bureau of Labor Statistics data for hospital wages, is used under current section 223 limits to adjust for area differences in hospital wage levels. |

House Bill

Senate Amendment

DRG rates would be adjusted for area differences in hospital wage levels compared to the national average hospital wage level.

DRG rates would be adjusted for area differences in hospital wage levels compared to the national or regional average hospital wage levels as appropriate.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|--|
| 5. Initial Payment Level a. General | Medicare payments to hospitals are made according to the lower of actual reasonable costs, the section 223 total cost limits, or the rate of increase limits added by TEFRA. The TEFRA rate of increase limits are based on each hospital's historical costs. These costs are updated by the marketbasket of goods and services purchased by hospitals, plus 1 percentage point. |
| b. Services covered | Under current law, services provided to medicare beneficiaries who are inpatients of a hospital are ordinarily billed under part A and reimbursed on a reasonable cost basis. However, some payments for certain non-physician services rendered to inpatients are billed by suppliers of services under part B on a reasonable charge basis. |

House Bill**Senate Amendment**

The rates for each DRG would be derived from historical medicare cost data for each hospital. The rates would be updated to fiscal year 1983 by the estimated industry-wide actual increase in hospital costs. The rates would be further updated for fiscal year 1984 by the increase in the marketbasket plus 1 percentage point. In fiscal year 1984, the DRG rates would be reduced, as may be required, to achieve budget neutrality in relationship to the reimbursement levels that would have applied under the TEFRA legislation.

Same provision.

Effective October 1, 1983, all non-physician services provided in an inpatient setting would be paid only as inpatient hospital services under part A, except as provided below.

Same provision.

The Secretary is given authority to waive these restrictions, and to provide for adjustments in the DRG payment rates, for hospitals which can demonstrate to the Secretary that their practices prior to October 1, 1982, were such that their services were extensively billed independently under part B. Such hospitals could be permitted, by the Secretary, to continue such billing arrangements during the transition period for phasing-in the prospective payment system. Such arrangements would not be recognized once the prospective payment system is fully implemented. The Secretary would estimate, each year, amounts that would have been reimbursed under part B for inpatient hospital services (other than physician services) and include, each year, in the base rate for determining the DRG payment rates an approximation of this amount.

The Secretary may waive these restrictions during the transition period in the case of hospitals that have allowed direct billing under part B so extensively that immediate compliance with such restrictions would threaten the stability of patient care. The Secretary could allow continued payment of part B billings as long as he or she subsequently deducted the total amount for these billings from the payments made under the prospective system to the hospital. If such a waiver is granted, the Secretary, at the end of the transition, may provide for such methods of payment under part A as is appropriate given the organizational structure of the institution.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|------------------------------------|---|
| c. Adjustments for Social Security | Under present law, a downward adjustment is made to a hospital's medicare payment to account for a hospital's withdrawal from the Social Security system. |

House Bill**Senate Amendment**

The provision in present law would be repealed. Same repeal provision. In addition, in setting the initial payment rates, the Secretary would be required to recognize the payroll costs some hospitals will incur as the result of being required to enter the Social Security system, by adjusting base costs for individual hospitals and by adjusting the DRG prospective rates to include these additional costs.

Net budget effect:

[In millions, CBO]

| Fiscal year: | Outlay increase |
|--------------|--------------------|
| 1984 | 150 |
| 1985 | 224 |
| 1986 | 150 |

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|---|
| 6. Annual Updates | |
| a. Annual increase | Under TEFRA, the rate of increase limits are updated by the increase in a marketbasket of goods and services purchased by hospitals, plus 1 percentage point. |
| b. Secretary's determination of annual increase factor | |
| c. Publication of Secretary's determination | |

House Bill**Senate Amendment**

For fiscal year 1985, payment amounts from the previous fiscal year would be increased by the marketbasket, plus 1 percentage point. There would be an overall budget limitation to maintain budget neutrality for fiscal year 1985.

Same provision.

Taking into consideration the recommendations of the panel, the Secretary must determine, for each fiscal year beginning with fiscal year 1986, the appropriate increase factor.

Taking into consideration the recommendations of the commission, the Secretary must determine, for each fiscal year beginning with fiscal year 1986, the increase factor; such factor must assure adequate compensation for the efficient and effective delivery of medically appropriate and necessary care of high quality.

The Secretary must publish in the Federal Register (1) not later than the June 1 before each fiscal year beginning with fiscal year 1986, his or her determination of the proposed increase factor and (2) not later than the September 1 before such fiscal year, his or her final determination of the increase factor. The Secretary must include in the publication due by June 1 the report of the panel's recommendations for that fiscal year.

Same provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|-------------|
| 6. Annual Updates—Con. | |
| d. Expert panel/commission's determination of annual increase factor | |
| e. Expert panel/commission's report on annual increase factor | |

House Bill

Senate Amendment

Requires the Secretary to appoint a panel of independent experts to review the increase factor and make recommendations to the Secretary on the appropriate percentage increase for fiscal years beginning with fiscal year 1986. The panel must take into account changes in the marketbasket, hospital productivity, technological and scientific advances, quality of care, and utilization of relatively costly, though effective, methods of care.

The panel must report its recommendations on the increase factor to the Secretary not later than May 1 before the beginning of each fiscal year, beginning with fiscal year 1986.

Similar provision, except the review of the increase factor and recommendations to the Secretary would be conducted by a commission selected by the Office of Technology Assessment, and would begin with fiscal year 1986.

The commission must report its recommendations on the increase factor to the Secretary not later than April 1 before the beginning of each fiscal year, beginning with fiscal year 1986.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|---------------|
| 7. Recalibration of DRG's | |
| a. Secretary's determination of DRG recalibration | No provision. |
| b. Expert commission's determination of DRG recalibration | |

The Secretary would be required to establish (and would be permitted from time to time to make changes in) a system of classification of inpatient hospital discharges by DRGs and a methodology for classifying specific hospital discharges within the DRGs. For each DRG, the Secretary would be required to assign (and would be permitted from time to time to recompute) an appropriate weighting factor which reflects the relative hospital resources used for discharges classified within that DRG compared to resources used for discharges classified in other DRGs.

No provision.

Similar provision, except the Secretary would be required to adjust the classifications and weighting factors at least once every 3 years to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

The commission would be required to consult with, and make recommendations to, the Secretary with respect to changes in the DRGs, based on its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The commission must report to Congress its evaluation of any adjustments to the DRGs made by the Secretary.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|---------------|
| 8. Atypical Cases/Outliers | No provision. |
| a. Basis for outlier payments | |
| b. Payment levels for outlier cases | |
| c. Total proportion of outlier payments | |

House Bill

Senate Amendment

The Secretary would be required to make additional payments where the length of stay for any case in a DRG exceeds, by more than 30 days, the average length of stay for cases within the same DRG. In addition, if a case has some other unusual length of stay or unusual cost, the Secretary could provide additional payment amounts.

The additional payment amounts per case would be determined by the Secretary.

The Secretary would be required to provide additional payments for outlier cases amounting to not less than 4 percent of total DRG related payments.

The Secretary would be required to make additional payments where (1) the length of stay exceeds the mean length of stay by some fixed number of days or (2) by a certain number of standard deviations, whichever is less. Hospitals would be permitted to appeal for additional payments for cases where charges adjusted to costs are equal to or greater than some multiple of the DRG rates or some dollar criterion, whichever is greater.

The amount of additional payments would be determined by the Secretary and approximate the marginal cost of care beyond the outlier cut-off criteria (days or dollar amounts).

The Secretary would be required to provide additional payments for outlier cases amounting to not less than 5 percent, and not more than 6 percent, of total DRG related payments.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|--|
| 9. Capital Expenses | |
| a. Capital in general | Medicare reimburses hospitals for the reasonable costs of capital (including depreciation, interest and rent). |
| b. Return on equity | Medicare reimburses proprietary institutions a return on equity. |
| c. Study of capital-related costs | No provision. |
| d. New capital | No provision. |
| e. Section 1122 capital approval | The Secretary is authorized to exclude from reimbursement to providers certain costs related to capital expenditures that have been disapproved by a section 1122 planning agency. |

House Bill

Senate Amendment

Capital expenses, as defined by the Secretary, would be specifically excluded from the prospective payment proposal and would continue to be reimbursed on a reasonable cost basis.

Capital, as defined by the Secretary, would be specifically excluded from the prospective payment system until October 1, 1986, during which time they would continue to be reimbursed on a reasonable cost basis. After October 1, 1986, such expenses would no longer be excluded.

Provides for the phase-out of return on equity for hospitals under the prospective payment system over the three-year transition period during which the cost-based payment is being phased out (75% in the first year, 50% in the second year and 25% in the third year). No payment for a return on equity would be made for cost reporting periods beginning on or after October 1, 1986.

No provision.

Net budget effect:

Net budget effect: No impact.

[In millions, CBO]

| Fiscal year: | Outlay reduction |
|--------------|---------------------|
| 1983 | 45 |
| 1984 | 120 |
| 1985 | 195 |

The Secretary is required to study and report to Congress by the end of 1983 on the method by which capital-related costs can be included under the prospective payment system and on payments with respect to a return on equity.

Similar provision, except that the report to Congress is due within 18 months of enactment.

Expresses the intent of Congress that, in implementing a system for including capital related costs under a prospective payment system, costs related to capital projects initiated on or after March 1, 1983, may be distinguished and treated differently from projects initiated before such date.

Expresses the intent of Congress that, in implementing a system for including capital-related costs under a prospective payment system, costs related to capital projects initiated on or after the effective date of the implementation of such system may or may not be distinguished and treated differently from projects initiated before such date.

At the end of 3 years, medicare would not make payment for a new capital project unless the State had a section 1122 capital approval process and the capital expenditures had been recommended by the State under such mechanism.

Changes for cost reporting periods prior to October 1, 1986: (1) the financing of reviews of capital projects from the Hospital Insurance Trust Fund to general revenues; (2) increases the amount of capital projects that are subject to Subject to the 1122 approval process from \$100,000 to \$600,000; (3) exempts from the review process expenditures made by or on behalf of a health care facility where 75 percent of the patients using the services of such facility are enrollees in HMO's or CMP's and such expenditures are for services and facilities needed by such organization to operate efficiently; and (4) requires hospitals to make their overall expenditure plans and capital budgets available to section 1122 agencies.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---------------------------------------|---|
| 10. Medical Education Expenses | |
| a. Direct cost | Medicare reimburses direct medical education expenses, such as the salaries of interns and residents in approved education programs, on the basis of reasonable cost. |
| | |
| b. Indirect cost | The section 223 limits provide an adjustment to recognize individual hospital differences in indirect costs due to approved teaching activities. |

House Bill

Senate Amendment

Direct medical expenses for approved educational programs would be specifically excluded from payment determinations under the prospective payment system and would be paid on the basis of reasonable cost.

Same provision.

The Secretary is required to provide additional payment amounts under the prospective payment system for hospitals with indirect costs of medical education. The adjustment for such payment amounts would equal twice the section 223 adjustment, provided under regulations, in effect as of Jan. 1, 1983, for such costs.

Same provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|---|
| 11. Exemptions, Exceptions, and Adjustments | |
| a. Payments to exempted hospitals and hospital units | No provision. |
| b. Psychiatric, long-term care, and children's hospitals | Section 223 limits do not apply to children's hospitals, long-term care hospitals or to rural hospitals with less than 50 beds. In addition, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of psychiatric hospitals. |
| c. Sole community hospitals | |
| 1. Payments | The Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of sole community hospitals. |

House Bill**Senate Amendment**

Hospitals or units of hospitals exempted from the prospective payment system would be subject to the section 223 limits (until hospital cost reporting periods beginning on or after October 1, 1985) and the rate of increase limits applicable under current law.

Psychiatric, long-term care, children's and rehabilitation hospitals would be specifically exempted from the prospective payment system. Upon request of a hospital, rehabilitation and psychiatric units which are distinct parts of acute care hospitals would also be specifically exempted.

The Secretary would be authorized to provide exceptions and adjustments to take into account the special needs of sole community hospitals.

Similar provision, except the section 223 limits would no longer apply for hospital cost reporting periods beginning on or after October 1, 1983.

Similar provision, except (1) hospitals would not have to request exemptions for distinct parts of rehabilitation or psychiatric units and (2) exemptions of any such hospitals or hospital units would no longer apply when the Secretary determines that adequate data of clinical and statistical significance is available to include these institutions and units under the prospective payment system.

Payments to sole community hospitals for hospital cost reporting periods beginning on or after October 1, 1983, would be on the same basis, as payments to all other providers in the *first* year of the transition period: 25% of the payment would be based on a blend of national and regional DRG rates (25% national, 75% regional); 75% would be based on each hospital's own cost base. In no case would total medicare payments in those cost reporting years beginning on or after October 1, 1983, and before October 1, 1986, be less than the payments made in the preceding year.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|---|
| c. Sole community hospitals—Con. 2. Definition | No provision. |
| d. Public and other hospitals | The Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of public and other hospitals that serve a disproportionate number of low income or part A medicare beneficiaries. |
| e. Other Providers | The Secretary is required to provide exemptions, exceptions, and adjustments to the “section 223” and the rate of increase limits as he or she deems appropriate to take into account the special needs of new hospitals, risk-based health maintenance organizations, hospitals providing atypical or essential services and to take account of extraordinary circumstances beyond a hospital’s control; and for other purposes. |

House Bill

Senate Amendment

“Sole community hospitals” are defined as those that, by reason of factors such as isolated location or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available in a geographical area to part A medicare beneficiaries.

The Secretary would be required to provide exceptions and adjustments, as he or she deems appropriate, to take into account the special needs of public or other hospitals that serve a disproportionately large number of low-income or part A medicare beneficiaries.

The Secretary is required to provide, by regulation, for such exceptions and adjustments as he or she deems appropriate (including those that may be appropriate with respect to public and teaching hospitals and hospitals involved extensively in treatment for, and research on, cancer).

Similar provision, except includes weather and travel conditions in the list of factors defining a sole community hospital.

Similar provision, except also applies to regional and national referral centers (including those very large acute care hospitals in rural areas).

No provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|--|
| f. Alaska and Hawaii | Under regulation, special adjustments are provided to the section 223 limits for hospitals in Alaska and Hawaii. |
| g. Hospitals in territories, including Puerto Rico | |

House Bill

Senate Amendment

The Secretary is authorized to provide adjustments to the DRG payment amounts as he or she deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

Same provision.

Exempts from the prospective payment system hospitals located outside the fifty States or the District of Columbia (e.g., the territories, including Puerto Rico).

Same provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|--|
| 12. Admissions and quality review | |
| a. Contracts with professional review organizations | Current law (title XI of the Social Security Act) requires the Secretary to enter into contracts for utilization and quality control peer review with professional review organizations (PROs) or other review organizations, including medicare intermediaries (subject to certain conditions and limitations). |

Effective October 1, 1984, as a condition for receipt of medicare payments, a hospital receiving payments according to the prospective DRG rates would be required to contract with a peer review organization, in the area, designated by the Secretary under Title XI for the review of admissions, discharges, and quality of care with respect to medicare hospital inpatient services. The 12-month waiting period for intermediaries to qualify as review organizations as specified in present law would begin on the date the Secretary enters into contracts or on October 1, 1983, whichever is earlier.

Hospitals receiving payments under the prospective payment system would be required to enter into an agreement with a peer review organization (if such an organization has a contract with the Secretary under title XI for the area in which the hospital is located). The purpose of this contract is to provide for the review of the validity of the diagnostic information provided by such hospitals, the completeness and adequacy of the care provided, the appropriateness of admissions, and the appropriateness of care provided to patients designated by the hospitals as outliers. These reviews would be covered as a hospital cost of care under part A but the PRO would be paid by the Secretary on behalf of the hospital on the basis of a rate per review established by the Secretary. The amount expended will be no less than \$25 million a year and will be expended from the trust fund and not subject to appropriations.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|-------------|
| 12. Admissions and quality review—Con. | |
| b. Monitoring system established by the Secretary | |
| | |
| c. Penalties for unacceptable practices | |

House Bill**Senate Amendment**

The Secretary would be required to establish a system for monitoring admissions and discharges of both hospitals receiving prospective payment and hospitals reimbursed on a cost basis, utilizing HCFA, medicare intermediaries, professional review organizations/professional standards review organizations, or such other medical review authority, to review admissions and discharge practices and quality of care.

No provision.

The Secretary would be authorized to take corrective action where hospitals, paid according to the prospective rates or on a cost basis, were determined to be engaged in unacceptable admissions, medical, or other practices. The Secretary would be permitted to disallow part or all of the medicare payment with respect to an unnecessary or multiple admissions, or to require hospitals to take other corrective action necessary where a provider was determined to have engaged in such practices.

No provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---------------------------------|--|
| 13. Payments to HMO's and CMP's | Current law provides that health maintenance organizations (HMO's) and competitive medical plans (CMP's) may be reimbursed either on the basis of reasonable costs, or under a risk-based contract, a payment equal to 95% of the adjusted average per capita cost (AAPCC) for medicare enrollees in the HMO's area. |

House Bill**Senate Amendment**

The proposal would permit, at its election, an HMO or a CMP that receives medicare payments on a risk basis to choose to have the Secretary directly pay hospitals for inpatient hospital services furnished to medicare enrollees of the HMO or CMP. The payment amount would be at the DRG rate (or on the basis of reasonable cost, as applicable) and would be deducted from medicare payments to the HMO or CMP.

Similar provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|--|
| 14. State Cost Control Systems | |
| a. Authority under pre-TEFRA legislation | The Secretary has authority to establish medicare demonstration projects. There are currently four State-wide medicare demonstrations (MD, NJ, NY, and MA) and one area-wide (Rochester, NY) demonstration. |
| b. Authority for State programs | In addition, TEFRA authorized the Secretary, at the request of a State, to pay for medicare services according to the State's hospital cost control system if such system— <ol style="list-style-type: none">(1) applies to substantially all non-acute care hospitals in the State;(2) applies to at least 75% of all inpatient revenues or expenses in the State;(3) provides assurances that payors, hospital employees and patients are treated equitably; and(4) provides assurances that the State's system will not result in greater medicare expenditures over a three-year period than would otherwise have been made. (To date, no State systems have been approved under this authority). |

House Bill

Senate Amendment

The Secretary would be expressly authorized to continued to develop, carry out, or maintain medicare experiments and demonstration projects. Same provision.

Includes the 4 requirements in TEFRA for approval of a State system and adds a fifth requirement: if the Secretary determines that the State system will not preclude an HMO or CMP from negotiating directly with hospitals with respect to payment for inpatient hospital services. Same provision, except add sixth requirement that States must provide for a prohibition on payments under part B for nonphysician services provided to inpatients.

The Secretary would be prohibited from (1) denying a State application on the ground that the State's system is based on a payment methodology other than DRGs, or (2) requiring that medicare expenditures under the State's system be less than the expenditures which would have been made under the Federal prospective payment system. Same provision.

**TITLE VI.—PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|-------------|
| 14. State Cost Control Systems—Con. c. Continuation of current State programs | |
| d. Required State programs | |

House Bill**Senate Amendment**

For those States which currently have a medicare waiver, the Secretary would be required to continue the State program if, and for so long as, the conditions described above are met. Same provision.

The Secretary would be required to approve any State program which meets the following 6 requirements in addition to the conditions indicated above, that the system: (1) is operated directly by the State or an entity designated by State law; (2) is prospective; (3) provides for hospitals to make such reports as the Secretary requires; (4) provides satisfactory assurances that it will not result in admissions practices which will reduce treatment to low income, high cost, or emergency patients; (5) will not reduce payments without 60 days notice to the Secretary and to hospitals; and (6) provides satisfactory assurances that, in the development of its program, the State has consulted with local officials concerning the impact of the program on publicly owned hospitals. Same provision.

The Secretary would be required to respond to requests from States applying under these 11 conditions within 60 days of the date the request is submitted. Same provision.

**TITLE VI.—PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|--|
| 14. State Cost Control Systems—Con. | |
| e. Modification of existing contracts | Under current demonstration project agreements between the Secretary and the States of New York and Massachusetts, the States are required to maintain a rate of increase in medicare hospital costs which is 1.5 percent below the national rate of increase in such costs. |
| | |
| f. Judging the effectiveness of State systems | |
| | |
| g. Reduction in payments to hospitals which exceed expenditure limits | |

House Bill

Senate Amendment

The Secretary would be required, upon request of a State, to modify the terms of an existing demonstration agreement (entered into after August 1982 and in effect as of March 1, 1983—New York and Massachusetts) so that the demonstration project is not required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in such costs.

No provision.

No provision.

Similar provision, except provides that such demonstration agreements be modified so that the percentage by which such project is required to maintain a rate of increase in such costs in that State below the national rate of increase be decreased by one-half of one percentage point for the contract year, beginning in 1983, by an additional one-half of 1 percentage point for the contract year beginning in 1984, and by an additional one-quarter of 1 percentage point for the contract year beginning in 1985.

During the 3 cost reporting periods beginning on or after October 1, 1983, for existing State systems, the Secretary must judge their effectiveness on the basis of their rate of increase or inflation in medicare inpatient hospital payments compared to the national rate of increase or inflation for such payments. The State would retain the option to have the test applied on the basis of either aggregate payments per inpatient admission or discharge. After the transition period, this test would not longer apply, and such State systems would be treated in the same fashion as other waived systems.

If the Secretary determines that the amounts paid over a three-year period under a State system exceed what medicare would have otherwise paid over the same three-year period, the Secretary may reduce subsequent payments to hospitals under the State system by that amount.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|--|
| 15. Administrative and Judicial Review | |
| a. Limitation | A provider may request administrative review of a final decision of a fiscal intermediary by the Provider Reimbursement Review Board (PRRB). A provider may appeal the PRRB decision to Federal court or, where it involves a question of law or regulation which the PRRB does not have the authority to review, the provider may appeal directly to Federal court. |
| b. Venue | An individual provider may bring suit in the judicial district in which it is located or the District of Columbia. Groups may bring suit only in the District of Columbia. |

House Bill

Senate Amendment

Permits administrative and judicial review in all cases except the narrow items necessary to maintain budget neutrality: (1) the level of the payment amount, and (2) the establishment of the DRG classifications.

Same provision.

No provision.

Permits action to be brought jointly by several providers in a judicial district in which the greatest number of such providers is located. Any appeals to the PRRB for action for judicial review brought by providers which are under common ownership or control would have to be brought by providers as a group with respect to any matter involving an issue common to such providers.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|--------------------|
| 16. Studies and Reports | No provision. |
| a. Capital-related costs return on equity | |
| b. Skilled nursing facilities (SNFs) | |

House Bill**Senate Amendment**

The Secretary is required to study and report to the Congress on the following:

The method by which capital-related costs including return on equity associated with inpatient hospital services can be included in the prospective payment system; due at the end of 1983.

The impact of hospital prospective payment systems on skilled nursing facilities and recommendations concerning SNFs; due at the end of 1983.

The Secretary is required to study and report to the Congress on the following:

Similar provision except the report is due within 18 months after enactment.

Similar report required. However, also (1) requires the 1984-1987 annual reports to include the impact of the hospital prospective payment methodology on other providers and (2) requires the Secretary to conduct demonstrations with hospitals in areas with critical shortages of SNFs to study the feasibility of providing alternative systems of care or methods of payment.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|-------------|
| 16. Studies and Reports—Con. c. Impact of the prospective payment meth- odology | |

The impact of the prospective payment methodology during the previous year on individual and classes of hospitals, beneficiaries, other payors of inpatient hospital services, and the impact of computing averages by census division, rather than national averages; must include the Secretary's recommendations for changes in legislation, as appropriate; requires the Comptroller General to review and comment on the adequacy of each report's impact analysis; due annually at the end of each year for 1984 through 1987.

Similar provision, except (1) the annual reports do not have to include the impact of the prospective system on individual hospitals and the impact of computing averages by census division, rather than national averages; (2) the reports must include the impact on other providers; (3) does not require recommendations from the Secretary; and (4) does not require review and comment by the Comptroller General.

House Bill

Senate Amendment

Collection of data necessary to compute, by DRGs, the amount of physician charges for services furnished to hospital inpatients classified in those DRGs, during fiscal year 1984; recommendations on the advisability and feasibility of providing for the determination of payments based on the DRG classifications for physician's services furnished to hospital inpatients; due at the end of 1984 as part of the 1984 annual report.

Similar provision, except (1) the Secretary is required to submit legislative recommendations and (2) the report is due in 1985.

The feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates; due at the end of 1985 as part of the 1985 annual report.

Similar provision.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|-------------|
| f. Prospective payments for hospitals not included in the system | |
| g. Payments for outliers/intensity | |
| h. Payment by all payors | |

House Bill**Senate Amendment**

Whether, and the method under which, hospitals not paid under the prospective system can be paid on a prospective basis for inpatient services; due at the end of 1985 as part of the 1985 annual report.

Same provision.

The appropriateness of the factors used to compensate hospitals for the additional expenses of outlier cases; due by the end of 1985 as part of the 1985 annual report.

No similar provision. However, requires the Secretary to include in the 1985 annual report to Congress studies on the application of severity of illness, intensity of care, or other modifications to DRGs, and the advisability and feasibility of providing for such modifications.

The feasibility and desirability of applying the prospective payment methodology to payments by all payors for inpatient hospital services; due by the end of 1985 as part of the 1985 annual report.

Similar provision, except also requires consideration of extent of cost shifting to non-Federal payors and the impact on private insurance costs. Study is due in January 1985.

The impact of the prospective payment methodology on hospital admissions and the feasibility of making a change in the DRG rates or requiring preadmission certification in order to minimize the incentive to increase admissions; due by the end of 1985 as part of the 1985 annual report.

No provision.

The overall impact of State hospital payment systems, approved under either section 1886(c) or other provisions of the Social Security Act, on the medicare and medicaid programs, on payments and premiums under private health insurance plans, and on tax expenditures; due at the end of 1986 as part of the 1986 annual report.

No provision.

No provision.

Requires the Secretary to study and make legislative recommendations to Congress on an equitable method of reimbursing sole community hospitals, taking into account their unique vulnerability to substantial variations in occupancy; requires the Secretary to examine ways to coordinate an information transfer between parts A and B of medicare, particularly where a denial of coverage is made in the reimbursement to the admitting physician(s); the Secretary also reports on the appropriate treatment of uncompensated care costs and adjustments that might be appropriate for large teaching hospitals located in rural areas; the Secretary also reports on the advisability of having hospitals make available information on the cost of care to patients financed by both public programs and private payors; due prior to April 1, 1985.

No provision.

The Secretary is required to study and make recommendations to Congress on a method for including hospitals located outside of the 50 States and the District of Columbia under a prospective payment system; due before April 1, 1984.

Trust fund effect of title V:

| [In billions, II-B, Office of the Actuary] | |
|--|---------------------|
| | Outlay reduction |
| Calendar year: | |
| 1985 | 0.2 |
| 1986 | 2.0 |
| 1987 | 3.6 |
| 1988 | 5.2 |
| 1989 | 7.0 |
| Total | 18.0 |

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|---|
| 17. Delay of single reimbursement limit for skilled nursing facilities (SNFs) | Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 required the Secretary to establish a single reimbursement limit for both hospital-based and free-standing SNFs to be effective for cost reporting periods beginning on or after October 1, 1982. |

House Bill

Senate Amendment

No delay provision. The Secretary would be required to study and report to Congress on the impact of hospital prospective payment on skilled nursing facilities and to make recommendation at the end of 1983.

Similar study provision except delays the effective date for the single reimbursement limit for SNFs from cost reporting periods beginning on or after October 1, 1982, to cost reporting periods beginning on or after October 1, 1983.

Net budget effect:

| | [In millions, CBO] | |
|--------------|--------------------|-----------------|
| Fiscal year: | | Outlay increase |
| 1983 | | 20 |
| 1984 | | 32 |
| 1985 | | 5 |

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|-------------|--------------------|
|-------------|--------------------|

18. On Lok Demonstration

House Bill

Senate Amendment

No provision.

The Secretary would be required to approve, with appropriate terms and conditions as defined by the Secretary, within 30 days of enactment: (1) the risk-sharing application of On Lok Senior Health Services (dated July 2, 1982) for waivers of certain medicare requirements over a period of 36 months in order to carry out a long-term demonstration project, and (b) the application of the California Department of Health Services (dated November 1, 1982) for the waiver of certain medicaid requirements over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|---------------|
| 19. Appointment, Membership and Activities of the Expert Commission. | |
| a. Appointment | No provision. |
| | |
| b. Membership | |
| | |
| c. Staff | |

House Bill

Senate Amendment

No similar provision. However, requires the Secretary to provide for the appointment of a panel of independent experts to review the factor used to update the DRG rates.

The Secretary is required to provide for the appointment of a commission of 15 independent experts, selected and appointed by the Director of the Office of Technology Assessment (OTA). Commission members must be appointed no later than April 1, 1984, for a 3-year term, except that the OTA Director may provide initially for shorter terms to insure that the terms of no more than 7 members will expire in one year. Commission members would be eligible for reappointment for no more than 2 consecutive terms.

No provision.

The commission's membership must provide expertise and experience in the provision and financing of health care including, but not limited to, physicians and registered professional nurses, employers, third-party payors, and individuals skilled in biomedical, health services, health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care. The OTA Director must seek nominations from a wide range of groups including, but not limited to, (a) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals; (b) national organizations representing hospitals, including teaching hospitals; and (c) national organizations representing the business community, health benefits programs, labor, the elderly and national organizations representing manufacturers of health care products.

No provision.

The commission may employ such personnel (not to exceed 50) as may be necessary to carry out its duties. Subject to approval by the OTA Director, the commission must appoint one of its staff members as Executive Director. The commission is authorized to seek assistance and support from appropriate Federal departments and agencies as required. Establishes compensation rates for members of the commission, the Executive Director, and staff.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|--|-------------|
| 19. Appointment, Membership, and Activities of the Expert Commission— d. Commission authorities | |
| e. Liaison with Federal agencies | |

House Bill

Senate Amendment

No provision.

Authorizes the Commission to enter into contracts; make advance, progress, and other payments; accept services of voluntary and uncompensated personnel; acquire, hold, and dispose of real and personal property; and prescribe rules and regulations.

No provision.

Requires the commission to have access to relevant information and data available from Federal agencies and to maintain confidentiality of all confidential information. Establishes a Federal Liaison Committee, consisting of delegates from appropriate Federal agencies, to arrange for the acquisition of information, coordinate its activities with those of Federal agencies, and advise the commission on the activities of Federal agencies. The Administrator of HCFA would be chairman of the committee, and the committee would meet not less than 6 times a year.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|-------------|
| 19. Appointment, Membership, and Activities of the Expert Commission—Con. f. OTA reports | |
| g. Authorization of appropriations | |
| h. Activities of the Commission | |

House Bill

Senate Amendment

No provision.

OTA must report to Congress on the functioning and progress of the commission and the status of assessment of medical procedures and services by the commission. Such reports must be annual for the first 3 years and biannual thereafter, by March 15 of each year.

No provision.

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the commission and the committee, 85% payable from the HI Trust Fund and 15% from the SMI Trust Fund.

No provision.

In order to identify medically appropriate patterns of health resources use, the commission of independent experts would be required to collect and assess information, medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient care data, giving special attention to treatment patterns for conditions appearing to involve excessively costly or inappropriate services not adding to the quality of care provided. Requires the commission, in coordination to the extent possible with the Secretary, in order to assess the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures, to collect and assess factual information, giving special attention to the needs of updating existing DRGs, establishing new DRGs, and making recommendations on relative DRG weights to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the commission must (1) use existing data where possible, collected and assessed either by its own staff or under other arrangements, and (2) carry out, or award grants or contracts for, original research where existing information is inadequate for the development of useful and valid guidelines by the commission.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT
HOSPITAL SERVICES—Continued**

| Item | Present Law |
|---|-------------|
| 19. Appointment, Membership, and Activities of the Expert Commission—Con. i. Exclusion from coverage | |

House Bill

Senate Amendment

No provision.

Permits, with the concurrence of the Secretary, payment under part A or part B of medicare for expenses incurred for clinical care items and services with respect to research and demonstration conducted by the Secretary or the commission.

House Bill

TABLE 1.—ESTIMATED CHANGES IN OASDI TAX INCOME OR BENEFIT OUTGO UNDER H.R. 1900 AS PASSED BY THE HOUSE OF REPRESENTATIVES, BASED ON 1983 ALTERNATIVE II-B ASSUMPTIONS

[In billions of dollars]

| Provision | Calendar year— | | | | | | | Total, 1983-89 |
|---|----------------|------|------|------|------|------|------|-------------------|
| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Increase tax rate on covered wages and salaries | | 8.6 | 0.3 | | | 14.5 | 16.0 | 39.4 |
| Increase tax rate on covered self-employment earnings..... | | 1.1 | 3.1 | 3.0 | 3.2 | 3.7 | 4.4 | 18.5 |
| Cover all Federal elected officials and political appointees | | (1) | (1) | (1) | (1) | (1) | (1) | .1 |
| Cover new Federal employees..... | | .2 | .7 | 1.2 | 1.8 | 2.4 | 3.1 | 9.3 |
| Cover all nonprofit employees | | 1.3 | 1.5 | 1.8 | 2.1 | 2.6 | 3.1 | 12.5 |
| Total for new coverage | | 1.5 | 2.2 | 3.0 | 4.0 | 5.0 | 6.1 | 21.9 |
| Prohibit State and local government terminations..... | | .1 | .2 | .4 | .6 | .8 | 1.1 | 3.2 |
| Provide general fund transfers for military service credits and unnegotiated checks..... | 19.7 | -.4 | -.4 | -.3 | -.3 | -.3 | -.3 | 17.7 |
| Delay benefit increases 6 months..... | 3.2 | 5.2 | 5.4 | 5.5 | 6.2 | 6.7 | 7.3 | 39.4 |
| Tax one-half of benefits for high income beneficiaries | | 2.6 | 3.2 | 3.9 | 4.7 | 5.6 | 6.7 | 26.6 |
| Continue benefits on remarriage..... | | (2) | (2) | (2) | (2) | (2) | (2) | -.1 |
| Modify indexing of deferred survivors' benefits | | | (2) | (2) | (2) | (2) | (2) | (2) |
| Raise disabled widow(er)'s benefits to 71.5 percent of PIA..... | | -.2 | -.2 | -.2 | -.2 | -.3 | -.3 | -1.4 |
| Pay divorced spouses whether or not worker has retired..... | | | (2) | (2) | (2) | (2) | (2) | -.1 |
| Replace 90-percent factor in benefit formula with 61 percent, for individuals receiving pensions from noncovered employment | | | | (3) | (3) | .1 | .1 | .3 |
| Offset one-third of spouses' noncovered government pension..... | (2) | (2) | (2) | (2) | (2) | (2) | (2) | -.1 |
| Raise delayed retirement credit, beginning in 1990 | | | | | | | | |
| Total for all changes | 22.8 | 18.5 | 13.9 | 15.2 | 18.0 | 35.7 | 41.2 | 165.3 |

¹ Net additional taxes of less than \$50,000,000.

² Additional benefits of less than \$50,000,000.

³ Reduction in benefits of less than \$50,000,000.

Note.—Estimates shown for each provision include the effects of interaction with all preceding provisions. Totals do not always equal the sum of components due to rounding. Positive figures represent additional income or reductions in benefits. Negative figures represent reductions in income or increases in benefits.

Source: Social Security Administration Office of the Actuary, Mar. 4, 1983.

Senate Amendment

TABLE 2.—ESTIMATED CHANGES IN OASDI TAX INCOME OR BENEFIT OUTGO UNDER H.R. 1900 AS PASSED BY THE SENATE, BASED ON 1983 ALTERNATIVE II-B ASSUMPTIONS

[In billions of dollars]

| Provision | Calendar year— | | | | | | | Total, 1983-89 |
|---|----------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------|
| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | |
| Increase tax rate on covered wages and salaries | | 8.6 | 0.3 | | | 14.5 | 16.0 | 39.4 |
| Increase tax rate on covered self-employment earnings..... | | 1.1 | 3.1 | 3.0 | 3.2 | 3.7 | 4.4 | 18.5 |
| Cover President, Vice-President, Members of Congress, and certain others..... | | (¹) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) | (^{1}) |
| Cover new Federal employees..... | | .2 | .7 | 1.2 | 1.8 | 2.4 | 3.1 | 9.3 |
| Cover all nonprofit employees | | 1.3 | 1.5 | 1.8 | 2.1 | 2.6 | 3.1 | 12.5 |
| Total for new coverage | | 1.5 | 2.2 | 3.0 | 3.9 | 5.0 | 6.1 | 21.8 |
| Prohibit State and local government terminations..... | | .1 | .2 | .4 | .6 | .8 | 1.1 | 3.2 |
| Accelerate collection of State and local taxes..... | | 1.4 | .1 | .1 | .1 | .3 | .2 | 2.2 |
| Provide general fund transfers for military service credits and unnegotiated checks..... | 19.2 | -.4 | -.4 | -.3 | -.3 | -.3 | -.3 | 17.2 |
| Delay benefit increases 6 months..... | 3.2 | 5.2 | 5.4 | 5.5 | 6.2 | 6.7 | 7.3 | 39.4 |
| Tax one-half of benefits for high income beneficiaries | | 2.6 | 3.2 | 3.9 | 4.7 | 5.6 | 6.7 | 26.7 |
| Continue benefits on remarriage..... | | (²) | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (^{2}) | -.1 |
| Modify indexing of deferred survivors' benefits..... | | | (²) | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (^{2}) |
| Raise disabled widow(er)'s benefits to 71.5 percent of PIA..... | | -.2 | -.2 | -.2 | -.2 | -.3 | -.3 | -1.4 |
| Pay divorced spouses whether or not worker has retired..... |  |  | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (²) | -.1 |
| Replace 90-percent factor in benefit formula with variable percentage, for individuals receiving pensions from noncovered employment..... | | (³) | (³) | (³) | (³) | .1 | .1 | .3 |
| Provide up to 2 child-care drop out years | | (²) | -.1 | -.1 | -.2 | -.4 | -.5 | -1.3 |
| Limitations on benefit payments to certain aliens..... | | (³) | (³) | (³) | (³) | .1 | .1 | .2 |
| All other miscellaneous and technical changes..... |  | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (^{2}) | (²) | -.2 |
| Total for all changes | 22.3 | 19.9 | 13.8 | 15.2 | 17.9 | 35.7 | 40.9 | 165.7 |

¹ Net additional taxes of less than \$50,000,000.

² Additional benefits of less than \$50,000,000.

³ Reduction in benefits of less than \$50,000,000.

NOTE.—Estimates shown for each provision include the effects of interaction with all preceding provisions. Totals do not always equal the sum of components due to rounding. Positive figures represent additional income or reductions in benefits. Negative figures represent reductions in income or increases in benefits.

Source: Social Security Administration Office of the Actuary.

HOUSE BILL

TABLE 3.—CHANGES IN LONG-RANGE OASDI ACTUARIAL BALANCE UNDER H.R. 1900 AS PASSED BY THE HOUSE OF REPRESENTATIVES

| Sec. | Provision | Effect as percent of payroll | | |
|--|---|------------------------------|--------------|--------------|
| | | OASI | DI | OASDI |
| Present Law: | | | | |
| | Average cost rate..... | 13.04 | 1.34 | 14.38 |
| | Average tax rate..... | 10.13 | 2.17 | 12.29 |
| | Actuarial balance..... | -2.92 | +.83 | -2.09 |
| Changes Included in Titles I and III of the Bill:¹ | | | | |
| 101 | Cover new Federal employees..... | +.26 | +.02 | +.28 |
| 102 | Cover all non-profit employees..... | +.09 | +.01 | +.10 |
| 103 | Prohibit State and local termination..... | +.06 | +.00 | +.06 |
| 111 | Delay benefit increases 6 months..... | +.28 | +.03 | +.30 |
| 112 | Stabilize trust fund ratio..... | | | |
| 113 | Eliminate "windfall" benefits..... | +.03 | +.00 | +.03 |
| 114 | Raise delayed retirement credits..... | -.10 | | -.10 |
| 121 | Tax one-half of benefits..... | +.56 | +.05 | +.61 |
| 123 | Accelerate tax rate increase..... | +.03 | | +.03 |
| 124 | Increase tax rate on self-employment..... | +.17 | +.02 | +.19 |
| 126 | Change DI rate allocation..... | +.98 | -.98 | |
| 131 | Continue benefits on remarriage..... | -.00 | -.00 | -.00 |
| 132 | Pay divorced spouse of non-retired..... | -.01 | -.00 | -.01 |
| 133 | Modify indexing of survivor's benefits..... | -.05 | | -.05 |
| 134 | Raise disabled widow's benefits..... | -.01 | | -.01 |
| 151 | Modify military credits financing..... | +.01 | +.00 | +.01 |
| 152 | Credit unnegotiated checks..... | +.00 | +.00 | +.00 |
| 329 | Tax certain salary reduction plans..... | +.02 | +.00 | +.02 |
| 338 | Modify public pension offset..... | -.00 | -.00 | -.00 |
| | Subtotal for the effect of the above provisions ² | +2.27 | -.86 | +1.41 |
| | Remaining deficit after the above provisions..... | -.65 | -.03 | -.68 |
| | Additional Change Relating to Long-Term Financing (Title II of the Bill):³ Raise normal retirement age to 67..... | +.82 | -.14 | +.68 |
| | Total effect of all of the provisions⁴..... | +3.08 | -1.00 | +2.08 |
| After House Bill: | | | | |
| | Actuarial balance..... | +.16 | -.17 | -.01 |
| | Average income..... | 11.67 | 1.23 | 12.90 |
| | Average cost rate..... | 11.51 | 1.40 | 12.91 |

¹ The values for each of the individual provisions listed from Title I and Title III represent the effect over present law and do not take into account interaction with other provisions.

² The values in the subtotal for all provisions included in Title I and Title III take into account the estimated interactions among these provisions.

³ The values for each of the provisions of Title II take into account intersection with the provisions included in Title I and in Title III.

⁴ The values for the total effect of H.R. 1900 take into account interactions among all of the provisions of the Bill.

NOTE.—The above estimates are based on the 1983 Trustees Report Alternative II-B assumptions. Individuals estimates may not add to totals due to rounding and/or interaction among proposals.

Source: Office of the Actuary Mar. 16, 1983.

Senate Amendment

**TABLE 4.—ESTIMATED CHANGES IN LONG-RANGE OASDI ACTUARIAL BALANCE UNDER
H.R. 1900 AS PASSED BY THE SENATE**

| Provision | Effect as percent of payroll | | |
|---|------------------------------|-------|-------|
| | OASI | DI | OASDI |
| Present law: | | | |
| Average cost rate..... | 13.04 | 1.34 | 14.38 |
| Average tax rate..... | 10.13 | 2.17 | 12.29 |
| Actuarial balance..... | -2.92 | + .83 | -2.09 |
| Changes relating to both long-range and short-range financing:¹ | | | |
| Cover new Federal employees..... | + .26 | + .02 | + .28 |
| Cover all nonprofit employees..... | + .09 | + .01 | + .10 |
| Prohibit State and local termination..... | + .06 | + .00 | + .06 |
| Delay benefit increase 6 months..... | + .28 | + .03 | + .30 |
| Stabilize trust fund ratio..... | | | |
| Eliminate "windfall" benefits..... | + .05 | + .00 | + .05 |
| Raise delayed retirement credits..... | -.12 | | -.12 |
| Tax ½ of benefits..... | + .57 | + .05 | + .62 |
| Accelerate tax rate increase..... | + .03 | | + .03 |
| Increase tax rate on self-employment..... | + .17 | + .02 | + .19 |
| Change DI rate allocation..... | + .90 | -.90 | |
| Continue benefits on remarriage..... | -.00 | -.00 | -.00 |
| Pay divorced spouse of nonretired..... | -.01 | -.00 | -.01 |
| Modify indexing of survivor's benefits..... | -.05 | | -.05 |
| Raise disabled widow's benefits..... | -.01 | | -.01 |
| Modify military credit financing..... | + .01 | + .00 | + .01 |
| Credit unnegotiated checks..... | + .00 | + .00 | + .00 |
| Tax certain salary reduction plans..... | + .03 | + .00 | + .03 |
| Limit benefits to nonresident aliens..... | + .01 | + .00 | + .01 |
| Eliminate benefits to incarcerated felons..... | + .00 | + .00 | + .00 |
| Subtotal for the effect of the above provision ² | +2.20 | -.78 | +1.42 |
| Remaining deficit after the above provisions..... | -.72 | + .05 | -.67 |
| Additional charges relating primarily to long-range financing:³ | | | |
| Modify benefit formula after this century..... | + .39 | + .04 | + .43 |
| Raise normal retirement age to 66..... | + .48 | -.08 | + .40 |
| Eliminate earnings test at age 65..... | -.03 | | -.03 |
| Add up to 2 child care dropout years..... | -.03 | -.00 | -.04 |
| Total effect of all of the provisions: ⁴ | +2.99 | -.82 | +2.17 |
| After committee bill: | | | |
| Actuarial balance..... | + .07 | + .01 | + .08 |
| Average income..... | 11.61 | 1.31 | 12.92 |
| Average cost rate..... | 11.54 | 1.30 | 12.84 |

¹ The value for each of these individual provisions represent the effect over present law and do not take into account interaction with other provisions.

² The values in the subtotal take into account the estimate interaction among the provisions.

³ The values for each of these provision take into account interaction with the provisions included in the subtotal.

⁴ The values for the total effect of S. 1 take into account interactions among all of the provisions of the bill.

NOTE.—The above estimates are based on the 1983 Trustees Report Alternative II-B assumptions. Individual estimates may not add to total due to rounding and/or interaction among proposals.

Source: Office of the Actuary, Mar. 11, 1983.

SOCIAL SECURITY AMENDMENTS OF 1983

MARCH 24, 1983.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 1900]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. *This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1983".*

TABLE OF CONTENTS

Sec. 1. *Short title.*

TITLE I—PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

PART A—COVERAGE

Sec. 101. *Coverage of newly hired Federal employees.*

Sec. 102. *Coverage of employees of nonprofit organizations.*

Sec. 103. *Duration of agreements for coverage of State and local employees.*

PART B—COMPUTATION OF BENEFIT AMOUNTS

Sec. 111. *Shift of cost-of-living adjustments to calendar year basis.*

Sec. 112. *Cost-of-living increases to be based on either wages or prices (whichever is lower) when balance in OASDI trust funds falls below specified level.*

- Sec. 113. Elimination of windfall benefits for individuals receiving pensions from noncovered employment.
- Sec. 114. Increase in old-age insurance benefit amounts on account of delayed retirement.

PART C—REVENUE PROVISIONS

- Sec. 121. Taxation of social security and [tier 1] railroad retirement benefits.
- Sec. 122. Credit for the elderly and the permanently and totally disabled.
- Sec. 123. Acceleration of increases in FICA taxes; 1984 employee tax credit.
- Sec. 124. Taxes on self-employment income; credit against such taxes.
- Sec. 125. Allocations to disability insurance trust fund.

PART D—BENEFITS FOR CERTAIN SURVIVING, DIVORCED, AND DISABLED SPOUSES

- Sec. 131. Benefits for surviving divorced spouses and disabled widows and widowers who remarry.
- Sec. 132. Entitlement to divorced spouse's benefits before entitlement of insured individual to benefits.
- Sec. 133. Indexing of deferred surviving spouse's benefits.
- Sec. 134. Limitation on benefit reduction for early retirement in case of disabled widows and widowers.

PART E—MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS IN UNEXPECTEDLY ADVERSE CONDITIONS

- Sec. 141. Normalized crediting of social security taxes to trust funds.
- Sec. 142. Interfund borrowing extension.
- Sec. 143. Recommendations by Board of Trustees to remedy inadequate balances in the Social Security Trust Funds.

PART F—OTHER FINANCING AMENDMENTS

- Sec. 151. Financing of noncontributory military wage credits.
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- Sec. 153. Float periods.

TITLE II—ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

- Sec. 201. Increase in retirement age.

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- Sec. 301. Divorced husbands.
- Sec. 302. Remarriage of surviving spouse before age of eligibility.
- Sec. 303. Illegitimate children.
- Sec. 304. Transitional insured status.
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- Sec. 306. Father's insurance benefits.
- Sec. 307. Effect of marriage on childhood disability benefits and on other dependents' or survivors' benefits.
- Sec. 308. Credit for certain military service.
- Sec. 309. Conforming amendments.
- Sec. 310. Effective date of part A.

PART B—COVERAGE

- Sec. 321. Coverage of employees of foreign affiliates of American employers.
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- Sec. 323. Treatment of certain service performed outside the United States.
- Sec. 324. Amount received under certain deferred compensation and salary reduction arrangements treated as wages for FICA taxes.
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PART C—OTHER AMENDMENTS

- Sec. 331. *Technical and conforming amendments to maximum family benefit provisions.*
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TITLE I—PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

PART A—COVERAGE

COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES

SEC. 101. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

“(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

“(A) would be excluded from the term ‘employment’ for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

“(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);

except that this paragraph shall not apply with respect to—

“(i) service performed as the President or Vice President of the United States,

“(ii) service performed—

“(I) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

“(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

“(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

“(iii) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States District Court (including the district court of a terri-

tory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

“(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

“(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

“(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

“(A) in a penal institution of the United States by an inmate thereof;

“(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

“(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;”.

(2) Section 210(p) of such Act is amended by striking out “provisions of—” and all that follows and inserting in lieu thereof “provisions of subsection (a)(5).”

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

“(5) service performed in the employ of the United States or any instrumentality of the United States, if such service—

“(A) would be excluded from the term ‘employment’ for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

“(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by law of the United States for employees of the Federal Government other than for members of the uniformed services);

except that this paragraph shall not apply with respect to—

“(i) service performed as the President or Vice President of the United States,

(ii) service performed—

“(I) in a position placed in the Executive Schedule under Sections 5312 through 5317 of title 5, United States Code.

“(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

“(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

“(iii) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

“(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

“(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

“(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

“(A) in a penal institution of the United States by an inmate thereof;

“(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

“(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;”.

(2) Section 3121(u)(1) of such Code is amended to read as follows:

“(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.”.

(c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“For purposes of this title, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term ‘wages’ shall, subject to the provisions of sub-

section (a) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.”

(2) Section 3121(i) of the Internal Revenue Code of 1954 (relating to computation of wages in certain cases) is amended by adding at the end thereof the following new paragraph:

“(5) SERVICE PERFORMED BY CERTAIN RETIRED JUSTICES AND JUDGES.—For purposes of this chapter, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term ‘wages’ shall, subject to the provisions of subsection (a)(1) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.”

(d) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

(e) Nothing in this Act shall reduce the accrued entitlements to future benefits under the Federal Retirement System of current and retired Federal employees and their families.

COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

SEC. 102. (a) Section 210(a)(8) of the Social Security Act is amended—

(1) by striking out “(A)” immediately after “(8)”;

(2) by striking out “subparagraph” where it first appears and inserting in lieu thereof “paragraph”; and

(3) by striking out subparagraph (B).

(b)(1) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended—

(A) by striking out “(A)” immediately after “(8)”;

(B) by striking out “subparagraph” where it first appears and inserting in lieu thereof “paragraph”; and

(C) by striking out subparagraph (B).

(2) Section 3121(k) of such Code is repealed.

(3) Section 3121(r) of such Code is amended—

(A) by striking out “subsection (b)(8)(A)” and “section 210(a)(8)(A)” in paragraph (3) and inserting in lieu thereof “subsection (b)(8)” and “section 210(a)(8)”, respectively; and

(B) by striking out paragraph (4).

(c) The amendments made by the preceding provisions of this section shall be effective with respect to service performed after December 31, 1983 (but the provisions of sections 2 and 3 of Public Law 94-563 and section 312(c) of Public Law 95-216 shall continue in effect, to the extent applicable, as though such amendments had not been made).

(d) The period for which a certificate is in effect under section 3121(k) of the Internal Revenue Code of 1954 may not be terminated under paragraph (1)(D) or (2) thereof on or after March 31, 1983; but no such certificate shall be effective with respect to any service to which the amendments made by this section apply.

(e)(1) If any individual—

(A) on January 1, 1984, is age 55 or over, and is an employee of an organization described in section 210(a)(8)(B) of the Social Security Act (A) which does not have in effect (on that date) a

waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and (B) to the employees of which social security coverage is extended on January 1, 1984, solely by reason of the enactment of this section, and

(B) after January 1, 1984, acquires the number of quarters of coverage (within the meaning of section 213 of the Social Security Act) which is required for purposes of this subparagraph under paragraph (2),

then such individual shall be deemed to be a fully insured individual (as defined in section 214 of the Social Security Act) for all of the purposes of title II of such Act.

(2) The number of quarters of coverage which is required for purposes of subparagraph (B) of paragraph (1) shall be determined as follows:

| <i>In the case of an individual who on January 1, 1984, is—</i> | <i>The number of quarters of coverage so required shall be—</i> |
|---|---|
| age 60 or over..... | 6 |
| age 59 or over but less than age 60..... | 8 |
| age 58 or over but less than age 59..... | 12 |
| age 57 or over but less than age 58..... | 16 |
| age 55 or over but less than age 57..... | 20. |

DURATION OF AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 103. (a) Section 218(g) of the Social Security Act is amended to read as follows:

“Duration of Agreement

“(g) No agreement under this section may be terminated, either in its entirety or with respect to any coverage group, on or after the date of the enactment of the Social Security Amendments of 1983.”.

(b) The amendment made by subsection (a) shall apply to any agreement in effect under section 218 of the Social Security Act on the date of the enactment of this Act, without regard to whether a notice of termination is in effect on such date, and to any agreement or modification thereof which may become effective under such section 218 after that date.

PART B—COMPUTATION OF BENEFIT AMOUNTS

SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR YEAR BASIS

SEC. 111. (a)(1) Section 215(i)(2)(A)(ii) of the Social Security Act is amended by striking out “June” and inserting in lieu thereof “December”.

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out “May” and insert in lieu thereof “November”.

(3) Section 215(i)(2)(B) of such Act is amended by striking out “May” each place it appears and inserting in lieu thereof in each instance “November”.

(4) Section 203(f)(8)(A) of such Act is amended by striking out “June” and inserting in lieu thereof “December”.

(5) Section 230(a) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(6) Section 215(i)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "June" in subparagraph (A)(ii) and inserting in lieu thereof "December", and by striking out "May" each place it appears in subparagraph (B) and inserting in lieu thereof in each instance "November".

(7) Section 202(m) of such Act (as it applies in certain cases by reason of section 2 of Public Law 97-123) is amended by striking out "May" and inserting in lieu thereof "November".

(8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1982.

(b)(1) Section 215(i)(1)(A) of the Social Security Act is amended by striking out "March 31" and inserting in lieu thereof "September 30", and by striking out "1974" and inserting in lieu thereof "1982".

(2) Section 215(i)(1)(A) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "March 31" and inserting in lieu thereof "September 30" and by striking out "1974" and inserting in lieu thereof "1982".

(3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1983.

(c) Section 215(i)(4) of such Act is amended by inserting, " and as amended by section 111 (A)(6) and (b)(2) of the Social Security Amendments of 1983," after "as in effect in December 1978" the first place it appears.

(d) Notwithstanding any provision to the contrary in section 215(i) of the Social Security Act, the "base quarter" (as defined in paragraph (1)(A)(i) of such section) in the calendar year 1983 shall be a "cost-of-living computation quarter" within the meaning of paragraph (1)(B) of such section (and shall be deemed to have been determined by the Secretary of Health and Human Services to be a "cost-of-living computation quarter" under paragraph (2)(A) of such section) for all of the purposes of such Act as amended by this section and by other provisions of this Act, without regard to the extent by which the Consumer Price Index has increased since the last prior cost-of-living computation quarter which was established under such paragraph (1)(B).

(e) Section 403(b) of the Omnibus Reconciliation Act of 1982 (Public Law 97-253) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) shall apply with respect to amounts payable for periods beginning after May 31, 1983.

"(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 of title 38, United States Code."

**COST-OF-LIVING INCREASES TO BE BASED ON EITHER WAGES OR PRICES
(WHICHEVER IS LOWER) WHEN BALANCE IN OASDI TRUST FUNDS
FALLS BELOW SPECIFIED LEVEL**

**SEC. 112. (a) Section 215(i)(1) of the Social Security Act is amend-
ed—**

(1) by striking out "in which" in subparagraph (B) and all that follows down through the first semicolon in such subparagraph and inserting in lieu thereof "with respect to which the applicable increase percentage is 3 percent or more,";

(2) by striking out "and" at the end of subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (H);
and

(4) by inserting after subparagraph (B) the following new subparagraphs:

"(C) the term 'applicable increase percentage' means—

"(i) with respect to a base quarter or cost-of-living computation quarter in any calendar year before 1985, or in any calendar year after 1984 and before 1989 for which the OASDI fund ratio is 15.0 percent or more, or in any calendar year after 1988 for which the OASDI fund ratio is 20.0 percent or more, the CPI increase percentage; and

"(ii) with respect to a base quarter or cost-of-living computation quarter in any calendar year after 1984 and before 1989 for which the OASDI fund ratio is less than 15.0 percent, or in any calendar year after 1988 for which the OASDI fund ratio is less than 20.0 percent, the CPI increase percentage or the wage increase percentage, whichever (with respect to that quarter) is the lower;

"(D) the term 'CPI increase percentage', with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for that quarter (as prepared by the Department of Labor) exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost-of-living computation quarter under subparagraph (B);

"(E) the term 'wage increase percentage', with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the SSA average wage index for the year immediately preceding such calendar year exceeds such index for the year immediately preceding the most recent prior calendar year which included a base quarter under subparagraph (A)(ii) or, if later, which included a cost-of-living computation quarter;

"(F) the term 'OASDI fund ratio', with respect to any calendar year, means the ratio of—

"(i) the combined balance in the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore

made to either such Fund from the Federal Hospital Insurance Trust Fund under section 201(l), as of the beginning of such year, to

“(ii) the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account;

“(G) the term ‘SSA average wage index’, with respect to any calendar year, means the average of the total wages reported to the Secretary of the Treasury or his delegate for the preceding calendar year as determined for purposes of subsection (b)(3)(A)(ii); and”.

(b) Section 215(i)(2)(A)(ii) of such Act is amended by striking out “by the same percentage” and all that follows down through the semicolon, in the sentence immediately following subdivision (III), and inserting in lieu thereof “by the applicable increase percentage.”

(c) Section 215(i) of such Act is further amended by adding at the end thereof the following new paragraph:

“(5)(A) If—

“(i) with respect to any calendar year the ‘applicable increase percentage’ was determined under clause (ii) of paragraph (1)(C) rather than under clause (i) of such paragraph, and the increase becoming effective under paragraph (2) in such year was accordingly determined on the basis of the wage increase percentage rather than the CPI increase percentage (or there was no such increase becoming effective under paragraph (2) in that year because the wage increase percentage was less than 3 percent), and

“(ii) for any subsequent calendar year in which an increase under paragraph (2) becomes effective the OASDI fund ratio is greater than 32.0 percent,

then each of the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii), as increased under paragraph (2) effective with the month of December in such subsequent calendar year, shall be further increased (effective with such month) by an additional percentage, which shall be determined under subparagraph (B) and shall apply as provided in subparagraph (C).

“(B) The applicable additional percentage by which the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii) are to be further increased under subparagraph (A) in the subsequent calendar year involved shall be the amount derived by—

“(i) subtracting (I) the compounded percentage benefit increases that were actually paid under paragraph (2) and this paragraph from (II) the compounded percentage benefit increases that would have been paid if all increases under para-

graph (2) had been made on the basis of the CPI increase percentage,

“(i) dividing the difference by the sum of the compounded percentage in subdivision (I) and 100 percent, and

“(iii) multiplying such quotient by 100 and rounding to the nearest one-tenth of 1 percent,

with the compounded increases referred to in subdivisions (I) and (II) being measured—

“(iv) in the case of amounts described in subdivision (I) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which monthly benefits described in such subdivision were first increased on the basis of the wage increase percentage and ending with such subsequent calendar year, and

“(v) in the case of amounts described in subdivisions (II) and (III) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which the individual whose primary insurance amount is increased under such subdivision (II) initially became eligible for an old-age or disability insurance benefit, or died before becoming so eligible, and ending with such subsequent calendar year;

except that if the Secretary determines in any case that the application (in accordance with subparagraph (C)) of the additional percentage as computed under the preceding provisions of this subparagraph would cause the OASDI fund ratio to fall below 32.0 percent in the calendar year immediately following such subsequent year, he shall reduce such applicable additional percentage to the extent necessary to ensure that the OASDI fund ratio will remain at or above 32.0 percent through the end of such following year.

“(C) Any applicable additional percentage increase in an amount described in subdivision (I), (II), or (III) of paragraph (2)(A)(ii), made under this paragraph in any calendar year, shall thereafter be treated for all the purposes of this Act as a part of the increase made in such amount under paragraph (2) for that year.”

(d)(1) Section 215(i)(2)(C) of such Act is amended by adding at the end thereof the following new clause:

“(iii) The Secretary shall determine and promulgate the OASDI fund ratio and the SSA wage index for each calendar year before November 1 of that year, based upon the most recent data then available, and shall include a statement of such fund ratio and wage index (and of the effect such ratio and the level of such index may have upon benefit increases under this subsection) in any notification made under clause (ii) and any determination published under subparagraph (D).”

(2) Section 215(i)(4) of such Act (as amended by section 111(b)(1) of this Act) is further amended by striking out “section 111(b)(2)” and inserting in lieu thereof “sections 111(b)(2) and 112”.

(e) The amendments made by the preceding provisions of this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1984.

(f) Notwithstanding anything to the contrary in section 215(i)(1)(F) of the Social Security Act (as added by subsection (a)(4) of this section), the combined balance in the Trust Funds which is to be used in determining the “OASDI fund ratio” with respect to the calendar

year 1985 under such section shall be the estimated combined balance in such Funds as of the close of that year (rather than as of its beginning), including the taxes transferred under section 201(a) on the first day of the year following that year.

**ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS RECEIVING
PENSIONS FROM NONCOVERED EMPLOYMENT**

SEC. 113. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

“(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

“(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (C), but excluding a payment under the Railroad Retirement Act of 1974 or 1937) which is based in whole or in part upon his or her earnings for service which did not constitute ‘employment’ as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(5) referred to as ‘noncovered service’), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) with respect to the initial month in which the individual becomes eligible for such benefits.

“(B)(i) If paragraph (1) of this subsection would apply to such an individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual’s primary insurance amount under the preceding paragraphs of this subsection, except that for purposes of such computation the percentage of the individual’s average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual’s primary insurance amount under the preceding paragraphs of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits. The individual’s primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i)) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

“(ii) For purposes of clause (i), the percent specified in this clause is—

“(I) 80.0 percent with respect to individuals who initially become eligible for old-age or disability insurance benefits in 1986;

“(II) 70.0 percent with respect to individuals who so become eligible in 1987;

“(III) 60.0 percent with respect to individuals who so become eligible in 1988;

“(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

“(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

“(C)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Secretary), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

“(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivors benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(5)) by the amount of such reduction.

“(iii) If an individual to whom subparagraph (A) applies is eligible for a periodic payment beginning with a month that is subsequent to the month in which he or she becomes eligible for old-age or disability insurance benefits, the amount of that payment (for purposes of subparagraph (B)) shall be deemed to be the amount to which he or she is, or is deemed to be, entitled (subject to clauses (i), (ii), and (iv) of this subparagraph) in such subsequent month.

“(iv) For purposes of this paragraph, the term ‘periodic payment’ includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

“(D) This paragraph shall not apply in the case of an individual who has 30 years or more of coverage (as defined in paragraph (1)(C)(ii)). In the case of an individual who has more than 24 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (B)(ii) shall (if such percent is smaller than the percent specified in whichever of the following clauses applies) be deemed to be—

“(i) 80 percent, in the case of an individual who has 29 of such years of coverage;

“(ii) 70 percent, in the case of an individual who has 28 of such years;

“(iii) 60 percent, in the case of an individual who has 27 of such years; and

“(iv) 50 percent, in the case of an individual who has 26 of such years.

“(E) This paragraph shall not apply in the case of an individual who on January 1, 1984—

“(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amend-

ments made by section 101 of the Social Security Amendments of 1983; or

“(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.”

(b) Section 215(d) of such Act is amended by adding at the end thereof the following new paragraph:

“(5) In the case of an individual whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)(ii) of that subsection, who—

“(A) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986, and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

“(B) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985, and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subsection (a)(7)(C), but excluding a payment under the Railroad Retirement Act of 1974 or 1937) which is based (in whole or in part) upon his or her earnings in noncovered service, the primary insurance amount of such individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

“(i) one-half of the primary insurance amount (computed without regard to this paragraph and before the application of subsection (i)), or

“(ii) one-half of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(C)) which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which that individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits.

This paragraph shall not apply in the case of any individual to whom subsection (a)(7) would not apply by reason of subparagraph (E) or the first sentence of subparagraph (D) thereof.

(c) Section 215(f) of such Act is amended by adding at the end thereof the following new paragraph:

“(9)(A) In the case of an individual who becomes entitled to a periodic payment determined under subsection (a)(7)(A) (including a payment determined under subsection (a)(7)(C)) in a month subsequent to the first month in which he or she becomes entitled to an

old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed, in accordance with either such subsection or subsection (d)(5), as may be applicable, effective with the first month of his or her concurrent entitlement to such benefit and such periodic payment.

"(B) If an individual's primary insurance amount has been computed under subsection (a)(7) or (d)(5), and it becomes necessary to recompute that primary insurance amount under this subsection—

"(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (except in the case of the individual's death), such increase shall be determined as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5), or

"(ii) by reason of the individual's death, such primary insurance amount shall be recomputed without regard to (and as though it had never been computed with regard to) subsection (a)(7) or (d)(5)."

(d) Sections 202(e)(2) and 202(f)(3) of such Act are each amended by striking out "section 215(f)(5) or (6)" wherever it appears and inserting in lieu thereof "section 215(f)(5), 215(f)(6), or 215(f)(9)(B)".

INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON ACCOUNT OF
DELAYED RETIREMENT

SEC. 114. (a) Section 202(w)(1)(A) of the Social Security Act is amended to read as follows:

"(A) the applicable percentage (as determined under paragraph (6)) of such amount, multiplied by"

(b) Section 202(w) of such Act is further amended by adding at the end thereof the following new paragraph:

"(6) For purposes of paragraph (1)(A), the 'applicable percentage' is—

"(A) $\frac{1}{12}$ of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year before 1979;

"(B) $\frac{1}{4}$ of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year after 1978 and before 1987;

"(C) in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 1986 and before 2005, a percentage equal to the applicable percentage in effect under this paragraph for persons who first became eligible for an old-age insurance benefit in the preceding calendar year (as increased pursuant to this subparagraph), plus $\frac{1}{24}$ of 1 percent if the calendar year in which that particular individual first becomes eligible for such benefit is not evenly divisible by 2; and

"(D) $\frac{2}{3}$ of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 2004."

PART C—REVENUE PROVISIONS

SEC. 121. TAXATION OF SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) **GENERAL RULE.**—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to amounts specifically included in gross income) is amended by redesignating section 86 as section 87 and by inserting after section 85 the following new section:

“SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

“(a) **IN GENERAL.**—Gross income for the taxable year of any taxpayer described in subsection (b) includes social security benefits in an amount equal to the lesser of—

“(1) one-half of the social security benefits received during the taxable year, or

“(2) one-half of the excess described in subsection (b)(1).

“(b) **TAXPAYERS TO WHOM SUBSECTION (a) APPLIES.**—

“(1) **IN GENERAL.**—A taxpayer is described in this subsection if—

“(A) the sum of—

“(i) the modified adjusted gross income of the taxpayer for the taxable year, plus

“(ii) one-half of the social security benefits received during the taxable year, exceeds

“(B) the base amount.

“(2) **MODIFIED ADJUSTED GROSS INCOME.**—For purposes of this subsection, the term ‘modified adjusted gross income’ means adjusted gross income—

“(A) determined without regard to this section and sections 221, 911, 931, and 933, and

“(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

“(c) **BASE AMOUNT.**—For purposes of this section, the term ‘base amount’ means—

“(1) except as otherwise provided in this subsection, \$25,000,

“(2) \$32,000, in the case of a joint return, and

“(3) zero, in the case of a taxpayer who—

“(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

“(B) does not live apart from his spouse at all times during the taxable year.

“(d) **SOCIAL SECURITY BENEFIT.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘social security benefit’ means any amount received by the taxpayer by reason of entitlement to—

“(A) a monthly benefit under title II of the Social Security Act, or

“(B) a tier 1 railroad retirement benefit.

For purposes of the preceding sentence, the amount received by any taxpayer shall be determined as if the Social Security Act did not contain section 203(i) thereof.

“(2) **ADJUSTMENT FOR REPAYMENTS DURING YEAR.**—

“(A) *IN GENERAL.*—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the taxpayer (whether or not such benefit was received during the taxable year).

“(B) *DENIAL OF DEDUCTION.*—If (but for this subparagraph) any portion of the repayments referred to in subparagraph (A) would have been allowable as a deduction for the taxable year under section 165, such portion shall be allowable as a deduction only to the extent it exceeds the social security benefits received by the taxpayer during the taxable year (and not repaid during such taxable year).

“(3) *WORKMEN’S COMPENSATION BENEFITS SUBSTITUTED FOR SOCIAL SECURITY BENEFITS.*—For purposes of this section, if, by reason of section 224 of the Social Security Act (or by reason of section 3(a)(1) of the Railroad Retirement Act of 1974), any social security benefit is reduced by reason of the receipt of a benefit under a workmen’s compensation act, the term ‘social security benefit’ includes that portion of such benefit received under the workmen’s compensation act which equals such reduction.

“(4) *TIER 1 RAILROAD RETIREMENT BENEFIT.*—For purposes of paragraph (1), the term ‘tier 1 railroad retirement benefit’ means a monthly benefit under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974.

“(e) *LIMITATION ON AMOUNT INCLUDED WHERE TAXPAYER RECEIVES LUMP-SUM PAYMENT.*—

“(1) *LIMITATION.*—If—

“(A) any portion of a lump-sum payment of social security benefits received during the taxable year is attributable to prior taxable years, and

“(B) the taxpayer makes an election under this subsection for the taxable year,

then the amount included in gross income under this section for the taxable year by reason of the receipt of such portion shall not exceed the sum of the increases in gross income under this chapter for prior taxable years which would result solely from taking into account such portion in the taxable years to which it is attributable.

“(2) *SPECIAL RULES.*—

“(A) *YEAR TO WHICH BENEFIT ATTRIBUTABLE.*—For purposes of this subsection, a social security benefit is attributable to a taxable year if the generally applicable payment date for such benefit occurred during such taxable year.

“(B) *ELECTION.*—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such election, once made, may be revoked only with the consent of the Secretary.

“(f) *TREATMENT AS PENSION OR ANNUITY FOR CERTAIN PURPOSES.*—For purposes of—

“(1) section 43(c)(2) (defining earned income),

“(2) section 219(f)(1) (defining compensation),

“(3) section 221(b)(2) (defining earned income), and

“(4) section 911(b)(1) (defining foreign earned income), any social security benefit shall be treated as an amount received as a pension or annuity.”

(b) **INFORMATION REPORTING.**—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

“SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.

“(a) **REQUIREMENT OF REPORTING.**—The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

“(1) the—

“(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year,

“(B) aggregate amount of social security benefits repaid by such individual during such calendar year, and

“(C) aggregate reductions under section 224 of the Social Security Act (or under section 3(a)(1) of the Railroad Retirement Act of 1974) in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a workmen’s compensation act, and

“(2) the name and address of such individual.

“(b) **STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

“(1) the name of the agency making the payments, and

“(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **APPROPRIATE FEDERAL OFFICIAL.**—The term ‘appropriate Federal official’ means—

“(A) the Secretary of Health and Human Services in the case of social security benefits described in section 86(d)(1)(A), and

“(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).

“(2) **SOCIAL SECURITY BENEFIT.**—The term ‘social security benefit’ has the meaning given to such term by section 86(d)(1).”

(c) **TREATMENT OF NONRESIDENT ALIENS.**—

(1) **AMENDMENT OF SECTION 871(a).**—Subsection (a) of section 871 of such Code (relating to tax on income not connected with United States business) is amended by adding at the end thereof the following new paragraph:

“(3) **TAXATION OF SOCIAL SECURITY BENEFITS.**—For purposes of this section and section 1441—

“(A) one-half of any social security benefit (as defined in section 86(d)) shall be included in gross income, and

“(B) section 86 shall not apply.”

(2) AMENDMENT OF SECTION 1441.—Section 1441 of such Code (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new subsection:
“(g) CROSS REFERENCE.—

“For provision treating one-half of social security benefits as subject to withholding under this section, see section 871(a)(3).”

(3) DISCLOSURE OF INFORMATION TO SOCIAL SECURITY ADMINISTRATION OR RAILROAD RETIREMENT BOARD.—

(A) IN GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end thereof the following new paragraph:

“(6) WITHHOLDING OF TAX FROM SOCIAL SECURITY BENEFITS.—Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).”

(B) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by inserting “(h)(6),” after “(h)(2),” in the material preceding subparagraph (A) and in subparagraph (F)(ii), thereof.

(C) DISCLOSURE BY FINANCIAL INSTITUTIONS.—Section 1113 of the Right to Financial Privacy Act of 1978 (92 Stat. 3706; 12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

“(k)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of the Treasury, the Social Security Administration, or the Railroad Retirement Board, where the disclosure of such information is necessary to, and such information is used solely for the purpose of, the proper administration of section 1441 of the Internal Revenue Code of 1954, title II of the Social Security Act, or the Railroad Retirement Act of 1974.

“(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer’s name and address to the Department of the Treasury, the Social Security Administration, or the Railroad Retirement Board and shall be barred from redisclosure by the financial institution or its agents.”

(d) SOCIAL SECURITY BENEFITS TREATED AS UNITED STATES SOURCES.—Subsection (a) of section 861 of such Code (relating to income from sources within the United States) is amended by adding at the end thereof the following new paragraph:

"(8) SOCIAL SECURITY BENEFITS.—Any social security benefit (as defined in section 86(d))."

(e) TRANSFERS TO TRUST FUNDS.—

(1) IN GENERAL.—There are hereby appropriated to each payor fund amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1954 which is attributable to the application of sections 86 and 871(a)(3) of such Code (as added by this section) to payments from such payor fund.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to any payor fund 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 such paragraph. Any such quarterly payment shall be made on the first day of such quarter and shall take into account social security 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) DEFINITIONS.—For purposes of this subsection—

(A) PAYOR FUND.—The term "payor fund" means any trust fund or account from which payments of social security benefits are made.

(B) SOCIAL SECURITY BENEFITS.—The term "social security benefits" has the meaning given such term by section 86(d)(1) of the Internal Revenue Code of 1954.

(4) REPORTS.—The Secretary of the Treasury shall submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board on—

(A) the transfers made under this subsection during the year, and the methodology used in determining the amount of such transfers and the funds or account to which made, and

(B) the anticipated operation of this subsection during the next 5 years.

(f) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 85 of such Code is amended by striking out "this section," and inserting in lieu thereof "this section, section 86,"

(2) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out "85," and inserting in lieu thereof "85, 86,"

(3) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 86 and inserting in lieu thereof the following:

"Sec. 86. Social security and tier 1 railroad retirement benefits.

"Sec. 87. Alcohol fuel credit."

(4) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"Sec. 6050F. Returns relating to social security benefits."

(g) EFFECTIVE DATES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

(2) **TREATMENT OF CERTAIN LUMP-SUM PAYMENTS RECEIVED AFTER DECEMBER 31, 1983.**—The amendments made by this section shall not apply to any portion of a lump-sum payment of social security benefits (as defined in section 86(d) of the Internal Revenue Code of 1954) received after December 31, 1983, if the generally applicable payment date for such portion was before January 1, 1984.

SEC. 122. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.

(a) **GENERAL RULE.**—Section 37 of the Internal Revenue Code of 1954 (relating to credit for the elderly) is amended to read as follows:

"SEC. 37. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.

"(a) **GENERAL RULE.**—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

"(b) **QUALIFIED INDIVIDUAL.**—For purposes of this section, the term 'qualified individual' means any individual—

"(1) who has attained age 65 before the close of the taxable year, or

"(2) who retired on disability before the close of the taxable year and who, when he retired, was permanently and totally disabled.

"(c) **SECTION 37 AMOUNT.**—For purposes of subsection (a)—

"(1) **IN GENERAL.**—An individual's section 37 amount for the taxable year shall be the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (d).

"(2) **INITIAL AMOUNT—**

"(A) **IN GENERAL.**—Except as provided in subparagraph (B), the initial amount shall be—

"(i) \$5,000 in the case of a single individual, or a joint return where only one spouse is a qualified individual,

"(ii) \$7,500 in the case of a joint return where both spouses are qualified individuals, or

"(iii) \$3,750 in the case of a married individual filing a separate return.

"(B) **LIMITATION IN CASE OF INDIVIDUALS WHO HAVE NOT ATTAINED AGE 65.—**

"(i) **IN GENERAL.**—In the case of a qualified individual who has not attained age 65 before the close of the taxable year, except as provided in clause (ii), the initial amount shall not exceed the disability income for the taxable year.

“(ii) SPECIAL RULES IN CASE OF JOINT RETURN.—In the case of a joint return where both spouses are qualified individuals and at least one spouse has not attained age 65 before the close of the taxable year—

“(I) if both spouses have not attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of such spouses’ disability income, or

“(II) if one spouse has attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of \$5,000 plus the disability income for the taxable year of the spouse who has not attained age 65 before the close of the taxable year.

“(iii) DISABILITY INCOME.—For purposes of this subparagraph, the term ‘disability income’ means the aggregate amount includable in the gross income of the individual for the taxable year under section 72 or 105(a) to the extent such amount constitutes wages (or payments in lieu of wages) for the period during which the individual is absent from work on account of permanent and total disability.

“(3) REDUCTION.—

“(A) IN GENERAL.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity or as a disability benefit—

“(i) which is excluded from gross income and payable under—

“(I) title II of the Social Security Act,

“(II) the Railroad Retirement Act of 1974, or

“(III) a law administered by the Veterans’ Administration, or

“(ii) which is excluded from gross income under any provision of law not contained in this title.

No reduction shall be made under clause (i) (III) for any amount described in section 104(a)(4).

“(B) TREATMENT OF CERTAIN WORKMEN’S COMPENSATION BENEFITS.—For purposes of subparagraph (A), any amount treated as a social security benefit under section 86(d)(3) shall be treated as a disability benefit received under title II of the Social Security Act.

“(d) LIMITATIONS.—

“(1) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

“(A) \$7,500 in the case of a single individual,

“(B) \$10,000 in the case of a joint return, or

“(C) \$5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over \$7,500, \$10,000, or \$5,000, as the case may be.

“(2) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

“(2) MARITAL STATUS.—Marital status shall be determined under section 143.

“(3) PERMANENT AND TOTAL DISABILITY DEFINED.—An individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

“(f) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any nonresident alien.”

(b) REPEAL OF EXCLUSION FOR CERTAIN DISABILITY PAYMENTS.—Subsection (d) of section 105 of such Code (relating to certain disability payments) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Sections 41(b)(2), 44A(b)(2), 46(a)(4)(B), 53(a)(2), and 904(g) of such Code are each amended by striking out “relating to credit for the elderly” and inserting in lieu thereof “relating to credit for the elderly and the permanently and totally disabled”.

(2) Subsection (a) of section 85 of such Code is amended by striking out “, section 105(d),”.

(3) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out “105(d),”.

(4) Paragraph (3) of section 403(b) of such Code is amended by striking out “sections 105(d) and 911” and inserting in lieu thereof “section 911”.

(5) Clause (i) of section 415(c)(3)(C) of such Code is amended by striking out “section 105(d)(4)” and inserting in lieu thereof “section 37(e)(3)”.

(6) Paragraph (6) of section 7871(a) of such Code is amended by striking out subparagraph (A), and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(7) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

"Sec. 37. Credit for the elderly and the permanently and totally disabled."

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) **TRANSITIONAL RULE.**—If an individual's annuity starting date was deferred under section 105(d)(6) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this section), such deferral shall end on the first day of such individual's first taxable year beginning after December 31, 1983.

SEC. 123. ACCELERATION OF INCREASES IN FICA TAXES; 1984 EMPLOYEE TAX CREDIT.

(a) **ACCELERATION OF INCREASES IN FICA TAXES.**—

(1) **TAX ON EMPLOYEES.**—Subsection (a) of section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

| "In cases of wages received during: | The rate shall be: |
|-------------------------------------|--------------------|
| 1984, 1985, 1986, or 1987 | 5.7 percent |
| 1988 or 1989..... | 6.06 percent |
| 1990 or thereafter | 6.2 percent." |

(2) **EMPLOYER TAX.**—Subsection (a) of section 3111 of such Code is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

| "In cases of wages paid during: | The rate shall be: |
|---------------------------------|--------------------|
| 1984, 1985, 1986, or 1987 | 5.7 percent |
| 1988 or 1989..... | 6.06 percent |
| 1990 or thereafter | 6.2 percent." |

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to remuneration paid after December 31, 1983.

(b) **1984 EMPLOYEE TAX CREDIT.**—

(1) **IN GENERAL.**—Chapter 25 of such Code is amended by adding at the end thereof the following new section:

"SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EMPLOYEE TAXES AND RAILROAD RETIREMENT TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.

"(a) **GENERAL RULE.**—There shall be allowed as a credit against the tax imposed by section 3101(a) on wages received during 1984 an amount equal to $\frac{3}{10}$ of 1 percent of the wages so received.

"(b) **TIME CREDIT ALLOWED.**—The credit under subsection (a) shall be taken into account in determining the amount of the tax deducted under section 3102(a).

"(c) **WAGES.**—For purposes of this section, the term 'wages' has the meaning given to such term by section 3121(a).

"(d) **APPLICATION TO AGREEMENTS UNDER SECTION 218 OF THE SOCIAL SECURITY ACT.**—For purposes of determining amounts equivalent to the tax imposed by section 3101(a) with respect to remuneration which—

"(1) is covered by an agreement under section 218 of the Social Security Act, and

"(2) is paid during 1984,

the credit allowed by subsection (a) shall be taken into account. A similar rule shall also apply in the case of an agreement under section 3121(l).

"(e) CREDIT AGAINST RAILROAD RETIREMENT EMPLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.—

"(1) IN GENERAL.—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes at rates determined by reference to section 3101 an amount equal to $\frac{3}{10}$ of 1 percent of such compensation.

"(2) TIME CREDIT ALLOWED.—The credit under paragraph (1) shall be taken into account in determining the amount of the tax deducted under section 3202(a) (or the amount of the tax under section 3211(a)).

"(3) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given to such term by section 3231(e).

"(f) COORDINATION WITH SECTION 6413(c).—For purposes of subsection (c) of section 6413, in determining the amount of the tax imposed by section 3101 or 3201, any credit allowed by this section shall be taken into account."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item.

"Sec. 3510. Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid during 1984.

(4) DEPOSITS IN SOCIAL SECURITY TRUST FUNDS.—For purposes of subsection (h) of section 218 of the Social Security Act (relating to deposits in social security trust funds of amounts received under section 218 agreements), amounts allowed as a credit pursuant to subsection (d) of section 3510 of the Internal Revenue Code of 1954 (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.

(5) DEPOSITS IN RAILROAD RETIREMENT ACCOUNT.—For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974, amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1954 shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code.

SEC. 124. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT AGAINST SUCH TAXES FOR YEARS BEFORE 1990; DEDUCTION OF SUCH TAXES FOR YEARS AFTER 1989.

(a) INCREASE IN RATES.—Subsections (a) and (b) of section 1401 of the Internal Revenue Code of 1954 (relating to rates of tax on self-employment income) are amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the

following percent of the amount of the self-employment income for such taxable year:

| <i>"In the case of a taxable year</i> | | <i>Per-</i> |
|---------------------------------------|------------------------------|--------------|
| <i>Beginning after:</i> | <i>And before:</i> | <i>cent:</i> |
| <i>December 31, 1983</i> | <i>January 1, 1988</i> | <i>11.40</i> |
| <i>December 31, 1987</i> | <i>January 1, 1990</i> | <i>12.12</i> |
| <i>December 31, 1989</i> | | <i>12.40</i> |

"(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

| <i>"In the case of a taxable year</i> | | <i>Per-</i> |
|---------------------------------------|------------------------------|---------------|
| <i>Beginning after:</i> | <i>And before:</i> | <i>cent:</i> |
| <i>December 31, 1983</i> | <i>January 1, 1985</i> | <i>2.60</i> |
| <i>December 31, 1984</i> | <i>January 1, 1986</i> | <i>2.70</i> |
| <i>December 31, 1985</i> | | <i>2.90."</i> |

(b) CREDIT FOR YEARS BEFORE 1990 AGAINST SELF-EMPLOYMENT TAXES.—Section 1401 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CREDIT AGAINST TAXES IMPOSED BY THIS SECTION.—

"(1) IN GENERAL.—In the case of a taxable year beginning before 1990, there shall be allowed as a credit against the taxes imposed by this section for any taxable year an amount equal to the applicable percentage of the self-employment income of the individual for such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

| <i>"In the case of taxable years beginning in:</i> | <i>The applicable percentage is:</i> |
|--|--------------------------------------|
| <i>1984</i> | <i>2.7</i> |
| <i>1985</i> | <i>2.3</i> |
| <i>1986, 1987, 1988, or 1989</i> | <i>2.0."</i> |

(c) ALLOWANCE OF DEDUCTION FOR YEARS AFTER 1989 FOR ONE-HALF OF TAXES ON SELF-EMPLOYMENT INCOME.—

(1) IN GENERAL.—Section 164 of such Code (relating to deduction for taxes) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEDUCTION FOR ONE-HALF OF SELF-EMPLOYMENT TAXES.—

"(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to one-half of the taxes imposed by section 1401 for such taxable year.

"(2) DEDUCTION TREATED AS ATTRIBUTABLE TO TRADE OR BUSINESS.—For purposes of this chapter, the deduction allowed by paragraph (1) shall be treated as attributable to a trade or business carried on by the taxpayer which does not consist of the performance of services by the taxpayer as an employee."

(2) ALTERNATIVE DEDUCTION ALLOWED IN COMPUTING SELF-EMPLOYMENT TAXES.—Subsection (a) of section 1402 of such Code (defining net earnings from self-employment) is amended by striking out "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by inserting after paragraph (11) the following new paragraph:

"(12) in lieu of the deduction provided by section 164(f) (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—

"(A) the taxpayer's net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

"(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 for such year; and"

(3) Conforming amendment to Social Security Act.—Subsection (a) of section 211 of the Social Security Act is amended by striking out "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following new paragraph:

"(11) In lieu of the deduction provided by section 164(f) of the Internal Revenue Code of 1954 (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—

"(A) the taxpayer's net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

"(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 of such Code for such year; and"

(4) Section 164(f) deduction taken into account in computing earned income.—

(A) Subparagraph (A) of section 401(c)(2) of such Code (defining earned income) is amended by striking out "and" at the end of clause (iv), by striking out the period at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) with regard to the deduction allowed to the taxpayer by section 164(f)."

(B) Clause (ii) of section 43(c)(2)(A) of such Code is amended by inserting before the period " but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f)".

(5) CONFORMING AMENDMENT.—Subsection (a) of section 275 of such Code (relating to denial of deduction for certain taxes) is amended by adding at the end thereof the following new sentence:

"Paragraph (1) shall not apply to any taxes to the extent such taxes are allowable as a deduction under section 164(f)."

(d) EFFECTIVE DATES.—

*(1) IN GENERAL.—*Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

*(2) SUBSECTION (c).—*The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1989.

SEC. 125. TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.

*(a) GENERAL RULE.—*For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1954 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

(i) which employs faculty members of such medical school, and

(ii) 30 percent or more of the employees of which are concurrently employed by such medical school; and

(2) remuneration which is disbursed by such faculty practice plan to a health professional employed by both such entities shall be deemed to have been actually disbursed by such university as a common paymaster and not to have been actually disbursed by such faculty practice plan.

*(b) EFFECTIVE DATE.—*The provisions of subsection (a) shall apply to remuneration paid after December 31, 1983.

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 125. *(a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (N) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported.”*

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning

after December 31, 1983, and before January 1, 1988, (N) 1.06 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999.”

**PART D—BENEFITS FOR CERTAIN SURVIVING, DIVORCED, AND
DISABLED SPOUSES**

**BENEFITS FOR SURVIVING DIVORCED SPOUSES AND DISABLED WIDOWS
AND WIDOWERS WHO REMARRY**

SEC. 131. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

(2) Section 202(e)(4) of such Act is amended to read as follows:

“(4) For purposes of paragraph (1), if—

“(A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection), or

“(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred.”

(3)(A) Section 202(e) of such Act is further amended by redesignating paragraph (4) (as amended by paragraph (2) of this subsection), and paragraphs (5) through (8), as paragraphs (3) through (7), respectively.

(B) Section 202(e)(1)(B)(ii) of such Act is amended by striking out “(5)” and inserting in lieu thereof “(4)”.

(C) Section 202(e)(1)(F) of such Act is amended by striking out “(6)” in clause (i) and “(5)” in clause (ii) and inserting in lieu thereof “(5)” and “(4)”, respectively.

(D) Section 202(e)(2)(A) of such Act is amended by striking out “(8)” and inserting in lieu thereof “(7)”.

(E) The paragraph of section 202(e) of such Act redesignated as paragraph (5) by subparagraph (A) of this paragraph is amended by striking out “(5)” and inserting in lieu thereof “(4)”.

(F) The paragraph of such section 202(e) redesignated as paragraph (7) by subparagraph (A) of this paragraph is amended by striking out “(4)” and inserting in lieu thereof “(3)”.

(G) Section 202(k) of such Act is amended by striking out “(e)(4)” each place it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof “(e)(3)”.

(H) Section 226(e)(1)(A) of such Act is amended by striking out “202(e)(5)” and inserting in lieu thereof “202(e)(4)”.

(b)(1) Section 202(f)(4) of such Act is repealed.

(2) Section 202(f)(5) of such Act is amended to read as follows:

“(5) For purposes of paragraph (1), if—

“(A) a widower marries after attaining age 60 (or after attaining age 50 if he was entitled before such marriage occurred to benefits based on disability under this subsection), or

“(B) a disabled widower described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred.”

(3)(A) Section 202(f) of such Act is further amended by redesignating paragraph (5) (as amended by paragraph (2) of this subsection), and paragraphs (6) through (8), as paragraphs (4) through (7), respectively.

(B) Section 202(f)(1)(B)(ii) of such Act is amended by striking out “(6)” and inserting in lieu thereof “(5)”.

(C) Section 202(f)(1)(F) of such Act is amended by striking out “(7)” in clause (i) and “(6)” in clause (ii) and inserting in lieu thereof “(6)” and “(5)”, respectively.

(D) Section 202(f)(2)(A) of such Act is amended by striking out “(5)” and inserting in lieu thereof “(4)”.

(E) The paragraph of section 202(f) of such Act redesignated as paragraph (6) by subparagraph (A) of this paragraph is amended by striking out “(6)” and inserting in lieu thereof “(5)”.

(F) Section 202(k) of such Act is amended by striking out “(f)(5)” each place it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof “(f)(4)”.

(G) Section 226(e)(1)(A) of such Act is amended by striking out “202(f)(6)” and inserting in lieu thereof “202(f)(5)”.

(c)(1) Section 202(s)(2) of such Act is amended by striking out “Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4)” and inserting in lieu thereof “So much of subsections (b)(3), (d)(5), (g)(3), and (h)(4)”.

(2) Section 202(s)(3) of such Act is amended by striking out “(e)(3)”.

(d)(1) The amendments made by this section shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit of the type involved under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS WITHOUT REGARD TO ENTITLEMENT OF INSURED INDIVIDUAL TO BENEFITS; EXEMPTION OF DIVORCED SPOUSE'S BENEFITS FROM DEDUCTION ON ACCOUNT OF WORK

SEC. 132. (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced wife of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced wife—

“(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

“(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a wife's insurance benefit under this subsection for each month, in such amount, and beginning and ending with

such months, as determined (under regulations of the Secretary) in the manner otherwise provided for wife's insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced wife first meets the criteria for entitlement set forth in clauses (i) and (ii).

"(B) A wife's insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (J) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual."

(b)(1)(A) Section 203(b) of such Act is amended—

(i) by inserting "(1)" after "(b)";

(ii) by striking out "(1) such individual's benefit" and "(2) if such individual" and inserting in lieu thereof "(A) such individual's benefit" and "(B) if such individual", respectively;

(iii) by striking out "clauses (1) and (2)" and inserting in lieu thereof "clauses (A) and (B)";

(iv) by striking out "(A) an individual" and "(B) if a deduction" and inserting in lieu thereof "(i) an individual" and "(ii) if a deduction", respectively; and

(v) by adding at the end thereof the following new paragraph:

"(2) When any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month and such person has been so divorced for not less than 2 years, the benefit to which he or she is entitled on the basis of the wages and self-employment income of the individual referred to in paragraph (1) for such month shall be determined without regard to deductions under this subsection as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in paragraph (1) shall be determined as if no such divorced spouse were entitled to benefits for such month."

(B)(i) Section 203(f)(1) of such Act is amended—

(I) in the first sentence, by inserting "(excluding surviving spouses referred to in subsection (b)(2))" after "all other persons" the first place it appears, and by striking out "all other persons" the second place it appears and inserting in lieu thereof "all such other persons"; and

(II) in the second sentence, by inserting "(excluding divorced spouses referred to in subsection (b)(2))" after "other persons".

(ii) Section 203(f)(7) of such Act is amended by inserting "(excluding divorced spouses referred to in subsection (b)(2))" after "all persons".

(2) Section 203(d)(1) of such Act is amended—

(A) by inserting "(A)" after "(d)(1)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) When any divorced spouse is entitled to monthly benefits under section 202 (b) or (c) for any month and such divorced spouse has been so divorced for not less than 2 years, the benefit to which he or she is entitled for such month on the basis of the wages and

self-employment income of the individual entitled to old-age insurance benefits referred to in subparagraph (A) shall be determined without regard to deduction under this paragraph as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in subparagraph (A) shall be determined as if no such divorced spouse were entitled to benefits for such month."

(c)(1) The amendments made by subsection (a) shall apply with respect to monthly insurance benefits for months after December 1984, but only on the basis of applications filed on or after January 1, 1985.

(2) The amendments made by subsection (b) shall apply with respect to monthly insurance benefits for months after December 1984.

INDEXING OF DEFERRED SURVIVING SPOUSE'S BENEFITS TO RECENT
WAGE LEVELS

SEC. 133. (a)(1) Section 202(e)(2) of the Social Security Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by striking out "(2)(A) Except" and all that follows down through "If such deceased individual" and inserting in lieu thereof the following:

"(2)(A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (D) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

"(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount—

"(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B)(i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

"(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(i)(I), and

"(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

"(ii) The year specified in this clause is the earlier of—

"(I) the year in which the deceased individual attained age 60, or would have attained age 60 had he lived to that age, or

"(II) the second year preceding the year in which the widow or surviving divorced wife first meets the requirements of para-

graph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

“(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

“(C) If such deceased individual”.

(2) Section 202(e) of such Act (as amended by paragraph (1) of this subsection) is further amended—

(A) in paragraph (1)(D) and in the matter in paragraph (1) following subparagraph (F)(ii), by inserting “(as determined after application of subparagraphs (B) and (C) of paragraph (2))” after “primary insurance amount”; and

(B) in paragraph (2)(D)(ii), by inserting “(as determined without regard to subparagraph (C))” after “primary insurance amount”.

(b)(1) Section 202(f)(3) of such Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by striking out “(3)(A) Except” and all that follows down through “If such deceased individual” and inserting in lieu thereof the following:

“(3)(A) Except as provided in subsection (q), paragraph (2) of this subsection, and subparagraph (D) of this paragraph, such widower’s insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

“(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual’s primary insurance amount—

“(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B) (i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

“(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(i)(I), and

“(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

“(ii) The year specified in this clause is the earlier of—

“(I) the year in which the deceased individual attained age 60, or would have attained age 60 had she lived to that age, or

“(II) the second year preceding the year in which the widower first meets the requirements of paragraph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

“(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

“(C) If such deceased individual”.

(2) Section 202(f) of such Act (as amended by paragraph (1) of this subsection) is further amended—

(A) in paragraph (1)(D) and in the matter in paragraph (1) following subparagraph (F)(ii), by inserting “(as determined after application of subparagraphs (B) and (C) of paragraph (3))” after “primary insurance amount”; and

(B) in paragraph (3)(D)(ii), by inserting “(as determined without regard to subparagraph (C))” after “primary insurance amount”.

(c) The amendments made by this section shall apply with respect to monthly insurance benefits for months after December 1984 for individuals who first meet all criteria for entitlement to benefits under section 202 (e) or (f) of the Social Security Act (other than making application for such benefits) after December 1984.

LIMITATION ON BENEFIT REDUCTION FOR EARLY RETIREMENT IN CASE OF DISABLED WIDOWS AND WIDOWERS

SEC. 134. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(ii) and all that follows and inserting in lieu thereof a period.

(2)(A) Section 202(q)(6) of such Act is amended to read as follows:

“(6) For purposes of this subsection, the ‘reduction period’ for an individual’s old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is the period—

“(A) beginning—

“(i) in the case of an old-age or husband’s insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

“(ii) in the case of a wife’s insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

“(iii) in the case of a widow’s or widower’s insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

“(B) ending with the last day of the month before the month in which such individual attains retirement age.”

(B) Section 202(q)(3)(G) of such Act is amended by striking out “paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))” and inserting in lieu thereof “paragraph (6)”.

(C) Section 202(q) of such Act is further amended, in paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii)(I), by striking out “paragraph (6)(A)” and inserting in lieu thereof “paragraph (6)”.

(3) Section 202(q)(7) of such Act is amended by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following:

“(7) For purposes of this subsection, the ‘adjusted reduction period’ for an individual’s old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—”

(4) Section 202(q)(10) of such Act is amended—

(A) in that part of the second sentence preceding clause (A), by striking out “or an additional adjusted reduction period”;

(B) in clauses (B)(i) and (C)(i), by striking out “; plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent”;

(C) in clause (B)(ii), by striking out “plus the number of months in the additional reduction period multiplied by $\frac{43}{240}$ of 1 percent,”; and

(D) in clause (C)(ii), by striking out “plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent.”

(b) Section 202(m)(2)(B) of such Act (as applicable after the enactment of section 2 of Public Law 97-123) is amended by striking out “subsection (q)(6)(A)(ii)” and inserting in lieu thereof “subsection (q)(6)(B)”.

(c) The amendments made by this section shall apply with respect to benefits for months after December 1983.

**PART E—MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS
IN UNEXPECTEDLY ADVERSE CONDITIONS**

NORMALIZED CREDITING OF SOCIAL SECURITY TAXES TO TRUST FUNDS

SEC. 141. (a)(1) The last sentence of section 201(a) of the Social Security Act is amended—

(A) by striking out “from time to time” each place it appears and inserting in lieu thereof “monthly on the first day of each calendar month”; and

(B) by striking out “paid to or deposited into the Treasury” and inserting in lieu thereof “to be paid to or deposited into the Treasury during such month”.

(2) Section 201(a) of such Act is further amended by adding at the end thereof the following new sentence: “All amounts transferred to either Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of such Trust Fund; and such Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of such Fund in the same month under subsection (d).”

(b)(1) The last sentence of section 1817(a) of such Act is amended—

(A) by striking out "from time to time" and inserting in lieu thereof "monthly on the first day of each calendar month"; and

(B) by striking out "paid to or deposited into the Treasury" and inserting in lieu thereof "to be paid to or deposited into the Treasury during such month".

(2) Section 1817(a) of such Act is further amended by adding at the end thereof the following new sentence: "All amounts transferred to the Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of the Trust Fund; and the Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of the Trust Fund in the same month under subsection (c)."

(c) The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

INTERFUND BORROWING EXTENSION

SEC. 142. (a)(1) Section 201(l)(1) of the Social Security Act is amended—

(A) by striking out "January 1983" and inserting in lieu thereof "January 1988"; and

(B) by inserting after "or" the second place it appears "; subject to paragraph (5)."

(2)(A) Section 201(l)(2) of such Act is amended—

(i) by striking out "from time to time" and inserting in lieu thereof "on the last day of each month after such loan is made";

(ii) by striking out "interest" and inserting in lieu thereof "the total interest accrued to such day"; and

(iii) by striking out "the loan were an investment under subsection (d)" and inserting in lieu thereof "such amount had remained in the Depository Account established with respect to such lending Trust Fund under subsection (d) or section 1817(c)".

(B) The amendment made by this paragraph shall apply with respect to months beginning more than thirty days after the date of enactment of this Act.

(3) Section 201(l)(3) of such Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Hospital Insurance Trust Fund to the Federal Old-Age and Survivors Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee determines that the OASDI trust fund ratio exceeds 15 percent, he shall trans-

fer from the borrowing Trust Fund to the Federal Hospital Insurance Trust Fund on amount that—

“(I) together with any amounts transferred from another borrowing Trust Fund under this paragraph for such year, will reduce the OASDI trust fund ratio to 15 percent; and

“(II) does not exceed the outstanding balance of such loan.

“(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

“(iii) For purposes of this subparagraph, the term ‘OASDI trust fund ratio’ means, with respect to any calendar year, the ratio of—

“(I) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Fund from the Federal Hospital Insurance Trust Fund, as of the last day of such calendar year, to

“(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the calendar year following such calendar year for all purposes authorized by section 201 (other than payments of interest on, and repayments of, loans from the Federal Hospital Insurance Trust Fund under paragraph (1), but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account).

“(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.

“(ii) For the period after December 31, 1987, and before January 1, 1990, the Managing Trustee shall transfer each month to the Federal Hospital Insurance Trust Fund from any Trust Fund with any amount outstanding on a loan made from the Federal Hospital Insurance Trust Fund under paragraph (1) an amount not less than an amount equal to (I) the amount owed to the Federal Hospital Insurance Trust Fund by such Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsing after the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence.”

(4) Section 201(l) of such Act is further amended by adding at the end thereof the following new paragraph:

“(5)(A) No amounts may be borrowed from the Federal Hospital Insurance Trust Fund under paragraph (1) during any month if the Hospital Insurance Trust Fund ratio for such month is less than 10 percent.

“(B) For purposes of this paragraph, the term ‘Hospital Insurance trust fund ratio’ means, with respect to any month, the ratio of—

“(i) the balance in the Federal Hospital Insurance Trust Fund, reduced by the outstanding amount of any loan (includ-

ing interest thereon) theretofore made to such Trust Fund under this subsection, as of the last day of the second month preceding such month, to

“(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Hospital Insurance Trust Fund during the month for which such ratio is to be determined (other than payments of interest on, or repayments of loans from another Trust Fund under this subsection), and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfer into the Hospital Insurance Trust Fund from that Account.”

(b)(1) Section 1817(j)(1) of such Act is amended—

(A) by striking out “January 1983” and inserting in lieu thereof “January 1988”; and

(B) by inserting “, subject to paragraph (5),” after “may”.

(2)(A) Section 1817(j)(2) of such Act is amended—

(i) by striking out “from time to time” and inserting in lieu thereof “on the last day of each month after such loan is made”;

(ii) by striking out “interest” and inserting in lieu thereof “the total interest accrued to such day”; and

(iii) by striking out “the loan were an investment under subsection (c)” and inserting in lieu thereof “such amount had remained in the Depository Account established with respect to such lending Trust Fund under section 201(d)”.

(B) The amendment made by this paragraph shall apply with respect to months beginning more than 30 days after the date of enactment of this Act.

(3) Section 1817(j)(3) of such Act is amended—

(A) by inserting “(A)” after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

“(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Hospital Insurance Trust Fund, the Managing Trustee determines that the Hospital Insurance Trust Fund ratio exceeds 15 percent, he shall transfer from such Trust Fund to the lending trust fund an amount that—

“(I) together with any amounts transferred to another lending trust fund under this paragraph for such year, will reduce Hospital Insurance Trust Fund ratio to 15 percent; and

“(II) does not exceed the outstanding balance of such loan.

“(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

“(iii) For purposes of this subparagraph, the term ‘Hospital Insurance Trust Fund ratio’ means, with respect to any calendar year, the ratio of—

“(I) the balance in the Federal Hospital Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Old-Age and Survivors

Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as of the last day of such calendar year; to

“(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Hospital Insurance Trust Fund during the calendar year following such calendar year (other than payments of interest on, and repayments of, loans from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under paragraph (1)), and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from the Railroad Retirement Account.

“(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.”

“(ii) For the period after December 31, 1987 and before January 1, 1990, the Managing Trustee shall transfer each month from the Federal Hospital Insurance Trust Fund to any Trust Fund that is owed any amount by the Federal Hospital Insurance Trust Fund on a loan made under paragraph (1), an amount not less than an amount equal to (I) of the amount owed to such Trust Fund by the Federal Hospital Insurance Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsing after the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence.”

(4) Section 1817(j) of such Act is further amended by adding at the end thereof the following new paragraph:

“(5)(A) No amounts may be loaned by the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund under paragraph (1) during any month if the OASDI trust fund ratio for such month is less than 10 percent.

“(B) For purposes of this paragraph, the term ‘OASDI trust fund ratio’ means, with respect to any month, the ratio of—

“(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Trust Fund from the Federal Hospital Insurance Trust Fund under section 201(l), as of the last day of the second month preceding such month, to

“(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the month for which such ratio is to be determined for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account.”

**RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE
BALANCES IN THE SOCIAL SECURITY TRUST FUNDS**

SEC. 143. Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

**“RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE
BALANCES IN THE SOCIAL SECURITY TRUST FUNDS**

“SEC. 709. (a) If the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund determines at any time that the balance ratio of such Trust Fund for any calendar year may become less than 20 percent, the Board shall promptly submit to each House of the Congress a report setting forth its recommendations for statutory adjustments affecting the receipts and disbursements of such Trust Fund necessary to maintain the balance ratio of such Trust Fund at not less than 20 percent, with due regard to the economic conditions which created such inadequacy and the amount of time necessary to alleviate such inadequacy in a prudent manner. The report shall set forth specifically the extent to which benefits would have to be reduced, taxes under sections 1401, 3101, or 3111 of the Internal Revenue Code of 1954 would have to be increased, or a combination thereof, in order to obtain the objectives referred to in the preceding sentence.

“(b) For purposes of this section, the term ‘balance ratio’ means, with respect to any calendar year in connection with any Trust Fund referred to in subsection (a), the ratio of—

“(1) the balance in such Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l), as of the beginning of each year, to

“(2) the total amount which (as estimated by the Secretary) will be paid from such Trust Fund during such calendar year for all purposes authorized by section 201, 1817, or 1841 (as applicable), other than payments of interest on, or payments of, loans under section 201(l), but excluding any transfer payments between such Trust Fund and any other Trust Fund referred to in subsection (a) and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from that Account.”.

PART F—OTHER FINANCING AMENDMENTS

FINANCING OF NONCONTRIBUTORY MILITARY WAGE CREDITS

SEC. 151. (a) Section 217(g) of the Social Security Act is amended to read as follows:

“Appropriation to Trust Funds

“(g)(1) Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amount equal to the excess of—

“(A) the actuarial present value as of such date of enactment of the past and future benefit payments from the Federal Old-

Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under this title and title XVIII, together with associated administrative costs, resulting from the operation of this section (other than this subsection) and section 210 of this Act as in effect before the enactment of the Social Security Act Amendments of 1950, over

“(B) any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this subsection as in effect immediately before the date of the enactment of the Social Security Act Amendments of 1983.

Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 201(c) and 1817(b). Within thirty days after the date of the enactment of the Social Security Act Amendments of 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

“(2) The Secretary shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Secretary from data which becomes available to him after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this title or title XVIII and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 201(c) or 1817(b). Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury determines necessary to compensate for such revision.”

(b)(1) Section 229(b) of such Act is amended to read as follows:

“(b) There are authorized to be appropriated to each of the Trust Funds, consisting of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for transfer on July 1 of each calendar year to such Trust Fund from amounts in the general fund in the Treasury not otherwise appropriated, an amount equal to the total of the additional amounts which would be appropriated to such Trust Fund for the fiscal year ending September 30 of such calendar year under section 201 or 1817 of this Act if the amounts of the additional wages deemed to have been paid for such calendar year by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954. Amounts authorized to be appropriated under this subsection for transfer on July 1 of each calendar year shall be determined on the basis of estimates of the Secretary of the wages deemed to be paid for such calendar year under subsection (a); and proper adjustments shall be made in amounts author-

ized to be appropriated for subsequent transfer to the extent prior estimates were in excess of or were less than such wages so deemed to be paid.”.

(2) The amendment made by paragraph (1) shall be effective with respect to wages deemed to have been paid for calendar years after 1983.

(3)(A) Within thirty days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the additional amounts which would have been appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1984 had constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

(B)(i) Within thirty days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to each such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amount determined with respect to such Trust Fund under subparagraph (A), less any amount appropriated to such Trust Fund pursuant to the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under subparagraph (A) with respect to wages deemed to have been paid for calendar years prior to 1984.

(ii) The Secretary of Health and Human Services shall revise the amount determined under clause (i) with respect to each such Trust Fund within one year after the date of the transfer made to such Trust Fund under clause (i), as determined appropriate by such Secretary from data which becomes available to him after the date of the transfer under clause (i). Within 30 days after any such revision, the Secretary of the Treasury shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of Health and Human Services certifies as necessary to take into account such revision.

CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO TRUST FUNDS

SEC. 153. (a) The Secretary of the Treasury shall take such actions as may be necessary to ensure that amounts of checks for benefits under title II of the Social Security Act which have not been presented for payment within a reasonable length of time (not to exceed twelve months) after issuance are credited to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever may be the fund from which the check was issued, to the extent provided in advance in appropriation Acts. Amounts of any such check shall be recharged to the fund from which they were issued if payment is subsequently made on such check.

(b)(1) *The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, as soon as possible after the date of the enactment of this Act, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all currently unnegotiated benefit checks (including interest thereon), to the extent provided in advance in appropriation Acts. After the amounts appropriated by this subsection have been transferred to the Trust Funds, the provisions of subsection (a) shall be applicable.*

(2) *As used in paragraph (1), the term "currently unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Act, which remain unnegotiated after the twelfth month following the date on which they were issued.*

FLOAT PERIODS

SEC. 154. (a) The Secretary of Health and Human Services and the Secretary of the Treasury shall jointly undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the period of time (hereafter in this section referred to as the "float period") between the issuance of checks from the general fund of the Treasury in payment of monthly insurance benefits under title II of the Social Security Act and the transfer to the general fund from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, of the amounts necessary to compensate the general fund for the issuance of such checks. Each such Secretary shall consult the other regularly during the course of the study and shall, as appropriate, provide the other with such information and assistance as he may require.

(b) The study shall include—

(1) an investigation of the feasibility and desirability of maintaining the float periods which are allowed as of the date of the enactment of this section in the procedures governing the payment of monthly insurance benefits under title II of the Social Security Act, and of the general feasibility and desirability of making adjustments in such procedures with respect to float periods; and

(2) a separate investigation of the feasibility and desirability of providing, as a specific form of adjustment in such procedures with respect to float periods, for the transfer each day to the general fund of the Treasury from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, of amounts equal to the amounts of the checks referred to in subsection (a) which are paid by the Federal Reserve Banks on such day.

(c) In conducting the study required by subsection (a), the Secretaries shall consult, as appropriate, the Director of the Office of Management and Budget, and the Director shall provide the Secretaries with such information and assistance as they may require. The Secretaries shall also solicit the views of other appropriate officials and organizations.

(d)(1) Not later than six months after the date of the enactment of this Act, the Secretaries shall submit to the President and the Congress a report of the findings of the investigation required by subsection (b)(1), and the Secretary of the Treasury shall by regulation make such adjustments in the procedures governing the payment of monthly insurance benefits under title II of the Social Security Act with respect to float periods (other than adjustments in the form described in subsection (b)(2)) as may have been found in such investigation to be necessary or appropriate.

(2) Not later than twelve months after the date of the enactment of this Act, the Secretaries shall submit to the President and the Congress a report of the findings of the separate investigation required by subsection (b)(2), together with their recommendations with respect thereto; and, to the extent necessary or appropriate to carry out such recommendations, the Secretary of the Treasury shall by regulation make adjustments in the procedures with respect to float periods in the form described in such subsection.

TRUST FUND TRUSTEES' REPORTS

SEC. 155. (a) The next to last sentence of section 201(c) of the Social Security Act is amended by striking out "Such report shall also include" and inserting in lieu thereof the following: "Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable, and shall also include".

(b) Section 1817(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable."

(c) Section 1841(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable."

(d) Notwithstanding sections 201(c)(2), 1817(b)(2), and 1841(b)(2) of the Social Security Act, the annual reports of the Boards of Trustees of the Trust Funds which are required in the calendar year 1983 under those sections may be filed at any time not later than forty-five days after the date of the enactment of this Act.

(e) The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—ADDITIONAL PROVISIONS RELATING TO LONG-
TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

INCREASE IN RETIREMENT AGE

SEC. 201. (a) Section 216 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“Retirement Age

“(1) The term ‘retirement age’ means—

“(A) with respect to an individual who attains early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age;

“(B) with respect to an individual who attains early retirement age after December 31, 1999, and before January 1, 2005, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age;

“(C) with respect to an individual who attains early retirement age after December 31, 2004, and before January 1, 2017, 66 years of age;

“(D) with respect to an individual who attains early retirement age after December 31, 2016, and before January 1, 2022, 66 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age; and

“(E) with respect to an individual who attains early retirement age after December 31, 2021, 67 years of age.

“(2) The term ‘early retirement age’ means age 62 in the case of an old-age, wife’s, or husband’s insurance benefit, and age 60 in the case of a widow’s or widower’s insurance benefit.

“(3) The age increase factor for any individual who attains early retirement age in a calendar year within the period to which subparagraph (B) or (D) of paragraph (1) applies shall be determined as follows:

“(A) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2000 through 2004, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

“(B) With respect to an individual who attains early retirement age in the 5-period consisting of the calendar years 2017 through 2021, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2017 and ending with December of the year in which the individual attains early retirement age.”

(b)(1) Section 202(q)(9) of such Act is amended to read as follows:

“(9) The amount of the reduction for early retirement specified in paragraph (1)—

“(A) for old-age insurance benefits, wife’s insurance benefits, and husband’s insurance benefits, shall be the amount specified in such paragraph for the first 36 months of the reduction period (as defined in paragraph (6)) or adjusted reduction

period (as defined in paragraph (7)), and five-twelfths of 1 percent for any additional months included in such periods; and

“(B) for widow’s insurance benefits and widower’s insurance benefits, shall be periodically revised by the Secretary such that—

“(i) the amount of the reduction at early retirement age as defined in section 216(a) shall be 28.5 percent of the full benefit; and

“(ii) the amount of the reduction for each month in the reduction period (specified in paragraph (6)) or the adjusted reduction period (specified in paragraph (7)) shall be established by linear interpolation between 28.5 percent at the month of attainment of early retirement age and 0 percent at the month of attainment of retirement age.”

(2) Section 202(q)(1) of such Act is amended by striking out “If” and inserting in lieu thereof “Subject to paragraph (9), if”.

(c) Title II of the Social Security Act is further amended—

(1) by striking out “age 65” or “age of 65”, as the case may be, each place it appears in the following sections and inserting in lieu thereof in each instance “retirement age (as defined in section 216(l))”:

(A) subsections (a), (b), (c), (d), (e), (f), (q), (r), and (w) of section 202;

(B) subsections (c) and (f) of section 203;

(C) subsection (f) of section 215;

(D) subsections (h) and (i) of section 216, and

(E) section 223(a); and

(2) by striking out “age sixty-five” in section 203(c) and inserting in lieu thereof “retirement age (as defined in section 216(l))”; and

(3) by striking out “age of sixty-five” in section 223(a) and inserting in lieu thereof “retirement age (as defined in section 216(l))”.

(d) The Secretary shall conduct a comprehensive study and analysis of the implications of the changes made by this section in retirement age in the case of those individuals (affected by such changes) who, because they are engaged in physically demanding employment or because they are unable to extend their working careers for health reasons, may not benefit from improvements in longevity. The Secretary shall submit to the Congress no later than January 1, 1986, a full report on the study and analysis. Such report shall include any recommendations for legislative changes, including recommendations with respect to the provision of protection against the risks associated with early retirement due to health considerations, which the Secretary finds necessary or desirable as a result of the findings contained in this study.

TITLE III—MISCELLANEOUS AND TECHNICAL PROVISIONS

PART A—ELIMINATION OF GENDER-BASED

DISTINCTIONS

DIVORCED HUSBANDS

SEC. 301. (a)(1) Section 202(c)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by inserting “and every divorced husband (as defined in section 216(d))” before “of an individual” and by inserting “or such divorced husband” after “if such husband”.

(2) Section 202(c)(1) of such Act is further amended—

(A) by striking out “and” at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

“(C) in the case of a divorced husband, is not married, and”;

and

(C) by striking out the matter following subparagraph (D) (as so redesignated) and inserting in lieu thereof the following:

“shall be entitled to a husband’s insurance benefit for each month, beginning with—

“(i) in the case of a husband or divorced husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband or divorced husband has attained age 65, the first month in which he meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

“(ii) in the case of a husband or divorced husband (as so defined) of—

“(I) an individual entitled to old-age insurance benefits, if such husband or divorced husband has not attained age 65, or

“(II) an individual entitled to disability insurance benefits,

the first month throughout which he is such a husband or divorced husband and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month he meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month to which any of the following occurs:

“(E) he dies,

“(F) such individual dies,

“(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

“(H) in the case of a divorced husband, he marries a person other than such individual,

“(I) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

“(J) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.”

(3) Section 202(c)(3) of such Act is amended by inserting “(or, in the case of a divorced husband, his former wife)” before “for such month”.

(4) Section 202(c) of such Act is further amended by adding after paragraph (3) the following new paragraph:

“(4) In the case of any divorced husband who marries—

“(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

“(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), by reason of paragraph (1)(B)(ii) thereof,

such divorced husband’s entitlement to benefits under this subsection, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), shall not be terminated by reason of such marriage.”

(5) Section 202(c) of such Act is further amended by adding after paragraph (4) (as added by paragraph (4) of this subsection) the following new paragraph:

“(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced husband of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced husband—

“(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

“(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a husband’s insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the Secretary) in the manner otherwise provided for husband’s insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced husband first meets the criteria for entitlement set forth in classes (i) and (ii).

“(B) A husband’s insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (I) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.”

(6) Section 202(c)(2)(A) of such Act is amended by inserting “(or divorced husband)” after “payable to such husband”.

(7) Section 202(b)(3)(A) of such Act is amended by striking out “(f)” and inserting in lieu thereof “(c), (f),”.

(8) Section 202(c)(1)(D) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out “his wife” and inserting in lieu thereof “such individual”.

(9) Section 202(d)(5)(A) of such Act is amended by inserting “(c),” after “(b),”.

(b)(1) Section 202(f)(1) of such Act is amended, in the matter preceding subparagraph (A), by inserting “and every surviving divorced husband (as defined in section 216(d))” before “of an individual”

and by inserting "or such surviving divorced husband" after "if such widower".

(2) Section 202(f)(1) of such Act is further amended by striking out "his deceased wife" in subparagraph (D) and in the matter following subparagraph (F) and inserting in lieu thereof "such deceased individual".

(3) Section 202(f)(3)(B)(ii)(II) of such Act (as amended by section 133(b)(1)(B) of this Act) is amended by inserting "or surviving divorced husband" after "widower".

(4) Paragraph (3)(D) of section 202(f) of such Act (as redesignated by section 133(b)(1)(A) of this Act), and paragraphs (4), (5), and (6) of such section (as redesignated by section 131(b)(3)(A) of this Act), are each amended by inserting "or surviving divorced husband" after "widower" wherever it appears.

(5) Paragraph (3)(D) of section 202(f) of such Act (as redesignated by section 133(b)(1)(A) of this Act) is further amended by striking out "wife" wherever it appears and inserting in lieu thereof "individual".

(6) Section 202(g)(3)(A) of such Act is amended by inserting "(c)," before "(f),".

(7) Section 202(h)(4)(A) of such Act is amended by inserting "(c)," before "(e),".

(c)(1) Section 216(d) of such Act is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

"(4) The term 'divorced husband' means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

"(5) The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective."

(2) The heading of section 216(d) of such Act is amended to read as follows:

"Divorced Spouses; Divorce"

(d)(1) Section 205(b) of such Act is amended by inserting "divorced husband," after "husband," and by inserting "surviving divorced husband," after "widower,".

(2) Section 205(c)(1)(C) of such Act is amended by inserting "surviving divorced husband," after "wife,".

REARRIAGE OF SURVIVING SPOUSE BEFORE AGE OF ELIGIBILITY

SEC. 302. Section 202(f)(1)(A) of the Social Security Act is amended by striking out "has not remarried" and inserting in lieu thereof "is not married".

ILLEGITIMATE CHILDREN

SEC. 303. (a) Section 216(h)(3) of the Social Security Act is amended by inserting "mother or" before "father" wherever it appears.

(b) Section 216(h)(3)(A)(ii) of such Act is amended by striking out all that follows "time" and inserting in lieu thereof "such applicant's application for benefits was filed";

(c) Section 216(h)(3)(B)(ii) of such Act is amended by striking out "such period of disability began" and inserting in lieu thereof "such applicant's application for benefits was filed".

(d) Section 216(h)(3) of such Act is further amended—

(1) by striking out "his" wherever it appears and inserting in lieu thereof "his or her"; and

(2) by striking out "he" in subparagraph (B) and inserting in lieu thereof "he or she".

TRANSITIONAL INSURED STATUS

SEC. 304. (a) Section 227(a) of the Social Security Act is amended—

(1) by striking out "wife" wherever it appears and inserting in lieu thereof "spouse";

(2) by striking out "wife's" wherever it appears and inserting in lieu thereof "spouse's";

(3) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(4) by striking out "his" and inserting in lieu thereof "the"; and

(5) by inserting "or section 202(c)" after "section 202(b)" wherever it appears.

(b) Section 227(b) and section 227(c) of such Act are amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "her" wherever it appears and inserting in lieu thereof "the"; and

(4) by inserting "or section 202(f)" after "section 202(e)" wherever it appears.

(c) Section 216 of such Act is amended by inserting before subsection (b) the following new subsection:

"Spouse; Surviving Spouse

"(a)(1) The term 'spouse' means a wife as defined in subsection (b) or a husband as defined in subsection (f).

"(2) The term 'surviving spouse' means a widow as defined in subsection (c) or a widower as defined in subsection (g)."

EQUALIZATION OF BENEFITS UNDER SECTION 228

SEC. 305. (a) Section 228(b) of the Social Security Act is amended—

(1) by striking out "(1) Except as provided in paragraph (2), the" and inserting in lieu thereof "The"; and

(2) by striking out paragraph (2).

(b) Section 228(c)(2) of such Act is amended by striking out "(B) the larger of" and all that follows and inserting in lieu thereof "(B)

the benefit amount as determined without regard to this subsection."

(c) Section 228(c)(3) of such Act is amended to read as follows:

"(3) In the case of a husband or wife both of whom are entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other spouse is eligible for such month, over (B) the benefit amount of such other spouse as determined without regard to this subsection."

(d) Section 228 of such Act is further amended—

(1) by striking out "he" wherever it appears in subsections (a) and (c)(1) and inserting in lieu thereof "he or she"; and

(2) by striking out "his" in subsection (c)(4)(C) and inserting in lieu thereof "his or her".

(e) The Secretary shall increase the amounts specified in section 228 of the Social Security Act, as amended by this section, to take into account any general benefit increases (as referred to in section 215(i)(3) of such Act), and any increases under section 215(i) of such Act, which have occurred after June 1974 or may hereafter occur.

FATHER'S INSURANCE BENEFITS

SEC. 306. (a) Section 202(g) of the Social Security Act is amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "wife's insurance benefits" and "he" in paragraph (1)(D) and inserting in lieu thereof "a spouse's insurance benefit" and "such individual", respectively;

(4) by striking out "her" wherever it appears and inserting in lieu thereof "his or her";

(5) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(6) by striking out "mother" wherever it appears and inserting in lieu thereof "parent";

(7) by inserting "or father's" after "mother's" wherever it appears;

(8) by striking out "after August 1950"; and

(9) in paragraph (3)(A) (as amended by section 301(b)(7) of this Act)—

(A) by inserting "this subsection or" before "subsection (a)"; and

(B) by striking out "(c)," and inserting in lieu thereof "(b), (c), (e),".

(b) The heading of section 202(g) of such Act is amended by inserting "and Father's" after "Mother's".

(c) Section 216(d) of such Act (as amended by section 301(c)(1) of this Act) is further amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

“(6) The term ‘surviving divorced father’ means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

“(7) The term ‘surviving divorced parent’ means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).”

(d) Section 202(c)(1) of such Act (as amended by section 301(a) of this Act) is further amended by inserting “(subject to subsection (s))” before “be entitled to” in the matter following subparagraph (D) and preceding subparagraph (E).

(e) Section 202(c)(1)(B) of such Act is amended by inserting after “62” the following: “or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child’s insurance benefits on the basis of the wages and self-employment income of such individual”.

(f) Section 202(c)(1) of such Act (as amended by section 301(a) of this Act and the preceding provisions of this section) is further amended by redesignating the new subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

“(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child’s insurance benefit.”

(g) Section 202(f)(1)(C) of such Act is amended by inserting “(i)” after “(C)”, by inserting “or” after “223,” and by adding at the end thereof the following new clause:

“(ii) was entitled, on the basis of such wages and self-employment income, to father’s insurance benefits for the month preceding the month in which he attained age 65, and”.

(h) Section 202(f)(5) of such Act (as redesignated by section 131(b)(3)(A) of this Act) is amended by striking out “or” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

“(B) the last month for which he was entitled to father’s insurance benefits on the basis of the wages and self-employment income of such individual, or”.

(i) Section 203(f)(1)(F) of such Act is amended by striking out “section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection)” and inserting in lieu thereof “section 202 (b) or (c) (but only by reason of having a child in his or her care within the meaning of paragraph (1)(B) of subsection (b) or (c), as may be applicable)”.

EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY BENEFITS AND ON
OTHER DEPENDENTS’ OR SURVIVORS’ BENEFITS

SEC. 307. (a) Subsections (b)(3), (d)(5), (g)(3), and (h)(4) of section 202 of the Social Security Act (as amended by the preceding provi-

sions of this Act) are each amended by striking out “; except that” and all that follows and inserting in lieu thereof a period.

(b) The amendments made by subsection (a) shall apply with respect to benefits under title II of the Social Security Act for months after the month in which this Act is enacted, but only in cases in which the “last month” referred to in the provision amended is a month after the month in which this Act is enacted.

CREDIT FOR CERTAIN MILITARY SERVICE

SEC. 308. Section 217(f) of the Social Security Act is amended—

(1) by striking out “widow” each place it appears and inserting in lieu thereof “surviving spouse”; and

(2) by striking out “his” and “her” wherever they appear (except in clause (A) of paragraph (1)) and inserting in lieu thereof in each instance “his or her”.

CONFORMING AMENDMENTS

SEC. 309. (a) Section 202(b)(3)(A) of the Social Security Act (as amended by section 301(a)(6) of this Act) is further amended by inserting “(g),” after “(f),”.

(b) Section 202(q)(3) of such Act is amended by inserting “or surviving divorced husband” after “widower” in subparagraphs (E), (F), and (G).

(c) Section 202(q)(5) of such Act is amended—

(1) by inserting “or husband’s” after “wife’s” wherever it appears;

(2) by striking out “her” in subparagraph (A)(i) and inserting in lieu thereof “him or her”;

(3) by striking out “her” the second place it appears in subparagraph (A)(ii) and inserting in lieu thereof “the”;

(4) by striking out “she” wherever it appears and inserting in lieu thereof “he or she”;

(5) by striking out “her” wherever it appears (except where paragraphs (2) and (3) of this subsection apply) and inserting in lieu thereof “his or her”;

(6) by striking out “the woman” in subparagraph (B)(ii) and “a woman” in subparagraph (C) and inserting in lieu thereof “the individual” and “an individual”, respectively; and

(7) in subparagraph (D)—

(A) by inserting “or widower’s” after “widow’s”;

(B) by striking out “husband” wherever it appears and inserting in lieu thereof “spouse”;

(C) by striking out “husband’s” wherever it appears and inserting in lieu thereof “spouse’s”; and

(D) by inserting “or father’s” after “mother’s”.

(d)(1) Section 202(q)(6)(A) of such Act (as amended by section 134(a)(2) of this Act) is further amended by striking out “or husband’s” in clause (i) and by inserting “or husband’s” after “wife’s” in clause (ii).

(2) Section 202(q)(7) of such Act is amended—

(A) in subparagraph (B), by inserting “or husband’s” after “wife’s”, by striking out “she” and inserting in lieu thereof “such individual”, and by inserting “his or” before “her”, and

(B) in subparagraph (D), by inserting "or widower's" after "widow's".

(e)(1) Section 202(s)(1) of such Act is amended by inserting "(c)(1)," after "(b)(1),".

(2) Section 202(s)(2) of such Act (as amended by section 131(c)(1) of this Act) is further amended by inserting "(c)(4)," after "(b)(3),".

(3) Section 202(s)(3) of such Act (as amended by section 131(c)(2) of this Act) is further amended by striking out "So much" and all that follows down through "the last sentence" and inserting in lieu thereof "The last sentence".

(f) The third sentence of section 203(b)(1) of such Act (as amended by section 132(b) of this Act) is further amended by inserting "or father's" after "mother's".

(g) Section 203(c) of such Act is amended to read as follows:

"Deductions on Account of Noncovered Work Outside the United States or Failure to Have Child in Care"

"(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

"(1) in which such individual is under the age of seventy and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States;

"(2) in which such individual, if a wife or husband under age sixty-five entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(q);

"(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child's insurance benefit; or

"(4) in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefit for

any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60)."

(h) Section 203(d) of such Act is amended by inserting "divorced husband," after "husband," in paragraph (1)(A) (as amended by section 132(b)(2) of this Act) and by inserting "or father's" after "mother's" each place it appears in paragraph (2).

(i)(1) Section 205(b) of such Act (as amended by section 301(d)(1) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(2) Section 205(c)(1)(C) of such Act (as amended by section 301(d)(2) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(j) Section 216(f)(3)(A) of such Act is amended by inserting "(c)," before "(f)",

(k) Section 216(g)(6)(A) of such Act is amended by inserting "(c)," before "(f)".

(l) Section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband".

(m) Section 222(b)(2) of such Act is amended by inserting "or father's" after "mother's" wherever it appears.

(n) Section 222(b)(3) of such Act is amended by inserting "divorced husband," after "husband,".

(o) Section 223(d)(2) of such Act is amended by striking out "or widower" in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband".

(p) Section 225(a) of such Act is amended by inserting "or surviving divorced husband" after "widower".

(q)(1) Section 226(e)(3) of such Act is amended to read as follows:

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow aged 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower aged 50 or older who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits be deemed to have filed for such widow's or widower's insurance benefits."

(2) For purposes of determining entitlement to hospital insurance benefits under section 226(e)(3) of such Act, as amended by paragraph (1), an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of his or her disability within twelve months after the month in which this Act is enacted, under such procedures as the Secretary of Health and Human Services may prescribe, be deemed to have been entitled to the widow's or widower's benefits referred to in such section 226(e)(3), as so amended, as of the time such individual would have been entitled to such widow's or

widower's benefits if he or she had filed a timely application therefor.

EFFECTIVE DATE OF PART A

SEC. 310. (a) Except as otherwise specifically provided in this title, the amendments made by this part apply only with respect to monthly benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted.

(b) Nothing in any amendment made by this part shall be construed as affecting the validity of any benefit which was paid, prior to the effective date of such amendment, as a result of a judicial determination.

PART B—COVERAGE

COVERAGE OF EMPLOYEES OF FOREIGN AFFILIATES OF AMERICAN EMPLOYERS

SEC. 321. (a)(1) So much of subsection (l) of section 3121 of the Internal Revenue Code of 1954 (relating to agreements entered into by domestic corporations with respect to foreign subsidiaries) as precedes the second sentence of paragraph (1) thereof is amended to read as follows:

"(1) AGREEMENTS ENTERED INTO BY AMERICAN EMPLOYERS WITH RESPECT TO FOREIGN AFFILIATES.—

"(1) AGREEMENT WITH RESPECT TO CERTAIN EMPLOYEES OF FOREIGN AFFILIATE.—The Secretary shall, at the American employer's request, enter into an agreement (in such manner and form as may be prescribed by the Secretary) with any American employer (as defined in subsection (h)) who desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any 1 or more of such employer's foreign affiliates (as defined in paragraph (8)) by all employees who are citizens or residents of the United States, except that the agreement shall not apply to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term 'employment' or 'wages', as defined in this section, had the service been performed in the United States."

(2) Paragraph (8) of section 3121(l) of such Code (defining foreign subsidiary) is amended to read as follows:

"(8) FOREIGN AFFILIATE DEFINED.—For purposes of this subsection and section 210(a) of the Social Security Act—

"(A) IN GENERAL.—A foreign affiliate of an American employer is any foreign entity in which such American employer has not less than a 10-percent interest.

"(B) DETERMINATION OF 10-PERCENT INTEREST.—For purposes of subparagraph (A), an American employer has a 10-percent interest in any entity if such employer has such an interest directly (or through one or more entities)—

"(i) in the case of a corporation, in the voting stock thereof, and

“(ii) in the case of any other entity, in the profits thereof.”

(b) The clause (B) of section 210(a) of the Social Security Act (defining employment) which precedes paragraph (1) thereof (as amended by section 323(a)(2) of this Act) is further amended to read as follows: “(B) outside the United States by a citizen or resident of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign affiliate (as defined in section 3121(l)(8) of the Internal Revenue Code of 1954) of an American employer during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of such Code, with respect to such affiliate;”

(c) Subsection (a) of section 406 of the Internal Revenue Code of 1954 (relating to treatment of certain employees of foreign subsidiaries for pension, etc., purposes) is amended to read as follows:

“(a) TREATMENT AS EMPLOYEES OF AMERICAN EMPLOYER.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of an American employer (as defined in section 3121(h)), an individual who is a citizen or resident of the United States and who is an employee of a foreign affiliate (as defined in section 3121(l)(8)) of such American employer shall be treated as an employee of such American employer, if—

“(1) such American employer has entered into an agreement under section 3121(l) which applies to the foreign affiliate of which such individual is an employee;

“(2) the plan of such American employer expressly provides for contributions or benefits for individuals who are citizens or residents of the United States and who are employees of its foreign affiliates to which an agreement entered into by such American employer under section 3121(l) applies; and

“(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign affiliate.”

(d) Paragraph (1) of section 407(a) of such Code (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended—

(1) by striking out “citizen of the United States” and inserting in lieu thereof “citizen or resident of the United States”, and

(2) by striking out “citizens of the United States” and inserting in lieu thereof “citizens or residents of the United States”.

(e)(1) Those provisions of subsection (l) of section 3121 of such Code which are not amended by subsection (a) of this section are amended in accordance with the following table:

| Strike out (wherever it appears in the text or heading): | And insert: |
|--|--------------------|
| domestic corporation..... | American employer |
| domestic corporations..... | American employers |
| subsidiary..... | affiliate |
| subsidiaries..... | affiliates |
| foreign corporation..... | foreign entity |

| | |
|--|-----------------------|
| Strike out (wherever it appears in the text or heading): | And insert: |
| foreign corporations | foreign entities |
| citizens..... | citizens or residents |
| the word "a" where it appears before "domestic". | an |

(2)(A) Section 406 of such Code (other than subsection (a) thereof) is amended in accordance with the following table:

| | |
|--|-------------------|
| Strike out (wherever appearing in the text): | And insert: |
| domestic corporation..... | American employer |
| subsidiary..... | affiliate |
| the word "a" where it appears before "domestic". | an |

(B) Paragraph (3) of subsection (c) of such section 406 (as in effect before the amendment made by subparagraph (A)) is amended by striking out "another corporation controlled by such domestic corporation" and inserting in lieu thereof "another entity in which such American employer has not less than a 10-percent interest (within the meaning of section 3121(l)(8)(B))".

(C)(i) So much of subsection (d) of such section 406 as precedes paragraph (1) thereof is amended by striking out "another corporation" and inserting in lieu thereof "another taxpayer".

(ii) Paragraph (1) of subsection (d) of such section 406 is amended by striking out "any other corporation" and inserting in lieu thereof "any other taxpayer".

(D)(i) The heading of such section 406 is amended to read as follows:

"SEC. 406. EMPLOYEES OF FOREIGN AFFILIATES COVERED BY SECTION 3121(l) AGREEMENTS."

(ii) The table of sections for subpart A of part I of subchapter D of chapter 1 of such Code is amended by striking out the item relating to section 406 and inserting in lieu thereof the following:

"Sec. 406. Employees of foreign affiliates covered by section 3121(l) agreements."

(3) Clause (A) of the second sentence of section 1402(b) of such Code (defining self-employment income) is amended by striking out "employees of foreign subsidiaries of domestic corporations" and inserting in lieu thereof "employees of foreign affiliates of American employers".

(4)(A) Subparagraph (C) of section 6413(c)(2) of such Code (relating to special refunds of FICA taxes in the case of employees of certain foreign corporations) is amended—

(i) by striking out "FOREIGN CORPORATIONS" in the heading and inserting in lieu thereof "FOREIGN AFFILIATES", and

(ii) by striking out "domestic corporation" in the text and inserting in lieu thereof "American employer".

(B) The heading of paragraph (2) of section 6413(c) of such Code is amended by striking out "FOREIGN CORPORATIONS" and inserting in lieu thereof "FOREIGN AFFILIATES".

(f)(1)(A) The amendments made by this section (other than subsection (d)) shall apply to agreements entered into after the date of the enactment of this Act.

(B) At the election of any American employer, the amendments made by this section (other than subsection (d)) shall also apply to any agreement entered into on or before the date of the enactment of this Act. Any such election shall be made at such time and in such manner as the Secretary may by regulations prescribe.

(2)(A) The amendments made by subsection (d) shall apply to plans established after the date of the enactment of this Act.

(B) At the election of any domestic parent corporation the amendments made by subsection (d) shall also apply to any plan established on or before the date of the enactment of this Act. Any such election shall be made at such time and in such manner as the Secretary may by regulations prescribe.

EXTENSION OF COVERAGE BY INTERNATIONAL SOCIAL SECURITY
AGREEMENT

SEC. 322. (a)(1) Section 210(a) of the Social Security Act is amended, in the matter preceding paragraph (1)—

(A) by striking out "either" before "(A)", and

(B) by inserting before "; except" the following: "; or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233".

(2) Section 3121(b) of the Internal Revenue Code of 1954 is amended, in the matter preceding paragraph (1)—

(A) by striking out "either" before "(A)", and

(B) by inserting before "; except" the following: "; or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act".

(b)(1) Section 211(b) of the Social Security Act is amended by inserting after "non-resident alien individual" the following: ", except as provided by an agreement under section 233".

(2) The first sentence of section 1402(b) of the Internal Revenue Code of 1954 is amended by inserting after "nonresident alien individual" the following: ", except as provided by an agreement under section 233 of the Social Security Act".

(c) The amendments made by this section shall be effective for taxable years beginning on or after the date of the enactment of this Act.

TREATMENT OF CERTAIN SERVICE PERFORMED OUTSIDE THE UNITED
STATES

SEC. 323. (a)(1) Subsection (b) of section 3121 of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "a citizen of the United States" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "a citizen or resident of the United States".

(2) Subsection (a) of section 210 of the Social Security Act is amended by striking out "a citizen of the United States" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "a citizen or resident of the United States".

(b)(1) Paragraph (11) of section 1402(a) of the Internal Revenue Code of 1954 (defining net earnings from self-employment) is amended by striking out "in the case of an individual described in section 911(d)(1)(B),".

(2)(A) Paragraph (10) of section 211(a) of the Social Security Act is amended to read as follows:

"(10) the exclusion from gross income provided by section 911(a)(1) of the Internal Revenue Code of 1954 shall not apply; and".

(B) Effective with respect to taxable years beginning after December 31, 1981, and before January 1, 1984, paragraph (10) of section 211(a) of such Act is amended to read as follows:

"(10) in the case of an individual described in section 911(d)(1)(B) of the Internal Revenue Code of 1954, the exclusion from gross income provided by section 911(a)(1) of such Code shall not apply; and".

(c)(1) The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1983.

(2) Except as provided in subsection (b)(2)(B), the amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS TREATED AS WAGES FOR FICA TAXES

SEC. 324. (a)(1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(v) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.— Nothing in any paragraph of subsection (a) (other than paragraph (1)) shall exclude from the term 'wages'—

"(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) any amount treated as an employer contribution under section 414(h)(2).

"(2) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION PLANS.—

"(A) IN GENERAL.—Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

"(i) when the services are performed, or

"(ii) when there is no substantial risk of forfeiture of the rights to such amount.

"(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

"(C) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this paragraph, the term 'nonqualified deferred

compensation plan' means any plan or other arrangement for deferral of compensation other than a plan described in subsection (a)(5).

"(3) **EXEMPT GOVERNMENTAL DEFERRED COMPENSATION PLAN.**—For purposes of subsection (a)(5), the term 'exempt governmental deferred compensation plan' means any plan providing for deferral of compensation established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing. Such term shall not include—

"(A) any plan to which section 83, 402(b), 403(c), 457(a), or 457(e)(1) applies, and

"(B) any annuity contract described in section 403(b)."

(2) Paragraph (5) of section 3121(a) of such Code (defining wages) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subparagraphs:

"(E) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

"(F) under or to an exempt governmental deferred compensation plan (as defined in subsection (v)(3)), or

"(G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974."

(3) Subsection (a) of section 3121 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (9),

(C) in paragraph (13)(A)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer," and

(D) by striking out "subparagraph (B)" in the last sentence thereof and inserting in lieu thereof "subparagraph (A)".

(b)(1) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(r) **TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.**—

"(1) **CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.**—

Nothing in any paragraph of subsection (b) (other than paragraph (1)) shall exclude from the term 'wages'—

“(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

“(B) any amount treated as an employer contribution under section 414(h)(2).

“(2) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION PLANS.—

“(A) IN GENERAL.—Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

“(i) when the services are performed, or

“(ii) when there is no substantial risk of forfeiture of the rights to such amount.

“(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

“(C) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this paragraph, the term ‘nonqualified deferred compensation plan’ means any plan or other arrangement for deferral of compensation other than a plan described in subsection (b)(5).”

(2) Paragraph (5) of section 3306(b) of such Code (defining wages) is amended—

(A) by striking out “or” at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subparagraphs:

“(E) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

“(F) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3)), or

“(G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;”

(3) Subsection (b) of section 3306 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (8), and (C) in paragraph (10)(A)—

(i) by inserting “or” after “death,” and

(ii) by striking out “or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,”

(4)(A) Subparagraph (A) of section 3306(b)(2) of such Code, as redesignated by paragraph (3)(A), is amended to read as follows:

“(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term ‘wages’ only payments which are received under a workman’s compensation law), or”.

(B) Subsection (b) of section 3306 of such Code (defining wages) is amended by adding at the end thereof the following new flush sentence:

“Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages”.

(C) Rules similar to the rules of subsections (d) and (e) of section 3 of the Act entitled “An Act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act” (Public Law 97-123), approved December 29, 1981, shall apply in the administration of section 3306(b)(2)(A) of such Code (as amended by subparagraph (A)).

(c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof (as amended by this Act) the following new paragraphs:

“Nothing in any of the foregoing provisions of this section (other than subsection (a)) shall exclude from the term ‘wages’

“(1) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1954) to the extent not included in gross income by reason of section 402(a)(8) of such Code, or

“(2) any amount which is treated as an employer contribution under section 414(h)(2) of such Code.

“Any amount deferred under a nonqualified deferred compensation plan (within the meaning of section 3121(v)(2)(C) of the Internal Revenue Code of 1954) shall be taken into account for purposes of this title as of the later of when the services are performed, or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into account as wages by reason of the preceding sentence (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this title.”

(2) Subsection (e) of section 209 of such Act is amended by adding before the semicolon at the end thereof the following: “, or (5) under or to an annuity contract described in section 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidence by a written instrument or otherwise), or (6) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3) of such Code), or (7) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subsection to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments

are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;”

(3) Section 209 of such Act is amended—

(A) in subsection (b), by striking out paragraph (1) and redesigning paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subsections (c) and (i), and

(C) in subsection (m)(1)—

(i) by inserting “or” after “death,” and

(ii) by striking out “or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer,”

(4) Section 203(f)(5)(C) of the Social Security Act is amended by adding at the end thereof the following new sentence: “The term ‘wages’ does not include—

“(i) the amount of any payment made to, or on behalf of, an employee or any of his dependents (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement, or

“(ii) any payment or series of payments by an employer to an employee or any of his dependents upon or after the termination of the employee’s employment relationship because of retirement after attaining an age specified in a plan referred to in section 209(m)(2) or in a pension plan of the employer.”

(d)(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) Except as otherwise provided in this subsection, the amendments made by subsection (b) shall apply to remuneration paid after December 31, 1984.

(3) The amendments made by this section shall not apply to employer contributions made during 1984 and attributable to services performed during 1983 under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1954) if, under the terms of such arrangement as in effect on March 24, 1983—

(A) the employee makes an election with respect to such contribution before January 1, 1984, and

(B) the employer identifies the amount of such contribution before January 1, 1984.

In the case of the amendments made by subsection (b), the preceding sentence shall be applied by substituting “1985” for “1984” each place it appears and by substituting “during 1984” for “during 1983”.

(4) In the case of an agreement in existence on March 24, 1983, between a nonqualified deferred compensation plan (as defined in section 3121(v)(2)(C) of the Internal Revenue Code of 1954, as added by this section) and an individual—

(A) the amendments made by this section (other than subsection (b)) shall apply with respect to services performed by such individual after December 31, 1983, and

(B) the amendments made by subsection (b) shall apply with respect to services performed by such individual after December 31, 1984.

The preceding sentence shall not apply in the case of a plan to which section 457(a) of such Code applies.

EFFECT OF CHANGES IN NAMES OF STATE AND LOCAL EMPLOYEE GROUPS IN UTAH

SEC. 326. (a) Section 218(o) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group."

(b) The amendment made by subsection (a) shall apply with respect to name changes made before, on, or after the date of the enactment of this section.

EFFECTIVE DATES OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS

SEC. 327. (a) Section 233(e)(2) of the Social Security Act is amended by striking out "during which each House of the Congress has been in session on each of 90 days" and inserting in lieu thereof "during which at least one House of the Congress has been in session on each of 60 days".

(b) The amendment made by subsection (a) shall be effective on the date of the enactment of this Act.

CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND LODGING

SEC. 328. (a)(1) Subsection (a) section 3121 of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (17), by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119."

(2) Section 209 of the Social Security Act is amended by striking out "or" at the end of subsection (p), by striking out the period at the end of subsection (q) and inserting in lieu thereof "; or", and by inserting after subsection (q) the following new subsection:

"(r) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1954."

(b)(1) Subsection (a) of section 3121 of such Code is amended by inserting after paragraph (19) (as added by subsection (a) of this section) the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter."

(2) Section 209 of the Social Security Act is amended by inserting immediately after subsection (r) (as added by subsection (a) of this section) the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1954 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this title."

(c) Subsection (b) of section 3306 of the Internal Revenue Code of 1954 (defining wages) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof " or",

(3) by adding immediately after paragraph (13) the following new paragraph:

"(14) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119.", and

(4) by adding at the end thereof the following new flush sentence:

"Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter."

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS

SEC. 329. (a) Subparagraph (D) of section 3121(a)(5) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(b) Subsection (e) of section 209 of the Social Security Act, as amended by this Act, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: " or (8) under a simplified employee pension (as defined in section 408(k) of the Internal Revenue Code of 1954) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment;".

(c) Subparagraph (D) of section 3306(b)(5) of the Internal Revenue Code of 1954 is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

PART C—OTHER AMENDMENTS

TECHNICAL AND CONFORMING AMENDMENTS TO MAXIMUM FAMILY
BENEFIT PROVISIONS

SEC. 331. (a)(1) Section 203(a)(3)(A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following:

“(ii) an amount (I) initially equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1), for January of the year determined for purposes of this clause under the following two sentences, with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230, and (II) thereafter increased in accordance with the provisions of section 215(i)(2)(A)(ii).

The year established for purposes of clause (ii) shall be 1983 or, if it occurs later with respect to any individual, the year in which occurred the month that the application of the reduction provisions contained in this subparagraph began with respect to benefits payable on the basis of the wages and self-employment income of the insured individual. If for any month subsequent to the first month for which clause (ii) applies (with respect to benefits payable on the basis of the wages and self-employment income of the insured individual) the reduction under this subparagraph ceases to apply, then the year determined under the preceding sentence shall be redetermined (for purposes of any subsequent application of this subparagraph with respect to benefits payable on the basis of such wages and self-employment income) as though this subparagraph had not been previously applicable.”

(2) Section 203(a)(7) of such Act is amended by striking out everything that follows “shall be reduced to an amount equal to” and inserting in lieu thereof “the amount determined in accordance with the provisions of paragraph (3)(A)(ii) of this subsection, except that for this purpose the references to subparagraph (A) in the last two sentences of paragraph (3)(A) shall be deemed to be references to paragraph (7).”

(b) Clause (i) in the last sentence of section 203(b)(1) of such Act (as amended by section 132(b) of this Act) is further amended by striking out “penultimate sentence” and inserting in lieu thereof “first sentence of paragraph (4)”.

(c) The amendments made by subsection (a) shall be effective with respect to payments made for months after December 1983.

RELAXATION OF INSURED STATUS REQUIREMENTS FOR CERTAIN
WORKERS PREVIOUSLY ENTITLED TO A PERIOD OF DISABILITY

SEC. 332. (a) Section 216(i)(3) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of clause (ii) of subparagraph (B) and inserting in lieu thereof “, or”;

(2) by inserting after clause (ii) of such subparagraph the following new clause:

“(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of clause (ii), had a prior period

of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with such quarter are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;”

(b) Section 223(c)(1)(B) of such Act is amended—

(1) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof “, or”; and

(2) by inserting after clause (ii) the following new clause:

“(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of section 216(i)(3)(B)(ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with the quarter in which such month occurs are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;”

(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act, and for disability determinations under section 216(i) of such Act, filed after the date of the enactment of this Act, except that no monthly benefits under title II of the Social Security Act shall be payable or increased by reason of the amendments made by this section for months before the month following the month of enactment of this Act.

PROTECTION OF BENEFITS OF ILLEGITIMATE CHILDREN OF DISABLED BENEFICIARIES

SEC. 333. (a) The last sentence of section 216(h)(3) of the Social Security Act is amended by striking out “subparagraph (A)(i)” and inserting in lieu thereof “subparagraphs (A)(i) and (B)(i)”.

(b) The amendment made by subsection (a) shall be effective on the date of the enactment of this Act.

ONE-MONTH RETROACTIVITY OF WIDOW'S AND WIDOWER'S INSURANCE BENEFITS

SEC. 334. (a) Section 202(j)(4)(B) of the Social Security Act is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by adding after clause (ii) the following new clause:

“(iii) Subparagraph (A) does not apply to a benefit under subsection (e) or (f) for the month immediately preceding the month of application, if the insured individual died in that preceding month.”

(b) The amendments made by subsection (a) shall apply with respect to survivors whose applications for monthly benefits are filed after the second month following the month in which this Act is enacted.

NONASSIGNABILITY OF BENEFITS

SEC. 335. (a) Section 207 of the Social Security Act is amended—

(1) by inserting "(a)" before "The right"; and

(2) by adding at the end thereof the following new subsection:

"(b) No other provision of law, enacted before, on, or after the date of the enactment of this section, may be construed to limit, supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section."

(b)(1) Section 459(a) of such Act is amended by inserting "(including section 207)" after "any other provision of law."

(2)(A) Section 86(a) of the Internal Revenue Code of 1954 (as added by section 121(a) of this Act) is amended by inserting "(notwithstanding section 207 of the Social Security Act)" before "includes".

(B) Section 871(a)(3)(A) of such Code (as added by section 121(c)(1) of this Act) is amended by inserting "(notwithstanding section 207 of the Social Security Act)" after "income".

(c) The amendments made by subsection (a) shall apply only with respect to benefits payable or rights existing under the Social Security Act on or after the date of the enactment of this Act.

USE OF DEATH CERTIFICATES TO PREVENT ERRONEOUS BENEFIT
PAYMENTS TO DECEASED INDIVIDUALS

SEC. 336. Section 205 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION

"(r)(1) The Secretary shall undertake to establish a program under which—

"(A) States (or political subdivisions thereof) voluntarily contract with the Secretary to furnish the Secretary periodically with information (in a form established by the Secretary in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them;

"(B) There will be (1) a comparison of such information on such individuals with information on such individuals in the records being used in the administration of this Act, (2) validation of the results of such comparisons, and (3) corrections in such records to accurately reflect the status of such individual.

"(2) Each State (or political subdivision thereof) which furnishes the Secretary with information on records of deaths in the State or subdivision under this subsection may be paid by the Secretary from amounts available for administration of this Act the reasonable costs (established by the Secretary in consultation with the States) for transcribing and transmitting such information to the Secretary.

"(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this Act, the Secretary shall to the extent feasible provide such information through a cooperative arrange-

ment with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

“(A) under such arrangement the agency provides reimbursement to the Secretary for the reasonable cost of carrying out such arrangement, and

“(B) such arrangement does not conflict with the duties of the Secretary under paragraph (1).

“(4) The Secretary may enter into similar agreements with States to provide information for their use in programs wholly funded by the States if the requirements of (r)(3)(A) and (r)(3)(B) are met.

“(5) The Secretary may use or provide for the use of such records as may be corrected under this section, subject to such safeguards as the Secretary determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical and research activities conducted by Federal and State agencies;

“(6) Information furnished to the Secretary under this subsection may not be used for any purpose other than the purpose described in this subsection and is exempt from disclosure under section 552 of title 5, United States Code, and from his requirements of section 552a of such title.

“(7) The Secretary shall include information on the status of the program established under this section and impediments to the effective implementation of the program in the 1984 report required under section 704 of the Act.”

PUBLIC PENSION OFFSET

SEC. 337. (a) Subsections (b)(4)(A), (c)(2)(A), (f)(2)(A), and (g)(4)(A) of section 202 of the Social Security Act, and paragraph (7)(A) of section 202(e) of such Act (as redesignated by section 131(a)(3)(A) of this Act), are each amended—

(1) by striking out “by an amount equal to the amount of any monthly periodic benefit” and inserting in lieu thereof “by an amount equal to two-thirds of the amount of any monthly periodic benefit”; and

(2) by adding at the end thereof the following new sentence: “The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.”

(b) The amendments made by subsection (a) of this section shall apply only with respect to monthly insurance benefits payable under title II of the Social Security Act to individuals who initially become eligible (as defined in section 334 of Public Law 95-216) for monthly periodic benefits (within the meaning of the provisions amended by subsection (a)) for months after June 1983.

STUDY CONCERNING THE ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

SEC. 338. (a) There is hereby established, under the authority of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a joint study panel to be known as the Joint Study Panel on the Social Security Adminis-

tration (hereafter in this section referred to as the "Panel"). The duties of the Panel shall be to conduct the study provided for in subsection (c).

(b)(1) The Panel shall be composed of 3 members, appointed jointly by the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and such chairmen shall jointly select one member of the Panel to serve as chairman of the Panel. Members of the Panel shall be chosen, on the basis of their integrity, impartiality, and good judgment, from individuals who, as a result of their training, experience, and attainments, are widely recognized by professionals in the fields of government administration, social insurance, and labor relations as experts in those fields.

(2) Vacancies in the membership of the Panel shall not affect the power of the remaining members to perform the duties of the Panel and shall be filled in the same manner in which the original appointment was made.

(3) Each member of the Panel not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Panel. Each member of the Panel shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

(4) By agreement between the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, such Committees shall provide the Panel, on a reimbursable basis, office space, clerical personnel, and such supplies and equipment as may be necessary for the Panel to carry out its duties under this section. Subject to such limitations as the chairmen of such Committees may jointly prescribe, the Panel may appoint such additional personnel as the Panel considers necessary and fix the compensation of such personnel as it considers appropriate at an annual rate which does not exceed the rate of basic pay then payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary or intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(5) There are hereby authorized to be appropriated to the Panel, from amounts in the general fund of the Treasury not otherwise appropriated, such sums as are necessary to carry out the purposes of this section.

(c)(1) The Panel shall undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the implementation of removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, including the possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate.

(2) The Panel in its study under paragraph (1) shall address, analyze, and report specifically on the following matters:

(A) the manner in which the transition to an independent agency would be conducted;

(B) the authorities which would have to be transferred or amended in such a transition;

(C) any program or programs which would be included within the jurisdiction of the new agency;

(D) the legal and other relationships of the Social Security Administration with other organizations which would be required as a result of establishing the Social Security Administration as an independent agency; and

(E) any other details which may be necessary for the development of appropriate legislation to establish the Social Security Administration as an independent agency.

(d) The Panel shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than April 1, 1984, a report of the findings of the study conducted under subsection (c), together with any recommendations the Panel considers appropriate. The Panel and all authority granted in this section shall expire thirty days after the date of the filing of its report under this section.

LIMITATION ON PAYMENTS TO PRISONERS

SEC. 339. (a) Section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

(x)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 223 to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.

(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of any individual who is confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.

(b) Section 223 of such Act is amended by striking out subsection (f).

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits payable for months beginning on or after the date of enactment of this Act.

REQUIREMENT OF PREVIOUS UNITED STATES RESIDENCY FOR ALIEN DEPENDENTS AND SURVIVORS LIVING OUTSIDE THE UNITED STATES

SEC. 340. (a) Section 202(t) of the Social Security Act is amended—

(1) in the heading, by adding after "United States" the following: "; Residency Requirements for Dependents and Survivors"; and

(2) by adding at the end thereof the following new paragraph: "(11)(A) Paragraph (2) and subparagraphs (A), (B), (C), and (E) of paragraph (4) shall apply with respect to an individual's monthly benefits under subsection (b), (c), (d), (e), (f), (g), or (h) only if such individual meets the residency requirements of this paragraph with respect to those benefits.

"(B) An individual entitled to benefits under subsection (b), (c), (e), (f), or (g) meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing bore a spousal relationship to the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years. For purposes of this subparagraph, a period of time for which an individual bears a spousal relationship to another person consists of a period throughout which the individual has been, with respect to such other person, a wife, a husband, a widow, a widower, a divorced wife, a divorced husband, a surviving divorced wife, a surviving divorced husband, a surviving divorced mother, a surviving divorced father, or (as applicable in the course of such period) any two or more of the foregoing.

"(C) An individual entitled to benefits under subsection (d) meets the residency requirements of this paragraph with respect to those benefits only if—

"(i)(I) such individual has resided in the United States (as the child of the person on whose wages and self-employment income such entitlement is based) for a total period of not less than 5 years, or

"(II) the person on whose wages and self-employment income such entitlement is based, and the individual's other parent (within the meaning of subsection (h)(3)), if any, have each resided in the United States for a total period of not less than 5 years (or died while residing in the United States), and

"(ii) in the case of an individual entitled to such benefits as an adopted child, such individual was adopted within the United States by the person on whose wages and self-employment income such entitlement is based, and has lived in the United States with such person and received at least one-half of his or her support from such person for a period (beginning before such individual attained age 18) consisting of—

"(I) the year immediately before the month in which such person became eligible for old-age insurance benefits or dis-

ability insurance benefits or died, whichever occurred first, or

“(II) if such person had a period of disability which continued until he or she became entitled to old-age insurance benefits or disability insurance benefits or died, the year immediately before the month in which such period of disability began.

“(D) An individual entitled to benefits under subsection (h) meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing was a parent (within the meaning of subsection (h)(3)) of the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years.

“(E) This paragraph shall not apply with respect to any individual who is a citizen or resident of a foreign country with which the United States has an agreement in force concluded pursuant to section 233, except to the extent provided by such agreement.”

(b) Paragraphs (2) and (4) of section 202(t) of such Act are each amended by striking out “Paragraph (1) shall not apply” and inserting in lieu thereof “Subject to paragraph (11), paragraph (1) shall not apply”.

(c) The amendments made by this section shall apply with respect to any individual who initially becomes eligible for benefits under section 202 or 223 after December 31, 1984.

ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARD OF TRUSTEES

SEC. 341. (a) Section 201(c) of the Social Security Act is amended—

(1) by inserting before the period at the end of the first sentence the following: “, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate”; and

(2) by adding at the end thereof the following new sentence: “A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.”

(b) Section 1817(b) of such Act is amended—

(1) by inserting before the period at the end of the first sentence the following: “, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate”, and

(2) by adding at the end thereof the following new sentence: “A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.”

(c) Section 1841(b) of such Act is amended—

(1) by inserting before the period at the end of the first sentence the following: “, and of two members of the public (both of whom may not be from the same political party), who shall

be nominated by the President for a term of four years and subject to confirmation by the Senate; and

(2) by adding at the end thereof the following new sentence:

"A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund."

(d) The amendments made by this section shall become effective on the date of enactment of this Act.

PAYMENT SCHEDULE BY STATE AND LOCAL GOVERNMENTS

SEC. 342. (a) Section 218(e)(1)(A) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury—

"(i) on the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 with respect to the period which includes the first fifteen days of such calendar month if the services for which wages were paid in such period to employees covered by the agreement constituted employment covered by the agreement constituted employment as defined in section 3231 of such Code, and

"(ii) on the fifteenth day of the calendar month following such calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of such Code with respect to the period beginning with the sixteenth day of such calendar month and ending with the last day of such calendar month if the services for which wages were paid in such period to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and".

(b) The amendments made by this section shall apply to calendar months beginning after December 31, 1983.

EARNINGS SHARING IMPLEMENTATION REPORT

REPORT

SEC. 344. (a) The Secretary of Health and Human Services (hereinafter in this Part referred to as the "Secretary") shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for earnings sharing legislation as described in subsection (b). The Secretary shall report such proposals to such committees not later than July 1, 1984. The report and proposals provided to such committees shall—

(1) take into account, discuss, and analyze the impact of earnings sharing on various categories of social security beneficiaries and include recommendations for the implementation of earnings sharing which may be necessary to provide adequate protection for particular classes of beneficiaries;

(2) include specific recommendations with respect to an appropriate and feasible time period or time periods for implementation of such proposals along with recommendations for any

transition provisions which may be necessary or appropriate; and

(3) provide cost-impact analyses on each proposal presented.

(b) For the purposes of subsection (a), the term "earnings sharing" refers to proposals that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for social security benefit purposes.

(c) In preparing the report and proposals required in subsection (a), the Secretary shall include consideration and analysis of the earnings sharing proposals contained in (1) S. 3, 98th Congress, 1st Session, (2) H.R. 1513, 97th Congress, 1st Session, and (3) the earnings sharing option described in the report entitled "Social Security and the Changing Roles of Men and Women", submitted to the Congress pursuant to Public Law 95-216, the Social Security Amendments of 1977.

(d) In carrying out subsections (a), (b), and (c), the Secretary shall consult with the Director of the Congressional Budget Office. Not later than 30 days after the Secretary submits the report required in subsection (a), the Director of the Congressional Budget Office shall submit a report to the committees identified in such subsection on the methodologies, recommendations, and analyses used in the Secretary's report.

VETERANS' ADMINISTRATION REORGANIZATION

REORGANIZATION

SEC. 345. The requirements of section 210(b)(2)(A) of title 38, United States Code, shall not apply to the planned administrative reorganization at the Veterans' Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees from the Office of Data Management and Technology to the Department of Medicine and Surgery of the Veterans' Administration.

SOCIAL SECURITY CARDS

SEC. 346. (a) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited."

(b) The amendment made by this section shall apply with respect to all new and replacement social security cards issued more than 193 days after the date of the enactment of this Act.

(c) Within 90 days after the date of the enactment of this Act the Secretary of Health and Human Services shall report to the Congress on his plans for implementing the amendment made by this section.

BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

SEC. 347. (a)(1) Title VII of the Social Security Act (as amended by section 143 of this Act) is further amended by adding at the end thereof the following new section:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. The disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Funds, including the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954, shall be set forth separately in such budgets."

(2)(A) The amendment made by paragraph (1) shall apply with respect to fiscal years beginning on or after October 1, 1984, and ending on or before September 30, 1992, except that such amendment shall apply with respect to the fiscal year beginning on October 1, 1983, to the extent it relates to the congressional budget.

(b) Effective for fiscal years beginning on or after October 1, 1992, section 710 of such Act (as added by subsection (a) of this section) is amended to read as follows:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund and the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

"(b) The disbursements of the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Fund shall be set forth separately in such budgets."

LIBERALIZATION OF EARNINGS TEST

SEC. 348. (a) Section 203(f)(3) of the Social Security Act is amended by striking out "50 per centum of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)" and inserting in lieu thereof the following: "33 $\frac{1}{3}$ percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) in the case of an individual who has attained retirement age (as defined in section 216(l)) before the close of such taxable

year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual”.

(b) The amendment made by subsection (a) shall apply only in the case of individuals attaining retirement age (as defined in section 210(l) of the Social Security Act) after December 1989.

TITLE IV—SUPPLEMENTAL SECURITY INCOME BENEFITS

INCREASE IN FEDERAL SSI BENEFIT STANDARD

SEC. 401. (a)(1) Section 1617 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(c) Effective July 1, 1983—

“(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611, as previously increased under this section, shall be increased by \$240 (and the dollar amount in effect under subsection (a)(1)(A) section 211 of Public Law 93-66, as previously so increased, shall be increased by \$120); and

“(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as previously increased under this section, shall be increased by \$360.”

(2) Section 1617(b) of such Act is amended by striking out “this section” and inserting in lieu thereof “subsection (a) of this section”.

(b) Section 1617(a)(2) of such Act is amended by inserting “, or, if greater (in any case where the increase under title II was determined on the basis of the wage increase percentage rather than the CPI increase percentage), the percentage by which benefit amounts under title II would be increased for such month if the increase had been determined on the basis of the CPI increase percentage,” after “are increased for such month”.

ADJUSTMENTS IN FEDERAL SSI PASS-THROUGH PROVISIONS

SEC. 402. Section 1618 of the Social Security Act is amended by redesignating the subsection (c) which was added by Public Law 97-377 as subsection (d), and by adding at the end thereof the following new subsection:

“(e)(1) For any particular month after March 1983, a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) shall be treated as meeting such requirements if and only if—

“(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for that particular month,

is not less than—

“(B) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefit increases under this title) which have occurred after March 1983 and before that particular month.

“(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Amendments of 1983 had not been enacted.”

SSI ELIGIBILITY FOR TEMPORARY RESIDENTS OF EMERGENCY SHELTERS FOR THE HOMELESS

SEC. 403. (a) Section 1611(e)(1) of the Social Security Act is amended—

(1) by striking out “subparagraph (B) and (C)” in subparagraph (A) and inserting in lieu thereof “subparagraphs (B), (C), and (D)”; and

(2) by adding at the end thereof the following new subparagraph:

“(D) A person may be an eligible individual or eligible spouse for purposes of this title with respect to any month throughout which he is a resident of a public emergency shelter for the homeless (as defined in regulations which shall be prescribed by the Secretary); except that no person shall be an eligible individual or eligible spouse by reason of this subparagraph more than three months in any 12-month period.”

(b) The amendments made by subsection (a) shall be effective with respect to months after the month in which this Act is enacted.

DISREGARDING OF EMERGENCY AND OTHER IN-KIND ASSISTANCE PROVIDED BY NONPROFIT ORGANIZATIONS

SEC. 404. (a) Section 1612(b)(13) of the Social Security Act is amended by striking out “any assistance received” and all that follows down through “(B)” and inserting in lieu thereof the following: “any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which”.

(b) Section 402(a)(36) of such Act is amended by striking out “shall not include as income” and all that follows down through “(B)” and inserting in lieu thereof the following: “shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which”.

(c) The amendments made by this section shall be effective with respect to months which begin after the month in which this Act is enacted and end before October 1, 1984.

NOTIFICATION REGARDING SSI

SEC. 405. Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act who may be eligible for supplemental security income benefits under title XVI of such act of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplementary medical insurance.

TITLE V—UNEMPLOYMENT COMPENSATION PROVISIONS

PART A—FEDERAL SUPPLEMENTAL COMPENSATION

EXTENSION OF PROGRAM

SEC. 501. (a) Paragraph (2) of section 602(f) of the Federal Supplemental Compensation Act of 1982 is amended by striking out "March 31, 1983" and inserting in lieu thereof "September 30, 1983".

(b) Section 605(2) of such Act is amended by striking out "April 1, 1983" and inserting in lieu thereof "October 1, 1983".

NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE

SEC. 502. (a) Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2)(A) In the case of any account from which Federal supplemental compensation was first payable to an individual for a week beginning after March 31, 1983, the amount established in such account shall be equal to the lesser of—

(i) 55 per centum of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

(ii) the applicable limit determined under the following table times his average weekly benefit amount for his benefit year,

| "In the case of weeks during a: | The applicable limit is: |
|------------------------------------|-----------------------------|
| 6-percent period..... | 14 |
| 5-percent period..... | 12 |
| 4-percent period..... | 10 |
| Low-unemployment period..... | 8 |

"(B) In the case of any State whose applicable limit, as determined under clause (ii) of subparagraph (A) for the first week beginning after March 27, 1983, and after the date of the enactment of part A of title V of the Social Security Amendments of 1983, would be more than 4 weeks lower than the number of weeks applicable to such State under this paragraph as in effect for the week beginning March 27, 1983, the applicable limit for such State for that week and any succeeding week shall not be lower than 4 less than the

number so applicable to such State for the week beginning March 27, 1983.

“(C) In the case of any account from which Federal supplemental compensation was payable to an individual for a week beginning before April 1, 1983, the amount established in such account shall be equal to the lesser of the subparagraph (A) entitlement or the sum of—

“(i) the subparagraph (A) entitlement reduced (but not below zero) by the aggregate amount of Federal supplemental compensation paid to such individual for weeks beginning before April 1, 1983, plus

“(ii) such individual’s additional entitlement.

“(D) For purposes of subparagraph (C) and this subparagraph—

“(i) The term ‘subparagraph (A) entitlement’ means the amount which would have been established in the account if subparagraph (A) had applied to such account.

“(ii) The term ‘additional entitlement’ means the lesser of—

“(I) three-fourths of the subparagraph (A) entitlement, or

“(II) the applicable limit determined under the following table times the individual’s average weekly benefit amount for his benefit year.

| | |
|----------------------------|----------------|
| “In the case of | The applicable |
| weeks during a: | limit is: |
| 6-percent period..... | 10 |
| 5-percent period..... | 8 |
| 4-percent period..... | 8 |
| Low-employment period..... | 6 |

“(E) Except as provided in subparagraph (C)(i), for purposes of determining the amount of Federal supplemental compensation payable for weeks beginning after March 31, 1983, from an account described in subparagraph (C), no reduction in such account shall be made by reason of any Federal supplemental compensation paid to the individual for weeks beginning before April 1, 1983.

“(3)(A) For purposes of this subsection, the terms ‘6-percent period’, ‘5-percent period’, ‘4-percent period’, and ‘low-unemployment period’ mean, with respect to any State, the period which—

“(i) begins with the 3d week after the 1st week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls in the applicable range, and

“(ii) ends with the 3d week after the 1st week in which the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks does not fall within the applicable range.

“(B) For purposes of subparagraph (A), the applicable range is as follows:

| | |
|-----------------------|---|
| “In the case of a: | The applicable range is: |
| 6-percent period..... | A rate equal to or exceeding 6 percent. |
| 5-percent period..... | A rate equal to or exceeding 5 percent, but less than 6 percent. |
| 4-percent period..... | A rate equal to or exceeding 4 percent, but less than 5 percent. |
| Low-unemployment..... | A rate less than 4 percent. |

“(C) No 6-percent period, 5-percent period, or 4-percent period, as the case may be, shall last for a period of less than 4 weeks unless the State enters a period with a higher percentage designation.

“(D) For purposes of this subsection—

“(i) The rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

“(ii) The amount of an individual’s average weekly benefit amount shall be determined in the same manner as determined for purposes of section 202(b)(1)(C) of such Act.”

(b)(1) Section 602(f)(2) of such Act is amended by inserting before the period at the end thereof the following: “; except that in the case of any individual who received such compensation for the week preceding the last week beginning after such date, such compensation shall be payable to such individual for weeks beginning after such date, but the total amount of such compensation payable for such weeks shall be limited to 50 percent of the total amount which would otherwise be payable for such weeks”.

(2) Section 605(2) of such Act is amended by inserting before the semicolon the following: “(except as otherwise provided in section 602(f)(2))”.

(c) Paragraph (3) of section 602(d) of the Federal Supplemental Compensation Act of 1982 is amended to read as follows:

“(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, the amount which would have been established in such account if the amount established in such account were determined by reference to the applicable limit under subparagraph (A)(ii) or (D)(ii) of subsection (e)(2) applicable in the State in which the individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.”

EFFECTIVE DATE

SEC. 503. (a) The amendments made by this part shall apply to weeks beginning after March 31, 1983.

(b) In the case of any eligible individual—

(1) to whom any Federal supplemental compensation was payable for any week beginning before April 1, 1983, and

(2) who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) before the first week beginning after March 31, 1983,

such individual’s eligibility for additional weeks of compensation by reason of the amendments made by this part shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and before

April 1, 1983 (and the period after such exhaustion and before April 1, 1983, shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Federal Supplemental Compensation Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Federal Supplemental Compensation Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this part. Notwithstanding any other provision of law, if any State fails or refuses, within the 3-week period beginning on the date the Secretary of Labor proposed such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such 3-week period.

TRAINING

SEC. 504. Section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new subsection:

"(g) The payment of Federal supplemental compensation shall not be denied to any recipient (who submits documentation prescribed by the Secretary) for any week because the recipient is in training or attending an accredited educational institution on a substantially full-time basis, or because of the application of State law to any such recipient relating to the availability for work, the active search for work, or the refusal to accept work on account of such training or attendance, unless the State agency determines that such training or attendance will not improve the opportunities for employment of the recipient."

COORDINATION WITH TRADE READJUSTMENT PROGRAM

SEC. 505. Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), the maximum amount of Federal supplemental compensation payable to an individual shall not be reduced by reason of any trade readjustment allowances to which the individual was entitled under the Trade Act of 1974.

"(B) If an individual received any trade readjustment allowance under the Trade Act of 1974 in respect of any benefit year, the maximum amount of Federal supplemental compensation payable under this subtitle in respect of such benefit year shall be reduced (but not below zero) so that (to the extent possible by making such a reduction) the aggregate amount of—

- "(i) regular compensation,
- "(ii) extended compensation,
- "(iii) trade readjustment allowances, and
- "(iv) Federal supplemental compensation,

payable in respect of such benefit year does not exceed the aggregate amount which would have been so payable had the individual not been entitled to any trade readjustment allowance."

**PART B—PROVISIONS RELATING TO INTEREST AND CREDIT
REDUCTIONS**

DEFERRAL OF INTEREST

SEC. 511. (a) Section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraphs:

"(8)(A) With respect to interest due under this section on September 30 of 1983, 1984, or 1985 (other than interest previously deferred under paragraph (3)(C)), a State may pay 80 percent of such interest in four annual installments of at least 20 percent beginning with the year after the year in which it is otherwise due, if such State meets the criteria of subparagraph (B). No interest shall accrue on such deferred interest.

"(B) To meet the criteria of this subparagraph a State must—

"(i) have taken no action since October 1, 1982, which would reduce its net unemployment tax effort or the net solvency of its unemployment system (as determined for purposes of section 3302(f) of the Internal Revenue Code of 1954); and

"(ii)(I) have taken an action (as certified by the Secretary of Labor) after March 31, 1982, which would have increased revenue liabilities and decreased benefits under the State's unemployment compensation system (hereinafter referred to as a 'solvency effort') by a combined total of the applicable percentage (as compared to such revenues and benefits as would have been in effect without such State action) for the calendar year for which the deferral is requested; or

"(II) have had, for taxable year 1982, an average unemployment tax rate which was equal to or greater than 2.0 percent of the total of the wages (as determined without any limitation on amount) attributable to such State subject to contribution under the State unemployment compensation law with respect to such taxable years.

In the case of the first year for which there is a deferral (over a 4-year period) of the interest otherwise payable for such year, the applicable percentage shall be 25 percent. In the case of the second such year, the applicable percentage shall be 35 percent. In the case of the second such year, the applicable percentage shall be 50 percent.

"(C)(i) The base year is the first year for which deferral under this provision is requested and subsequently granted. The Secretary of Labor shall estimate the unemployment rate for the base year. To determine whether a State meets the requirements of subparagraph (B)(ii)(I), the Secretary of Labor shall determine the percentage by which the benefits and taxes in the base year with the application of the action referred to in subparagraph (B)(ii)(I) are lower or greater, as the case may be, than such benefits and taxes would have been without the application of such action. In making this determination, the Secretary shall deem the application of the action referred to in subparagraph (B)(ii)(I) to have been effective for the base

year to the same extent as such action is effective for the year following the year for which the deferral is sought. Once a deferral is approved under clause (ii)(I) of subparagraph (B) a State must continue to maintain its solvency effort. Failure to do so shall result in the State being required to make immediate payment of all deferred interest.

“(ii) Increases in the taxable wage base from \$6,000 to \$7,000 or increases after 1984 in the maximum tax rate to 5.4 percent shall not be counted for purposes of meeting the requirement of subparagraph (B).

“(D) In the case of a State which produces a solvency effort of 50 percent, 80 percent, and 90 percent rather than the 25 percent, 35 percent, 50 percent required under subparagraph (B), the interest shall be computed at an interest rate which is 1 percentage point less than the otherwise applicable interest rate.

“(9) Any interest otherwise due from a State on September 30 of a calendar year after 1982 may be deferred (and no interest shall accrue on such deferred interest) for a grace period of not to exceed 9 months if, for the most recent 12-month period for which data are available before the date such interest is otherwise due, the State had an average total unemployment rate of 13.5 percent or greater.”

(b) Section 1202(b)(7) of such Act is amended by striking out “, and before January 1, 1988”.

(c) Section 1202(b)(3)(C)(i) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting “No interest shall accrue on deferred interest.”

CAP ON CREDIT REDUCTION

SEC. 512. (a)(1) Section 3302(f) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

“(8) PARTIAL LIMITATION.—

“(A) In the case of a State which would meet the requirements of this subsection for a taxable year prior to 1987 but for its failure to meet one of the requirements contained in subparagraph (C) or (D) of paragraph (2), the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be reduced by 0.1 percentage point.

“(B) In the case of a State which does not meet the requirements of paragraph (2) but meets the requirements of subparagraphs (A) and (B) of paragraph (2) and which also meets the requirements of section 1202(b)(8)(B) of the Social Security Act with respect to such taxable year, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be further reduced by an additional 0.1 percentage point.

“(C) In no case shall the application of subparagraphs (A) and (B) reduce the credit reduction otherwise applicable under subsection (c)(2) below the limitation under paragraph (1).”

(2) The amendment made by paragraph (1) shall apply with respect to taxable year 1983 and taxable years thereafter.

(b) Section 3302(f)(1) of such Code is amended by striking out “beginning before January 1, 1988.”

AVERAGE EMPLOYER CONTRIBUTION RATE

SEC. 513. (a) Section 3302(d)(4)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

“(B)(i) for purposes of subparagraph (B) of subsection (c)(2), the total of the wages (as determined without any limitation on amount) attributable to such State subject to contributions under this chapter with respect to such calendar year, and

“(ii) for purposes of subparagraph (C) of subsection (c)(2), the total of the remuneration subject to contributions under the State unemployment compensation law with respect to such calendar year.”

(b) Section 3302(c)(2)(B)(i) of such Code is amended by striking out “2.7” and inserting in lieu thereof “2.7 multiplied by a fraction, the numerator of which is the wage base under this chapter and the denominator of which is the estimated United States average annual wage in covered employment for the calendar year in which the determination is to be made”.

(c) Section 3302(c)(2)(B) of such Code is amended by inserting after “(if any)” and following: “, multiplied by a fraction, the numerator of which is the State’s average annual wage in covered employment for the calendar year in which the determination is made and the denominator of which is the wage base under this chapter.”

(d) The amendments made by this section shall be effective for taxable year 1983 and taxable years thereafter.

DATE FOR PAYMENT OF INTEREST

SEC. 514. Section 1202(b)(3)(A) of the Social Security Act is amended by striking out “not later than” and inserting in lieu thereof “prior to”.

PENALTY FOR FAILURE TO PAY INTEREST

SEC. 515. (a) Section 303(c) of the Social Security Act is amended by striking out “or” at the end of paragraph (1), striking out the period at the end of paragraph (2) and inserting “; or”, and adding at the end thereof the following new paragraph:

“(3) that any interest required to be paid on advances under title XII of this Act has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State’s unemployment fund, until such interest is properly paid.”

(b) Section 3304(a) of the Internal Revenue Code of 1954 (relating to certification of State unemployment compensation laws) is

amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

"(17) any interest required to be paid on advances under title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund; and".

PART C—MISCELLANEOUS PROVISIONS

TREATMENT OF EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

SEC. 521. (a)(1) Section 3304(a)(6)(A) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new clause:

"(v) with respect to services to which section 3309(a)(1) applies, if such services are provided to or on behalf of an educational institution, compensation may be denied under the same circumstances as described in clauses (i) through (iv), and".

(2) Clauses (ii)(I), (iii), and (iv) of such section are each amended by striking out "may be denied" and inserting in lieu thereof "shall be denied".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after April 1, 1984.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to comply with the amendment made by this section, the amendment made by this section shall apply in the case of compensation paid for weeks which begin on or after April 1, 1984, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

EXTENDED BENEFIT FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

SEC. 522. (a) Clause (ii) of paragraph (3)(A) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(ii) during which he fails to actively engage in seeking work, unless such individual is not actively engaged in seeking work because such individual is, as determined in accordance with State law—

"(I) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty (as such term may be defined by the Secretary of Labor), or

"(II) hospitalized for treatment of an emergency or a life-threatening condition (as such term may be defined by such Secretary),

if such exemptions in clauses (I) and (II) apply to recipients of regular benefits, and the State chooses to apply such exemptions for recipients of extended benefits; or”.

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

VOLUNTARY HEALTH INSURANCE PROGRAMS PERMITTED

SEC. 523. (a) AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.—Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out “and” at the end of subparagraph (A), by adding “and” at the end of subparagraph (B), and by adding after subparagraph (B) the following new subparagraph:

“(C) nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;”.

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Paragraph (5) of section 303(a) of the Social Security Act is amended by striking out “; and” at the end thereof and inserting in lieu thereof “: Provided further, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor; and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TREATMENT OF CERTAIN ORGANIZATIONS RETROACTIVELY DETERMINED TO BE DESCRIBED IN SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1954

SEC. 524. If—

(1) an organization did not make an election to make payments (in lieu of contributions) as provided in section 3309(a)(2) of the Internal Revenue Code of 1954 before April 1, 1972, because such organization, as of such date, was treated as an organization described in section 501(c)(4) of such Code,

(2) the Internal Revenue Service subsequently determined that such organization was described in section 501(c)(3) of such Code, and

(3) such organization made such an election before the earlier of—

(A) the date 18 months after such election was first available to it under the State law, or

(B) January 1, 1984,

then section 3303(f) of such Code shall be applied with respect to such organization as if it did not contain the requirement that the

election be made before April 1, 1972, and by substituting "January 1, 1982" for "January 1, 1969".

**TITLE VI—PROSPECTIVE PAYMENTS FOR MEDICARE
INPATIENT HOSPITAL SERVICES**

**MEDICARE PAYMENTS FOR INPATIENT HOSPITAL SERVICES ON THE
BASIS OF PROSPECTIVE RATES**

SEC. 601. (a)(1) Subsection (a)(1) of section 1886 of the Social Security Act is amended by adding at the end the following new subparagraph:

"(D) Subparagraph (A) shall not apply to cost reporting periods beginning on or after October 1, 1983."

(2) Subsection (a)(4) of such section is amended by adding at the end the following new sentence: "Such term does not include costs of approved educational activities, or, with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986, capital related costs, as defined by the Secretary."

(3) It is the intent of Congress that, in considering the implementation of a system for including capital-related costs under a prospectively determined payment rate for inpatient hospital services, costs related to capital projects for which expenditures are obligated on or after the effective date of the implementation of such system, may or may not be distinguished and treated differently from costs of projects for which expenditures were obligated before such date.

(b) Section 1886(b) of such Act is amended—

(1) by striking out "Notwithstanding sections 1814(b), but subject to the provisions of sections" in paragraph (1) and inserting in lieu thereof "Notwithstanding section 1814(b) but subject to the provisions of section.";

(2) by inserting "(other than a subsection (d) hospital, as defined in subsection (d)(1)(B))" in the matter before subparagraph (A) of paragraph (1) after "of a hospital";

(3) by inserting, in the matter in paragraph (1) following subparagraph (B), "(other than on the basis of a DRG prospective payment rate determined under subsection (d))" after "payable under this title";

(4) by repealing paragraph (2);

(5) by inserting "and subsection (d) and except as provided in subsection (e)" in paragraph (3)(B) after "subparagraph (A)";

(6) by inserting "or fiscal year" after "cost reporting period" each place it appears in paragraph (3)(B);

(7) by inserting "before the beginning of the period or year" in paragraph (3)(B) after "estimated by the Secretary";

(8) by striking out "exceeds" in paragraph (3)(B) and inserting in lieu thereof "will exceed"; and

(9) by amending paragraph (6), effective with respect to cost reporting periods beginning on or after October 1, 1982, to read as follows:

"(6) In the case of any hospital which becomes subject to the taxes under section 3111 of the Internal Revenue Code of 1954, with respect to any or all of its employees, for part or all of a cost reporting period, and was not subject to such taxes with respect to any or all

of its employees for all or part of the 12-month base cost reporting period referred to in subsection (b)(3)(A)(i), the Secretary shall provide for an adjustment by increasing the base period amount described in such subsection for such hospital by an amount equal to the amount of such taxes which would have been paid or accrued by such hospital for such base period if such hospital had been subject to such taxes for all of such base period with respect to all its employees, minus the amount of any such taxes actually paid or accrued for such base period.”

(c)(1) Subsection (c)(1) of such section is amended—

(A) by striking out “and” at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof; and

(C) by adding at the end the following:

“(D) the Secretary determines that the system will not preclude an eligible organization (as defined in section 1876(b)) from negotiating directly with hospitals with respect to the organization’s rate of payment for inpatient hospital services; and

“(E) the Secretary determines that the system requires hospitals to meet the requirement of section 1866(a)(1)(G) and the system provides for the exclusion of certain costs in accordance with section 1862(a)(14) (except for such waivers thereof as the Secretary provides by regulation).

The Secretary cannot deny the application of a State under this subsection on the ground that the State’s hospital reimbursement control system is based on a payment methodology other than on the basis of a diagnosis-related group or on the ground that the amount of payments made under this title under such system must be less than the amount of payments which would otherwise have been made under this title not using such system. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period, the State has the option of applying such test (for inpatient hospital services under part A) on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining aggregate payment amounts below a national average percentage increase in total payments under part A for inpatient hospital services, the Secretary cannot deny the application of a State under this subsection on the ground that the State’s rate of increase in such payments for such services must be less than such national average rate of increase.”;

(2) Subsection (c)(3) of such section is amended—

(A) by striking out “requirement of paragraph (1)(A)” and inserting in lieu thereof “requirements of subparagraphs (A), (D), and (E) of paragraph (1) and, if applicable, the requirements of paragraph (5),” and

(B) by inserting “(or, if applicable, in paragraph (5))” in subparagraph (B) after “paragraph (1)”.

(3) Subsection (c) of such section is further amended by adding at the end the following new paragraphs:

“(4) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

- “(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system, and*
- “(B) with respect to that system a waiver of certain requirements of title XVIII of the Social Security Act has been approved on or before (and which is in effect as of) the date of the enactment of the Social Security Act Amendments of 1983, pursuant to section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972.*

With respect to a State system described in this paragraph, the Secretary shall judge the effectiveness of such system on the basis of its rate of increase or inflation in inpatient hospital payments for individuals under this title, as compared to the national rate of increase or inflation for such payments, with the State retaining the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during the three cost reporting periods beginning on or after October 1, 1983, after which such test, at the option of the Secretary, shall no longer apply, and such State systems shall be treated in the same manner as under other waivers.

“(5) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

- “(A) the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met with respect to the system;*
- “(B) the Secretary determines that the system—*

- “(i) is operated directly by the State or by an entity designated pursuant to State law,*

- “(ii) provides for payment of hospitals covered under the system under a methodology (which sets forth exceptions and adjustments, as well as any method for changes in the methodology) by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period, and*

- “(iii) hospitals covered under the system will make such reports (in lieu of cost and other reports, identified by the Secretary, otherwise required under this title) as the Secretary may require in order to properly monitor assurances provided under this subsection;*

- “(C) the State has provided the Secretary with satisfactory assurances that operation of the system will not result in any change in hospital admission practices which result in—*

- “(i) a significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services,*

- “(ii) a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services,*

“(iii) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

“(iv) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services;

“(D) any change by the State in the system which has the effect of materially reducing payments to hospitals can only take effect upon 60 days notice to the Secretary and to the hospitals the payment to which is likely to be materially affected by the change; and

“(E) the State has provided the Secretary with satisfactory assurances that in the development of the system the State has consulted with local governmental officials concerning the impact of the system on public hospitals.

The Secretary shall response to requests of States under this paragraph within 60 days of the date the request is submitted to the Secretary.

“(6) If the Secretary determines that the assurances described in paragraph (1)(C) have not been met with respect to any 36-month period, the Secretary may reduce payments under this title to hospitals under the system in an amount equal to the amount by which the payments under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title not using such system.”

(d) Subsection (d) of such section, as added by section 110 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

(1) by striking out “section 1814(b)” in paragraph (2)(A) and inserting in lieu thereof “subsection (b)”, and

(2) by redesignating the subsection as subsection (j) and transferring and inserting such subsection at the end of section 1814 of the Social Security Act under the following heading:

“ELIMINATION OF LESSER-OF-COST-OR-CHARGES PROVISION”

(e) Such section 1886 is further amended by adding at the end the following new subsections:

“(d)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a subsection (d) hospital (as defined in subparagraph (B)) for inpatient hospital discharges in a cost reporting period or in a fiscal year—

“(i) beginning on or after October 1, 1983, and before October 1, 1984, is equal to the sum of—

“(I) the target percentage (as defined in subparagraph (C)) of the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), and

“(II) the DRG percentage (as defined in subparagraph (C)) of the regional adjusted DRG prospective payment rate determined under paragraph (2) for such discharges;

“(ii) beginning on or after October 1, 1984, and before October 1, 1986, is equal to the sum of—

“(I) the target percentage (as defined in subparagraph (C)) of the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), and

“(II) the DRG percentage (as defined in subparagraph (C)) of the applicable combined adjusted DRG prospective payment rate determined under subparagraph (D) for such discharges; or

“(iii) beginning on or after October 1, 1986, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.

“(B) As used in this section, the term ‘subsection (d) hospital’ means a hospital located in one of the fifty States or the District of Columbia other than—

“(i) a psychiatric hospital (as defined in section 1861(f)),

“(ii) a rehabilitation hospital (as defined by the Secretary),

“(iii) a hospital whose inpatients are predominantly individuals under 18 years of age, or

“(iv) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days;

and, in accordance with regulations of the Secretary, does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary).

“(C) For purposes of this subsection, for cost reporting periods beginning, or discharges occurring—

“(i) on or after October 1, 1983, and before October 1, 1984, the ‘target percentage’ is 75 percent and the ‘DRG percentage’ is 25 percent;

“(ii) on or after October 1, 1984, and before October 1, 1985, the ‘target percentage’ is 50 percent and the ‘DRG percentage’ is 50 percent; and

“(iii) on or after October 1, 1985, and before October 1, 1986, the ‘target percentage’ is 25 percent and the ‘DRG percentage’ is 75 percent.

“(D) For purposes of subparagraph (A)(ii)(II), the ‘applicable combined adjusted DRG prospective payment rate’ for cost reporting periods beginning, or discharges occurring—

“(i) on or after October 1, 1984, and before October 1, 1985, is a combined rate consisting of 25 percent of the national adjusted DRG prospective payment rate, and 75 percent of the regional adjusted DRG prospective payment rate, determined under paragraph (3) for such discharges; and

“(ii) on or after October 1, 1985, and before October 1 1986, is a combined rate consisting of 50 percent of the national adjusted DRG prospective payment rate, and 50 percent of the regional adjusted DRG prospective payment rate, determined under paragraph (3) for such discharges.

“(2) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional ad-

justed DRG prospective payment rate for such discharges in each region, for which payment may be made under part A of this title. Each such rate shall be determined for hospitals located in urban or rural areas within the United States or within each such region, respectively, as follows:

“(A) DETERMINING ALLOWABLE INDIVIDUAL HOSPITAL COSTS FOR BASE PERIOD.—The Secretary shall determine the allowable operating costs per discharge of inpatient hospital services for the hospital for the most recent cost reporting period for which data are available.

“(B) UPDATING FOR FISCAL YEAR 1984.—The Secretary shall update each amount determined under subparagraph (A) for fiscal year 1984 by—

“(i) updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under such subparagraph and fiscal year 1983 and the most recent case-mix data available, and

“(ii) projecting for fiscal year 1984 by the applicable percentage increase (as defined in subsection (b)(3)(B)) for fiscal year 1984.

“(C) STANDARDIZING AMOUNTS.—The Secretary shall standardize the amount updated under subparagraph (B) for each hospital by—

“(i) excluding an estimate of indirect medical education costs,

“(ii) adjusting for variations among hospitals by area and region in the average hospital wage level, and

“(iii) adjusting for variations in case mix among hospitals.

“(D) COMPUTING URBAN AND RURAL AVERAGES.—The Secretary shall compute an average of the standardized amounts determined under subparagraph (C) for the United States and for each region—

“(i) for all subsection (d) hospitals located in an urban area within the United States or that region, respectively, and

“(ii) for all subsection (d) hospitals located in a rural area within the United States or that region, respectively.

For purposes of this subsection, the term ‘region’ means one of the nine census divisions, comprising the fifty States and the District of Columbia, established by the Bureau of the Census for statistical and reporting purposes; the term ‘urban area’ means an area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under subsection (a) by regulation; and the term ‘rural area’ means any area outside such an area or similar area.

“(E) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (D) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment

rates which are additional payments described in paragraph (5)(A) (relating to outlier payments).

“(F) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

“(G) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS IN THE UNITED STATES AND IN EACH REGION.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a national DRG prospective payment rate and shall establish a regional DRG prospective payment rate for each region, each of which is equal—

“(i) for hospitals located in an urban area in the United States or in that region respectively, to the product of—

“(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in an urban area in the United States or that region, and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

“(ii) for hospitals located in a rural area in the United States or that region respectively, to the product of—

“(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in a rural area in the United States or that region, and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

“(H) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals’ costs which are attributable to wages and wage-related costs, of the national and regional DRG prospective payment rates computed under subparagraph (G) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

“(3) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in a fiscal year after fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional adjusted DRG prospective payment rate for such discharges in each region for which payment may be made under part A of this title. Each such rate shall be determined for hospitals located in urban or rural areas within the United States and within each such region, respectively, as follows:

“(A) UPDATING PREVIOUS STANDARDIZED AMOUNTS.—The Secretary shall compute an average standardized amount for hospitals located in an urban area and for hospitals located in a rural area within the United States and for hospitals located in an urban area and for hospitals located in a rural area within each region, equal to the respective average standardized amount computed for the previous fiscal year under paragraph

(2)(D) or under this subparagraph, increased for fiscal year 1985 by the applicable percentage increase under subsection (b)(3)(B), and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available.

“(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additional payments described in paragraph (5)(A) (relating to outlier payments).

“(C) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

“(D) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS.—For each discharge classified within a diagnosis-related group, the Secretary shall establish for the fiscal year a national DRG prospective payment rate and shall establish a regional DRG prospective payment rate, for each region, each of which is equal—

“(i) for hospitals located in an urban area in the United States or that region (respectively), to the product of—

“(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in an urban area in the United States or that region, and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

“(ii) for hospitals located in a rural area in the United States or that region (respectively), to the product of—

“(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in a rural area in the United States or that region, and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

“(E) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (D) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

“(4)(A) The Secretary shall establish a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

“(B) For each such diagnosis-related group the Secretary shall assign an appropriate weighting factor which reflects the relative

hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

"(C) The Secretary shall adjust the classifications and weighting factors established under subparagraphs (A) and (B), for discharges in fiscal year 1986 and at least every four fiscal years thereafter to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

"(D) The Commission (established under subsection (e)(2)) shall consult with and make recommendations to the Secretary with respect to the need for adjustments under subparagraph (C), based upon its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The Commission shall report to the Congress with respect to its evaluation of any adjustments made by the Secretary under subparagraph (C).

"(5)(A)(i) The Secretary shall provide for an additional payment for a subsection (d) hospital for any discharge in a diagnosis-related group, the length of stay of which exceeds the mean length of stay for discharges within that group by a fixed number of days, or exceeds such mean length of stay by some fixed number of standard deviations, whichever is the fewer number of days.

"(ii) For cases which are not included in clause (i), a subsection (d) hospital may request additional payments in any case where charges, adjusted to cost, exceed a fixed multiple of the applicable DRG prospective payment rate, or exceed such other fixed dollar amount, whichever is greater.

"(iii) The amount of such additional payment under clauses (i) and (ii) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i) or (ii).

"(iv) The total amount of the additional payments made under this subparagraph for discharges in a fiscal year may not be less than 5 percent nor more than 6 percent of the total payments projected or estimated to be made based on DRG prospective payment rates for discharges in that year.

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except that in the computation under this subparagraph the Secretary shall use an educational adjustment factor equal to twice the factor provided under such regulations.

"(C)(i) The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of regional and national referral centers (including those hospitals of 500 or more beds located in rural areas), and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title.

"(ii) With respect to a subsection (d) hospital which is a 'sole community hospital', payment under paragraph (1)(A) for any cost reporting period or fiscal year beginning on or after October 1, 1984,

shall be determined under the formula provided in clause (i) of that paragraph (except that any reference to paragraph (2) shall be deemed, for this purpose, a reference to paragraph (3)). In the case of a sole community hospital that experiences, in a cost reporting period (beginning on or after October 1, 1983, and before October 1, 1986) compared to the previous cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases due to circumstances beyond its control, the Secretary shall provide for such adjustment to the payment amounts under this subsection as may be necessary to fully compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services, including the reasonable cost of maintaining necessary core staff and services. For purposes of this subparagraph, the term 'sole community hospital' means a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographical area who are entitled to benefits under part A.

"(iii) The Secretary shall provide by regulation for such other exceptions and adjustments to such payment amounts under this subsection as the Secretary deems appropriate (including exceptions and adjustments that may be appropriate with respect to hospitals involved extensively in treatment for and research on cancer).

"(iv) The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

"(D)(i) The Secretary shall estimate the amount of reimbursement made for services described in section 1862(a)(14) with respect to which payment was made under part B in the base reporting periods referred to in paragraph (2)(A) and with respect to which payment is no longer being made.

"(ii) The Secretary shall provide for an adjustment to the payment for subsection (d) hospitals in each fiscal year so as appropriately to reflect the net amount described in clause (i).

"(6) The Secretary shall provide for publication in the Federal Register, on or before the September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the adjusted DRG prospective payment rates under this subsection, including any adjustments required under subsection (e)(1)(B).

"(7) There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the determination of the requirement, or the proportional amount, of any adjustment effected pursuant to subsection (e)(1), and

"(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof under paragraph (4).

"(e)(1)(A) For cost reporting periods of hospitals beginning in fiscal year 1984 or fiscal year 1985, the Secretary shall provide for such proportional adjustment in the applicable percentage increase

(otherwise applicable to the periods under subsection (b)(3)(B)) as may be necessary to assure that—

“(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(I) for that fiscal year for operating costs of inpatient hospital services of hospitals (excluding payments made under section 1866(a)(1)(F)), are not greater or less than—

“(ii) the target percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983 (excluding payments made under section 1866(a)(1)(F)); except that the adjustment made under this subparagraph shall apply only to subsection (d) hospitals and shall not apply for purposes of making computations under subsection (d)(2)(B)(ii) or subsection (d)(3)(A).

“(B) For discharges occurring in fiscal year 1984 or fiscal year 1985, the Secretary shall provide under subsections (d)(2)(F) and (d)(3)(C) for such equal proportional adjustment in each of the average standardized amounts otherwise computed for that fiscal year as may be necessary to assure that—

“(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(II) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals (excluding payments made under section 1866(a)(1)(F)), are not greater or less than—

“(ii) the DRG percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983 (excluding payments made under section 1866(a)(1)(F)).

“(2) The Director of the Congressional Office of Technology Assessment (hereafter in this subsection referred to as the ‘Director’ and the ‘Office’, respectively) shall provide for appointment of a Prospective Payment Assessment Commission (hereafter in this subsection referred to as the ‘Commission’), to be composed of independent experts selected by the Director. In addition to carrying out its functions under subsection (d)(4)(D), the Commission shall review the applicable percentage increase factor described in subsection (b)(3)(B) and make recommendations to the Secretary on the appropriate percentage change which should be effected for hospital inpatient discharges under subsections (b) and (d) for fiscal years beginning with fiscal year 1986. In making its recommendations, the Commission shall take into account changes in the hospital market-basket described in subsection (b)(3)(B), hospital productivity, technological and scientific advances, the quality of health care provided in hospitals (including the quality and skill level of professional nursing required to maintain quality care), and long-term cost-effectiveness in the provision of inpatient hospital services.

“(3) The Commission, not later than the April 1 before the beginning of each fiscal year (beginning with fiscal year 1986), shall report its recommendations to the Secretary on an appropriate

change factor which should be used (instead of the applicable percentage increase described in subsection (b)(3)(B)) for inpatient hospital services for discharges in that fiscal year.

“(4) Taking into consideration the recommendations of the Commission, the Secretary shall determine for each fiscal year (beginning with fiscal year 1986) the percentage change which will apply for purposes of this section as the applicable percentage increase (otherwise described in subsection (b)(3)(B)) for discharges in that fiscal year, and which will take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

“(5) The Secretary shall cause to have published for public comment in the Federal Register, not later than—

“(A) the June 1 before each fiscal year (beginning with fiscal year 1986), the Secretary’s proposed determination under paragraph (4) for that fiscal year, and

“(B) the September 1 before such fiscal year after such consideration of public comment on the proposal as is feasible in the time available, the Secretary’s final determination under such paragraph for that year.

The Secretary shall include in the publication referred to in subparagraph (A) for a fiscal year the report of the Commission’s recommendations submitted under paragraph (3) for that fiscal year.

“(6)(A) The Commission shall consist of 15 individuals. Members of the Commission shall first be appointed no later than April 1, 1984, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than seven members expire in any one year.

“(B) The membership of the Commission shall provide expertise and experience in the provision and financing of health care, including but not limited to physicians and registered professional nurses, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care. The Director shall seek nominations from a wide range of groups, including but not limited to—

“(i) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals;

“(ii) national organizations representing hospitals, including teaching hospitals;

“(iii) national organizations representing manufacturers of health care products; and

“(iv) national organizations representing the business community, health benefit programs, labor, and the elderly.

“(C) Subject to such review as the Office deems necessary to assure the efficient administration of the Commission, the Commission may—

“(i) employ and fix the compensation of such personnel (not to exceed 25) as may be necessary to carry out its duties;

“(ii) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(iii) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

“(iv) make advance, progress, and other payments which relate to the work of the Commission;

“(v) provide transportation and subsistence for persons serving without compensation; and

“(vi) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

“(D) While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and his regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission.

“(E) In order to identify medically appropriate patterns of health resources use in accordance with paragraph (2), the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient-care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. In order to assess the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures, the Commission shall, in coordination to the extent possible with the Secretary, collect and assess factual information, giving special attention to the needs of updating existing diagnosis-related groups, establishing new diagnosis-related groups, and making recommendations on relative weighting factors for such groups to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the Commission shall—

“(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this paragraph;

“(ii) carry out, or award grants or contracts for, original research and experimentation, including clinical research, where existing information is inadequate for the development of useful and valid guidelines by the Commission; and

“(iii) adopt procedures allowing any interested party to submit information with respect to medical and surgical procedures and services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

“(F) The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of

original research and medical studies, are coordinated with the activities of Federal agencies.

"(G)(i) The Office shall report annually to the Congress on the functioning and progress of the Commission and on the status of the assessment of medical procedures and services by the Commission.

"(ii) The Office shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

"(iii) In order to carry out its duties under this paragraph, the Office is authorized to expend reasonable and necessary funds as mutually agreed upon by the Office and the Commission. The Office shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission.

"(H) The Commission shall be subject to periodic audit by the General Accounting Office.

"(I)(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.

"(ii) Eighty-five percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 15 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund."

"(f)(1) The Secretary shall maintain, for a period ending not earlier than September 30, 1988, a system for the reporting of costs of hospitals receiving payments computed under subsection (d).

"(2) If the Secretary determines, based upon information supplied by a utilization and quality control peer review organization under part B of title XI, that a hospital, in order to circumvent the payment method established under subsection (b) or (d) of this section, has taken an action that results in the admission of individuals entitled to benefits under part A unnecessarily, unnecessary multiple admissions of the same such individuals, or other inappropriate medical or other practices with respect to such individuals, the Secretary may—

"(A) deny payment (in whole or in part) under part A with respect to inpatient hospital services provided with respect to such an unnecessary admission (or subsequent admission of the same individual), or

"(B) require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

"(3) The provisions of paragraphs (2), (3), and (4) of section 1862(d) shall apply to determinations under paragraph (2) of this subsection in the same manner as they apply to determinations made under section 1862(d)(1).

"(g)(1) If the Congress does not enact legislation, after the date of the enactment of this subsection and before October 1, 1986, respecting the payment under this title for capital-related costs for inpatient hospital services, no payment may be made under this title for capital-related costs of capital expenditures (as defined in section 1122(g) and except as provided in section 1122(j)) for inpatient hospital services in a State, which expenditures are obligated after September 30, 1986, unless the State has an agreement with the Secretary under section 1122(b) and under the agreement the State has recommended approval of the capital expenditures.

"(2) The Secretary shall provide that the amount which is allowable, with respect to reasonable costs of inpatient hospital services for which payment may be made under this title, for a return on equity capital for hospitals shall, for cost reporting periods beginning on or after the date of the enactment of this subsection, be equal to amounts otherwise allowable under regulations in effect on March 1, 1983, except that the rate of return to be recognized shall be equal to the average of the rates of interest, for each of the months any part of which is included in the reporting period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund."

(f) Section 1862(a)(1) of the Social Security Act is amended—

(1) by striking out "(B) or (C)" and inserting in lieu thereof "(B), (C), or (D)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof a comma and "and"; and

(4) by adding at the end thereof the following new subparagraph:

"(D) in the case of clinical care items and services provided with the concurrence of the Secretary and with respect to research and experimentation conducted by, or under contract with, the Prospective Payment Assessment Commission or the Secretary, which are not reasonable and necessary to carry out the purposes of section 1886(e)(6);"

(g) In determining whether a hospital is in an urban or rural area for purposes of section 1886(d) of the Social Security Act, the Secretary of Health and Human Services shall classify any hospital, located in New England as being located in an urban area if such hospital was classified as being located in an urban area under the Standard Metropolitan Statistical Area system of classification in effect in 1979.

CONFORMING AMENDMENTS

SEC. 602. (a) Section 1153(b)(2) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(C) The twelve-month period referred to in subparagraph (A) shall be deemed to begin not later than October 1983."

(b) Sections 1814(g) and 1835(e) of the Social Security Act are each amended by inserting "(or would be if section 1886 did not apply)" after "section 1861(v)(1)(D)".

(c) Section 1814(h)(2) of such Act is amended by striking out "the reasonable costs for such services" and inserting in lieu thereof "the amount that would be payable for such services under subsection (b) and section 1886".

(d)(1) The matter in section 1861(v)(1)(G)(i) of such Act following subclause (III) is amended by striking out "on the basis of the reasonable cost of" and inserting in lieu thereof "the amount otherwise payable under part A with respect to".

(2) Section 1861(v)(2)(A) of such Act is amended by striking out "an amount equal to the reasonable cost of" and inserting in lieu thereof "the amount that would be taken into account with respect to".

(3) Section 1861(v)(2)(B) of such Act is amended by striking out "the equivalent of the reasonable cost of".

(4) Section 1861(v)(3) of such Act is amended by striking out "the reasonable cost of such bed and board furnished in semiprivate accommodations (determined pursuant to paragraph (1))" and inserting in lieu thereof "the amount otherwise payable under this title for such bed and board furnished in semiprivate accommodations".

(e) Section 1862(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(14) which are other than physicians' services (as defined in regulations specifically for purposes of this paragraph) and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the hospital."

(f)(1) Section 1866(a)(1) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E), and

(C) by adding at the end the following new subparagraphs:

"(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(5), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, and (i) shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a rate per review established by the Secretary, (ii) shall be transferred from the Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, (iii) shall be not less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation), and (iv) shall not be less in the aggregate for a fiscal year than the aggregate amount expended in fiscal year 1982 for direct and administrative costs (adjusted for inflation),

"(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or

(d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f)(2), and

"(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to have all items and services (other than physicians' services as defined in regulations for purposes of section 1862(a)(14)) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital."

(2) The matter in section 1866(a)(2)(B)(ii) of such Act preceding subclause (I) is amended by inserting "and except with respect to inpatient hospital costs with respect to which amounts are payable under section 1886(d)" after "(except with respect to emergency services)".

(g) Section 1876(g) of such Act is amended by adding at the end the following:

"(4) A risk-sharing contract under this subsection may, at the option of an eligible organization, provide that the Secretary—

"(A) will reimburse hospitals either for payment amounts determined in accordance with section 1886, or for the reasonable cost (as determined under section 1861(v)) or as applicable, of inpatient hospital services furnished to individuals enrolled with such organization pursuant to subsection (d), and

"(B) will deduct the amount of such reimbursement for payment which would otherwise be made to such organization."

(h)(1) Section 1878(a) of such Act is amended—

(A) by inserting "and (except as provided in subsection (g)(2)) any hospital which receives payments in amounts computed under section 1886(d) and which has submitted such reports within such time as the Secretary may require in order to make payment under such section may obtain a hearing with respect to such payment by the Board" after "subsection (h)" in the matter before paragraph (1),

(B) by inserting "(i)" after "(A)" in paragraph (1)(A),

(C) by inserting "or" at the end of paragraph (1)(A) and by adding after such paragraph the following new clause:

"(ii) is dissatisfied with a final determination of the Secretary as to the amount of the payment under section 1886(d)," and

(D) by striking out "(1)(A)" in paragraph (3) and inserting in lieu thereof "(1)(A)(i), or with respect to appeals under paragraph (1)(A)(ii), 180 days after notice of the Secretary's final determination,".

(2)(A) The last sentence of section 1878(f)(1) of the Social Security Act is amended by inserting "(or, in an action brought jointly by several providers, the judicial district in which the greatest number of such providers are located) after "the judicial district in which the provider is located".

(B) Section 1878(f)(1) of such Act is further amended by adding at the end thereof the following new sentence: "Any appeal to the

Board or action for judicial review by providers which are under common ownership or control must be brought by such providers as a group with respect to any matter involving an issue common to such providers.”

(3) Section 1878(g) of such Act is amended by inserting “(1)” after “(g)” and by adding at the end the following new paragraph:

“(2) The determinations and other decisions described in section 1886(d)(7) shall not be reviewed by the Board or by any court pursuant to an action brought under subsection (f) or otherwise.”

(4) The third sentence of section 1878(h) of such Act is amended by striking out “cost reimbursement” and inserting in lieu thereof “payment of providers of services”.

(i) The first sentence of section 1881(b)(2)(A) of such Act is amended by inserting “or section 1886 (if applicable)” after “section 1861(v)”.

(j) Section 1887(a)(1)(B) of such Act is amended by inserting “or on the bases described in section 1886” after “on a reasonable cost basis”.

(k) The Secretary of Health and Human Services may, for any cost reporting period beginning prior to October 1, 1986, waive the requirements of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Security Act in the case of a hospital which has followed a practice, since prior to October 1, 1982, of allowing direct billing under part B of title XVIII of such Act for services (other than physician services) so extensively, that immediate compliance with those requirements would threaten the stability of patient care. Any such waiver shall provide that such billing may continue to be made under part B of such title but that the payments to such hospital under part A of such title shall be reduced by the amount of the billings for such services under part B of such title. If such a waiver is granted, at the end of the waiver period the Secretary may provide for such methods of payments under part A as is appropriate, given the organizational structure of the institution.

(l) Effective October 1, 1984, section 1866(a)(1) of the Social Security Act, as amended by subsection (f)(1) of this section, is further amended—

(1) by striking out “(if there is such an organization” in subparagraph (F) and insert in lieu thereof “(with an organization”, and

(2) by adding at the end the following new sentence: “In the case of a hospital which has an agreement in effect with an organization described in subparagraph (F), which organization’s contract with the Secretary under part B of title XI terminates on or after October 1, 1984, the hospital shall not be determined to be out of compliance with the requirement of such subparagraph during the six month period beginning on the date of the termination of that contract.”

REPORTS, EXPERIMENTS, AND DEMONSTRATION PROJECTS

SEC. 603. (a)(1) The Secretary of Health and Human Services (hereinafter in this title referred to as the “Secretary”) shall study, develop, and report to the Congress within 18 months after the date of the enactment of this Act on the method and proposals for legis-

lation by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included within the prospective payment amounts computed under section 1886(d) of the Social Security Act.

(2)(A) The Secretary shall study and report annually to the Congress at the end of each year (beginning with 1984 and ending with 1987) on the impact, of the payment methodology under section 1886(d) of the Social Security Act during the previous year, classes of hospitals, beneficiaries, and other payors for inpatient hospital services, and other providers, and, in particular, on the impact of computing DRG prospective payment rates by census division, rather than exclusively on a national basis. Each such report shall include such recommendations for such changes in legislation as the Secretary deems appropriate.

(B) During fiscal year 1984, the Secretary shall begin the collection of data necessary to compute the amount of physician charges attributable, by diagnosis-related groups, to physicians' services furnished to inpatients of hospitals whose discharges are classified within those groups. The Secretary shall include, in a report to Congress in 1985, recommendations on the advisability and feasibility of providing for determining the amount of the payments for physicians' services furnished to hospital inpatients based on the DRG type classification of the discharges of those inpatients, and legislative recommendations thereon.

(C) In the annual report to Congress under subparagraph (A) for 1985, the Secretary shall include the results of studies on—

(i) the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates under paragraph (3) of section 1886(d) of the Social Security Act;

(ii) whether and the method under which hospitals, not paid based on amounts determined under such section, can be paid for inpatient hospital services on a prospective basis as under such section;

(iii) the appropriateness of the factors used under paragraph (5)(A) of such section to compensate hospitals for the additional expenses of outlier cases, and the application of severity of illness, intensity of care, or other modifications to the diagnosis-related groups, and the advisability and feasibility of providing for such modifications;

(iv) the feasibility and desirability of applying the payment methodology under such section to payment by all payors for inpatient hospital services; and

(v) the impact of such section on hospital admissions and the feasibility of making a volume adjustment in the DRG prospective payment rates or requiring preadmission certification in order to minimize the incentive to increase admissions.

Such report shall specifically include, with respect to the item described in clause (iv), consideration of the extent of cost-shifting to non-Federal payors and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees.

(D) In the annual report to Congress under subparagraph (A) for 1986, the Secretary shall include the results of a study examining the overall impact of State systems of hospital payment (either approved under section 1886(c) of the Social Security Act or under a

waiver approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972), particularly assessing such systems' impact not only on the medicare program but also on the medicaid program, on payments and premiums under private health insurance plans, and on tax expenditures.

(3)(A) The Secretary shall complete a study and make legislative recommendations to the Congress with respect to an equitable method of reimbursing sole community hospitals which takes into account their unique vulnerability to substantial variations in occupancy.

(B) In addition, the Secretary shall examine ways to coordinate an information transfer between parts A and B of title XVIII of the Social Security Act, particularly with respect to those cases where a denial of coverage is made under part A of such title, and no adjustment is made in the reimbursement to the admitting physician or physicians.

(C) The Secretary shall also report on the appropriate treatment of uncompensated care costs, and adjustments that might be appropriate for large teaching hospitals located in rural areas.

(D) The Secretary shall also report on the advisability of having hospitals make available information on the cost of care to patients financed by both public programs and private payors.

(E) The studies and reports described in this paragraph shall be completed and submitted not later than April 1, 1985.

(4) The Secretary shall complete a study and make recommendations to the Congress, before April 1, 1984, with respect to a method for including hospitals located outside of the fifty States and the District of Columbia under a prospective payment system.

(b)(1) Except as provided in paragraph (2), the amendments made by this title shall not affect the authority of the Secretary to develop, carry out, or continue experiments and demonstration projects.

(2) The Secretary shall provide that, upon the request of a State which has a demonstration project (or upon the request of a party to demonstration project agreement), for payment of hospitals under title XVIII of the Social Security Act approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972, which (A) is in effect as of March 1, 1983, and (B) was entered into after August 1982, the terms of the demonstration agreement shall be modified so that the demonstration project is not required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in medicare hospital costs.

(c) The Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, within 30 days after the date of enactment of this Act—

(1) the risk-sharing application of On Lok Senior Health Services (according to terms and conditions as specified by the Secretary), dated July 2, 1982, for waivers, pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, of certain requirements of title XVIII of the Social Security Act over a period of 36 months in order to carry out a long-term care demonstration project, and

(2) the application of the Department of Health Services, State of California, dated November 1, 1982, pursuant to section 1115 of the Social Security Act, for the waiver of certain requirements of title XIX of such Act over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

(d) The Secretary shall conduct demonstrations with hospitals in areas with critical shortages of skilled nursing facilities to study the feasibility of providing alternative systems of care or methods of payment.

EFFECTIVE DATES

SEC. 604. (a)(1) Except as provided in section 602(l) and in paragraph (2), the amendments made by the preceding provisions of this title apply to items and services furnished by or under arrangements with a hospital beginning with its first cost reporting period that begins on or after October 1, 1983. A change in a hospital's cost reporting period that has been made after November 1982 shall be recognized for purposes of this section only if the Secretary finds good cause for that change.

(2) Section 1866(a)(1)(F) of the Social Security Act (as added by section 602(f)(1)(C) of this title), section 1862(a)(14) (as added by section 602(e)(3) of this title) and sections 1886(a)(1) (G) and (H) of such Act (as added by section 602(f)(1)(C) of this title) take effect on October 1, 1983.

(b) The Secretary shall make an appropriate reduction in the payment amount under section 1886(d) of the Social Security Act (as amended by this title) for any discharge, if the admission has occurred before a hospital's first cost reporting period that begins after September 1983, to take into account amounts payable under title XVIII of that Act (as in effect before the date of the enactment of this Act) for items and services furnished before that period.

(c)(1) The Secretary shall cause to be published in the Federal Register a notice of the interim final DRG prospective payment rates established under subsection (d) of section 1886 of the Social Security Act (as amended by this title) no later than September 1, 1983, and allow for a period of public comment thereon. Payment on the basis of prospective rates shall become effective on October 1, 1983, without the necessity for consideration of comments received, but the Secretary shall, by notice published in the Federal Register, affirm or modify the amounts by December 31, 1983, after considering those comments.

(2) A modification under paragraph (1) that reduces a prospective payment rate shall apply only to discharges occurring after 30 days after the date the notice of the modification is published in the Federal Register.

(3) Rules to implement subsection (d) of section 1886 of the Social Security Act (as so amended) shall be established in accordance with the procedure described in this subsection.

DELAY IN PROVISION RELATING TO HOSPITAL-BASED SKILLED NURSING FACILITIES

SEC. 605. (a) *Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".*

(b) *The Secretary of Health and Human Services shall, prior to December 31, 1983, complete a study and report to the Congress with respect to (1) the effect which the implementation of section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 would have on hospital-based skilled nursing facilities, given the differences (if any) in the patient populations served by such facilities and by community-based skilled nursing facilities and (2) the impact on skilled nursing facilities of hospital prospective payment systems, and recommendations concerning payment of skilled nursing facilities.*

SHIFT IN MEDICARE PREMIUMS TO COINCIDE WITH COST-OF-LIVING INCREASE

SEC. 606. (a) *Section 1839 of the Social Security Act is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:*

"(a)(1) The Secretary shall, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees who have attained retirement age will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The monthly premium of each individual enrolled under this part for each month after December 1983 shall, except as provided in subsections (b) and (e), be the amount determined under paragraph (3).

"(3) The Secretary shall, during September of 1983 and of each year thereafter, determine and promulgate the monthly premium applicable for individuals enrolled under this part for the succeeding calendar year. The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the smaller of—

"(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of \$900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate

by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees who have attained retirement age as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

"(4) The Secretary shall also, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin."

(2) Subsections (d), (e), (f), and (g) of section 1839 of such Act are redesignated as subsections (b), (c), (d), and (e), respectively.

(3)(A) Section 1839(b) of such Act (as so redesignated) is amended by striking out "subsection (b), (c), or (g)" and inserting in lieu thereof "subsection (a) or (e)".

(B) Section 1839(d) of such Act (as so redesignated) is amended by striking out "purposes of subsection (c)" and inserting in lieu thereof "purposes of subsection (b)".

(C) Section 1839(e) of such Act (as so redesignated) is amended by striking out "subsection (c)" and "subsection (c)(1)" and by inserting in lieu thereof "subsection (a)" and "subsection (a)(1)", respectively.

(D) Section 1818(c) of such Act is amended by striking out "subsection (c) of section 1839" and inserting in lieu thereof "subsection (a) of section 1839".

(E) Section 1843(d)(1) of such Act is amended by striking out "without any increase under subsection (c) thereof" and inserting in lieu thereof "without any increase under subsection (b) thereof".

(F) Section 1844(a)(1)(A)(i) of such Act is amended—

(i) by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(G) Section 1844(a)(1)(B)(i) of such Act is amended—

(i) by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(H) Section 1876(a)(5) of such Act is amended—

(i) in subparagraph (A)(ii) by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) in subparagraph (B)(ii), by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)".

(b) Section 1818(d)(2) of such Act is amended—

(1) by striking out "during the last calendar quarter of each year, beginning in 1973," in the first sentence and inserting in lieu thereof "during the next to last calendar quarter of each year";

(2) by striking out "the 12-month period commencing July 1 of the next year" in the first sentence and inserting in lieu thereof "the following calendar year"; and

(3) by striking out "for such next year" in the second sentence and inserting in lieu thereof "for that following calendar year".

(c) The amendments made by this section shall apply to premiums for months beginning with January 1984, and for months after June 1983 and before January 1984—

(1) the monthly premiums under part A and under part B of title XVIII of the Social Security Act for individuals enrolled under each respective part shall be the monthly premium under that part for the month of June 1983, and

(2) the amount of the Government contributions under section 1844(a)(1) of such Act shall be computed on the basis of the actuarially adequate rate which would have been in effect under part B of title XVIII of such Act for such months without regard to the amendments made by this section, but using the amount of the premium in effect for the month of June 1983.

SECTION 1122 AMENDMENTS

SEC. 607. (a) Section 1122(c) of the Social Security Act is amended by striking out "the Federal Hospital Insurance Trust Fund" and inserting "the general fund in the Treasury".

(b)(1) Section 1122(g) of such Act is amended—

(A) by striking out "\$100,000" the first place it appears and inserting in lieu thereof "\$600,000 (or such lesser amount as the State may establish)", and

(B) by striking out "\$100,000" the second place it appears and inserting in lieu thereof "the dollar amount specified in clause (1)".

(2) Section 1861(z)(2) of such Act is amended by striking out "\$100,000" and inserting in lieu thereof "\$600,000 (or such lesser amount as may be established by the State under section 1122(g)(1) in which the hospital is located)".

(c) Section 1122 of such Act is amended by adding at the end thereof the following:

"(j) A capital expenditure made by or on behalf of a health care facility shall not be subject to review pursuant to this section if 75 percent of the patients who can reasonably be expected to use the service with respect to which the capital expenditure is made will be individuals enrolled in an eligible organization as defined in section 1876(b), and if the Secretary determines that such capital expenditure is for services and facilities which are needed by such organization in order to operate efficiently and economically and

which are not otherwise readily accessible to such organization because—

“(1) the facilities do not provide common services at the same site (as usually provided by the organization),

“(2) the facilities are not available under a contract of reasonable duration,

“(3) full and equal medical staff privileges in the facilities are not available,

“(4) arrangements with such facilities are not administratively feasible, or

“(5) the purchase of such services is more costly than if the organization provided the services directly.”

(d) Section 1861(z)(2) of such Act is amended by inserting “(A)” after “(z)” and by adding at the end thereof the following new subparagraph:

“(B) provides that such plan is submitted to the agency designated under section 1122(b), or if no such agency is designated, to the appropriate health planning agency in the State (but this subparagraph shall not apply in the case of a facility exempt from review under section 1122 by reason of section 1122(j));”.

And the Senate agree to the same.

DAN ROSTENKOWSKI,

J. J. PICKLE,

ANDREW JACOBS, Jr.,

HAROLD FORD,

JAMES M. SHANNON,

BARBER B. CONABLE, Jr.,

Managers on the Part of the House.

BOB DOLE,

JOHN DANFORTH,

JOHN H. CHAFEE,

JOHN HEINZ,

LLOYD BENTSEN,

DANIEL PATRICK MOYNIHAN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

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SOCIAL SECURITY SYSTEM

1. EXTENSION OF COVERAGE

A. FEDERAL EMPLOYEES

Present law

Permanent civilian employees of the Federal government are not covered by social security (OASDI). (Part-time temporary civilian employees and members of the armed forces are covered by social security.) By far the greatest number of Federal employees not covered by social security (2.7 million) participate in the Civil Service Retirement System (CSRS) on a mandatory basis. Legislative

branch employees are not covered by social security, and have the option of not participating in CSRS. Members of Congress, the President and the Vice-President are not covered under social security. As of January 1, 1983, Federal employees are covered under the medicare program and pay the medicare portion of the social security payroll tax.

Presently, the compensation paid to Federal judges—either in Senior (or inactive) status or in retirement—is not considered wages and thus is not subject to social security taxes nor is it considered for purposes of the retirement test.

House bill

Provides for coverage under social security of the following groups: (1) all Federal employees hired on or after January 1, 1984, including those with previous periods of Federal Service if the break in Federal service lasted at least 365 days; (2) legislative branch employees on the same basis, as well as current employees of the legislative branch who are not participating in the Civil Service Retirement System as of December 31, 1983; (3) all Members of Congress, the President and the Vice President effective January 1, 1984; (4) all sitting Federal judges, and all executive level and senior executive service political appointees, as of January 1, 1984. Federal judicial salaries would be reported as wages for social security earnings test and payroll tax purposes.

Senate amendment

Would cover Federal employees hired on or after January 1, 1984, or upon the enactment of a supplemental Civil Service Retirement System, whichever is later. Members of Congress, the President, Vice President, and the Commissioner of Social Security would be covered as of January 1, 1984.

The provision also states that “Nothing in this Act shall reduce the accrued entitlement to future benefits under the Federal retirement program system of current and retired Federal employees and their families. The full faith and credit of the United States Government is pledged hereby in support of the payment of said accrued entitlements.”

Conference agreement

The conference agreement follows the House bill, but also includes the Senate provision’s statement “Nothing in this Act shall reduce the accrued entitlement that to future benefits under the Federal retirement program system of current and retired Federal employees and their families.”

I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

B. EMPLOYEES OF NONPROFIT ORGANIZATIONS

Present law

Participation in the social security system is optional for non-profit organizations (charitable, religious, and educational). Most such organizations have chosen to participate, but about 15 percent

of employees of nonprofit organizations are presently not covered. A nonprofit organization which has elected to participate can file to withdraw from social security after it has been in the system for 8 years, and termination is effective two years after the end of the calendar quarter in which the notice was filed.

House bill

Extends social security coverage on a mandatory basis to all employees of nonprofit organizations as of January 1, 1984. (Terminations of coverage would not be permitted on or after March 31, 1983.) Nonprofit employees age 55 or older affected by this provision would be deemed to be fully insured for social security benefits after acquiring a given number of quarters of coverage, according to the following sliding scale:

| If on January 1, 1984, the person is— | The number of quarters needed is— |
|--|--------------------------------------|
| Age 60 or over..... | 6 |
| Age 59..... | 8 |
| Age 58..... | 12 |
| Age 57..... | 16 |
| Age 55-56..... | 20 |

Senate amendment

Similar to House bill, except that terminations would not be permitted after enactment. Also, does not include special provision deeming persons to be fully insured under liberalized quarter-of-coverage requirements.

Conference agreement

The Conference agreement follows the House bill.

2. TERMINATION OF COVERAGE BY STATE AND LOCAL GOVERNMENTS

Present law

Participation in social security is optional for State and local governments. Once a government has chosen to join social security, it may withdraw, after 5 years of coverage, by providing the Federal government with two years advance notice of its intent to withdraw. A notice of termination becomes effective at the end of the calendar year two years after the notice is filed. Governments that have withdrawn are not allowed to rejoin. (About 70 percent of all State and local government employees are presently covered by social security.)

House bill

Prohibits State and local governments from terminating coverage for their employees if the termination has not taken effect by the date legislation is enacted. In addition, allows State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

Senate amendment

Same as House bill.

3. WINDFALL BENEFITS FOR PERSONS WITH PENSIONS FROM NONCOVERED EMPLOYMENT

Present law

Social security benefits are determined through a formula based on average lifetime earnings in jobs covered by social security. The benefit formula is weighted so that persons with low average lifetime earnings receive a proportionally higher rate of return on their contributions to social security than workers with relatively high average lifetime earnings.

Workers with short periods of covered work also receive this advantage, because their few years of earnings are averaged over a 35-year period to determine their average monthly covered earnings on which the benefit is based.

This high rate of return for persons who have spent a short period of time in covered employment is what is often characterized as a "windfall" benefit.

House bill

(1) Applies a different benefit formula to workers who are eligible for a pension based wholly or in part on noncovered employment. Under the current formula, benefits are 90% of the first \$254 of average monthly earnings, 32% of earnings from \$254 to \$1,538, and 15% of earnings above \$1,538. The new formula applicable to those with pensions from noncovered employment would substitute 61% for the 90% factor. (2) Provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-half the amount of the noncovered pension. (3) This provision will be applicable to persons reaching age 60 after December 31, 1983.

Senate amendment

Similar to House provision, except substitutes a 32% factor in benefit formula, phased in over a 5-year period as follows:

| Year of first eligibility under OASDI: | First factor in formula (percent) |
|---|---|
| 1984..... | 78.4 |
| 1985..... | 66.8 |
| 1986..... | 55.2 |
| 1987..... | 43.6 |
| 1988 and after..... | 32.0 |

Provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-third of the portion of the worker's pension based on service which was not covered.

Provides further a guarantee that persons with 30 years or more of covered service would not be affected. For persons with less than 30 but more than 24 years of substantial social security employment, the 90% factor in the benefit formula would be reduced by 10 percentage points for each year below 30 years of covered employment. This would not reduce benefits by more than the regular windfall provision, however. (A year of substantial employment would be a year in which covered earnings were at least 25 percent

of the wage base. For years after 1977, the base used would be the 1977 base with adjustments for increased earnings after that date.)

The provision provides for periodically recomputing the offset based on changes in the pension rate. The provision also provides that pensions based on noncovered employment of less than a year would not be subject to the offset.

The provision would be effective on January 1, 1984, for retired or disabled workers who first become eligible for a noncovered pension and for social security after 1983.

Conference agreement

The conference agreement follows the House bill with the following amendments:

1. Substitutes 40 percent as the first bracket formula amount.
2. Phases in this reduction over a 5-year period: 80% in the first year, 70% in the second year, 60% in the third year, 50% in the fourth year, and fully effective in the fifth year.
3. Exempts the following groups:
 - a. all current employees newly covered by the bill, i.e. those current Federal employees covered by the bill, and nonprofit employees except those employees whose past employment for a nonprofit organization had been covered, but whose employment for that organization was not covered on December 31, 1983;
 - b. those with service which was not covered until 1957;
 - c. those with 30 years or more of covered work; in addition, for persons with less than 30 but more than 24 years of substantial social security employment, the 90% factor in the benefit formula would be reduced by 10 percentage points for each year below 30 years of covered employment. (Senate provision); and
 - d. those with railroad retirement pensions.
4. Amends the effective date to apply to those first eligible for social security benefits and for government pensions after 1985.

4. DELAY COST-OF-LIVING ADJUSTMENT

Present law

(a) Social security benefits are adjusted automatically every June (July check) to reflect increases in the consumer price index. This cost-of-living adjustment is measured from the average CPI of the first quarter of the previous year in which a benefit increase was provided to the average of the first quarter of the current year. No cost-of-living increase is provided in any year in which the increase in the CPI is less than 3 percent.

House bill

Delays the June 1983 cost-of-living adjustment until December (January 1984 check), and provides all subsequent cost-of-living adjustments in December (January checks). This adjustment would be based on the CPI for the first quarter of 1983 over that for the first quarter of 1982. All subsequent adjustments would be based on the CPI increase from the third quarter of the last year in which a cost-of-living adjustment was provided to the third quarter of the current year. For the December 1983 adjustment only, the 3 percent trigger is waived.

Senate amendment

Same as House bill. (A floor amendment also provides that the OASDI COLA delay be accompanied by a corresponding delay in a 1982 Reconciliation Act provision to round down certain veterans' pensions.)

Conference agreement

The conference agreement follows the Senate Amendment.

(b) The medicare monthly premium for part B physician coverage increases each July 1. (For those people receiving social security cash benefits, the premium is deducted from their checks.)

House bill

Also, postpones from July 1, 1983, to January 1, 1984, and to each January thereafter, the effective date of increases in medicare premiums to coincide with the proposed delay in the cost-of-living increases in social security cash benefit payments. For the six-month period from July 1, 1983 to January 1, 1984, the general revenue contribution would replace the lost premium revenue.

Senate amendment

Similar provision except that the general revenue contribution would not replace lost premium revenue.

Conference agreement

The conference agreement follows the House bill.

5. TAXATION OF SOCIAL SECURITY (OASDI) BENEFITS FOR HIGHER-INCOME PERSONS

Present law

Social security benefits and railroad retirement benefits are excluded from gross income for purposes of the Federal income tax.

House bill

Beginning in 1984, a portion of social security and tier I railroad retirement benefits would be included in taxable income for taxpayers whose adjusted gross income combined with 50 percent of their benefits exceeds a base amount. The base amount would be \$25,000 for an individual, \$32,000 for a married couple filing a joint return and zero for married persons filing separate returns. The amount of benefits that could be included in taxable income would be the lesser of one-half of benefits or one-half of the excess of the taxpayers' combined income (AGI + one-half of benefits) over the base amount.

The proceeds from the taxation of benefits, as estimated by the Treasury Department, would be transferred to the appropriate trust funds at first of quarter. An annual report from the Secretary of the Treasury concerning the transfers would be required.

Special rules would be provided to adjust for repayments by individuals of benefits previously received and subsequently determined to be overpayments. Special rules also would be provided for attributing appropriate portions of lump-sum benefit payments to

the years for which they had been paid. Benefits subject to tax would include any workmen's compensation receipt of which caused a reduction in disability benefits. (Proceeds from the taxation of these benefits would be deposited in either the social security or railroad retirement account.)

Annual information returns would be filed by the Social Security Administration and the Railroad Retirement Board with the IRS and furnished to individual beneficiaries.

The 50 percent of social security benefits received by non-resident aliens would be subject to the 30 percent withholding tax (or a lower rate if so fixed by treaty) applicable to periodic payments made to such individuals under current law. (The IRS would be authorized to disclose to SSA and RRB certain tax return information for purposes of administering this provision.)

Senate amendment

Same as House bill, except that interest on tax-exempt bonds is added to adjusted gross income for the purpose of determining whether an individual's income exceeds the base amount above which a portion of benefits would be subject to tax; transfers to trust funds are made in the middle of the quarter; and that benefits subject to tax do not include certain worker's compensation benefits.

Conference agreement

The conference agreement follows the House bill on timing of transfers to the trust funds and treatment of certain worker's compensation benefits, and the Senate Amendment concerning tax exempt interest.

6. 1984-90 SOCIAL SECURITY TAX RATES AND 1984 CREDIT

A. FICA TAX RATES

Present law

Several increases in payroll tax rates are already scheduled to take effect between 1984 and 1990 as indicated below:

| | Employer-Employee Rate (Each) | | |
|-----------|-------------------------------|------|----------|
| | OASDI | HI | OASDI-HI |
| 1984..... | 5.4 | 1.30 | 6.70 |
| 1985..... | 5.7 | 1.35 | 7.05 |
| 1986..... | 5.7 | 1.45 | 7.15 |
| 1987..... | 5.7 | 1.45 | 7.15 |
| 1988..... | 5.7 | 1.45 | 7.15 |
| 1989..... | 5.7 | 1.45 | 7.15 |
| 1990..... | 6.2 | 1.45 | 7.65 |

House bill

Advances the payroll tax increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988, as indicated below:

| | Employer-Employee Rate (Each) | | |
|-----------|-------------------------------|------|----------|
| | OASDI | HI | OASDI-HI |
| 1984..... | 5.70 | 1.30 | 7.00 |
| 1985..... | 5.70 | 1.35 | 7.05 |
| 1986..... | 5.70 | 1.45 | 7.15 |
| 1987..... | 5.70 | 1.45 | 7.15 |
| 1988..... | 6.06 | 1.45 | 7.51 |
| 1989..... | 6.06 | 1.45 | 7.51 |
| 1990..... | 6.20 | 1.45 | 7.65 |

Senate amendment

Same as House bill.

B. TAX CREDIT FOR 1984 EMPLOYEE FICA TAXES*Present law*

No deduction or credit is available for employee FICA taxes.

House bill

A credit of 0.3% of wages would be allowed against 1984 employee FICA taxes to reduce the net FICA rate to 6.70%. Appropriations to Trust Funds would be based on a 7.00% rate. Employee's annual withholding statements (form W-2) would indicate the net amount of FICA tax (i.e., the 6.7% of taxable wages actually deducted from their paychecks).

Senate amendment

Same as House bill except that employee's annual wage statements (Form W-2) would indicate both the gross FICA tax (7.0% of taxable wages) and the FICA credit (0.3% of taxable wages).

Conference agreement

The conference agreement follows the House bill.

C. 1984 EMPLOYER FICA TAX CREDIT*Present law*

No deduction or credit is available for employer FICA taxes.

House bill

No provision.

Senate amendment

Employers who employ no more than 5 employees at any time during 1984 would be allowed a credit against FICA of 0.3% of taxable wages paid during that year. The credit would be limited to \$300 per employer. All trades or businesses under common control would be considered to be one employer for the purpose of determining the number of employees.

Conference agreement

The conference agreement follows the House bill.

D. TIER I RAILROAD RETIREMENT TAXES

Present law

The rates of the Tier I railroad retirement taxes are the same as the rates of the corresponding FICA taxes.

House bill

Conforming changes would be made in Tier I railroad retirement tax rates and the credit against 1984 employee taxes would be allowed against employee railroad taxes.

Senate amendment

Same as House bill.

7. TAX ON SELF-EMPLOYMENT INCOME

Present law

The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Currently, self-employed persons pay an OASDI tax at a rate approximately equal to 75 percent of the combined employer-employee rate and an HI tax at a rate that is 50 percent of the combined employer-employee rate.

No deduction or credit is available for SECA taxes.

House bill

Beginning in 1984, the OASDHI rates for self-employed persons would be equal to the combined employer-employee OASDHI rate.

For 1984, self-employed persons would be allowed a credit (comparable to the credit allowed employers against the FICA tax) against SECA tax equal to 0.3 percent of net self-employment income. In addition, beginning in 1984, self-employed persons would be entitled to a permanent credit against SECA tax. For 1984-87, the amount of the credit would be 1.8 percent of net self-employment income. For 1988 and subsequent years, the credit would be 1.9 percent. The SECA tax credit may be directly taken into account in computing SECA liability for a taxable year and estimated tax payments for that year.

Appropriations to the trust funds would be based on the full SECA tax rates without regard to the credit allowed against such taxes.

Senate amendment

Same as House bill, except that the total credit rate would be 2.9 percent of self-employment income in 1984, 2.5 percent in 1985, 2.2 percent in 1986, 2.1 percent in 1987, 1988, and 1989, and 2.3 percent in 1990 and thereafter.

Conference agreement

The Conference agreement provides that:

- a. The SECA credits for 1984 through 1989 would be as follows:
 - 1984: 2.7 percent.
 - 1985: 2.3 percent.
 - 1986-89: 2.0 percent.

b. Effective in 1990 and thereafter, the credit would terminate and be replaced with a system designed to achieve parity between employees and the self-employed. Under this system:

1. The base of the self-employment tax would be adjusted downward to reflect the fact that employees do not pay FICA tax on the value of the employer's FICA tax.
2. A deduction would be allowed for income tax purposes, for half of SECA Liability, to allow for the fact that employees do not pay income tax on the value of the employer's FICA tax.

8. CREDIT FOR THE ELDERLY AND DISABILITY INCOME EXCLUSION

A. CREDIT FOR THE ELDERLY

Present law

1. *Eligible individuals and credit rate.*—Individuals age 65 or over, or under 65 and with income from a public retirement system, are eligible for a credit equal to 15 percent of a base amount.

2. *Base amount.*—The initial amount of the base is:
- \$2,500—married with one spouse eligible or unmarried.
 - \$3,750—married, joint return, both spouses eligible.
 - \$1,875—married filing separately.

For individuals under age 65, the initial amount is limited to income from a public retirement system.

The initial amount is reduced by:

1. Pensions or annuities received under Social Security, Railroad Retirement, and certain other pensions and annuities otherwise excluded from gross income, and
2. One-half of the excess of adjusted gross income over:
 - \$7,500—single returns.
 - \$10,000—married, joint return.
 - \$5,000—married, separate return.

This reduction does not apply to individuals under age 65. Instead, the initial amount is reduced by certain amounts of earned income.

House bill

1. *Eligible individuals and credit rate.*—Same as present law, except that individuals under age 65 are eligible only if they retired with a permanent and total disability and have disability income from a public or private employer on account of that disability.

2. *Base amount.*—The initial base amount is:
- \$5,000—married with one spouse eligible or unmarried.
 - \$7,500—married, joint return, both spouses eligible.
 - \$3,750—married filing separately.

For individuals under age 65, the initial amount is limited to disability income.

1. Pensions or annuities received under social security, Railroad Retirement, and certain other pensions and annuities otherwise excluded from gross income (as under present law). In addition, social security and railroad disability benefits also reduce the initial amount.

2. One-half of adjusted gross income over:

- \$7,500—single returns.
- \$10,000—married, joint return,
- \$5,000—married, separate return.

The same rules for reducing the initial amount would apply to all eligible individuals.

Conference agreement

The conference agreement follows the House bill with technical amendment.

B. DISABILITY INCOME EXCLUSION

Present law

Amounts received under an employer's disability income plan generally are includible in gross income to the extent attributable to employer contributions. However, permanently and totally disabled individuals who have retired on disability and are under 65 may exclude such income within certain limits. The excluded amount is limited to \$100 per week and is reduced by the excess of adjusted gross income over \$15,000.

House bill

The disability income exclusion is repealed. Affected individuals are made eligible for the credit for elderly and disabled persons to the extent of disability income (see above).

Effective date.—The provision applies to taxable years beginning after December 31, 1983.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

9. REALLOCATION OF OASI AND DI TRUST FUNDS

Present law

The OASDI tax rate is allocated as indicated below:

| | [Percent] | |
|--------------------------------|-----------|--------|
| | OASI | DI |
| Employees and employers, each: | | |
| 1984..... | 4.575 | 0.825 |
| 1985-89..... | 4.750 | 0.950 |
| 1990 and after..... | 5.100 | 1.100 |
| Self employed: | | |
| 1984..... | 6.8125 | 1.2375 |
| 1985-89..... | 7.1250 | 1.4250 |
| 1990 and after..... | 7.6500 | 1.6500 |

House bill

OASDI tax allocated so that both funds will have about the same fund ratios, as indicated below:

[Percent]

| | OASI | DI |
|--------------------------------|---------|--------|
| Employees and employers, each: | | |
| 1983..... | 4.775 | 0.625 |
| 1984-87..... | 5.200 | .500 |
| 1988-89..... | 5.560 | .500 |
| 1990..... | 5.600 | .600 |
| Self-employed persons: | | |
| 1983..... | 7.1125 | .9375 |
| 1984-87..... | 10.4000 | 1.0000 |
| 1988-89..... | 11.1200 | 1.0000 |
| 1990..... | 11.2000 | 1.2000 |

Senate amendment

The OASDI tax would be allocated so that both funds will have about the same fund ratios as indicated below:

[Percent]

| | OASI | DI | OASDI |
|--------------------------------|---------|-------|-------|
| Employees and employers, each: | | | |
| 1984..... | 5.075 | 0.625 | 5.7 |
| 1984 to 1987..... | 5.20 | .50 | 5.7 |
| 1988 to 1989..... | 5.53 | .53 | 6.06 |
| 1990 to 1999..... | 5.60 | .60 | 6.20 |
| 2000 and later..... | 5.55 | .65 | 6.20 |
| Self-employed persons: | | | |
| 1983..... | 10.4625 | .9375 | 11.40 |
| 1984 to 1987..... | 10.40 | 1.00 | 11.40 |
| 1988 to 1989..... | 11.06 | 1.06 | 12.12 |
| 1990 to 1999..... | 11.20 | 1.20 | 12.40 |
| 2000 and later..... | 11.10 | 1.30 | 12.40 |

Conference agreement

The conference agreement provides for the following allocation:

[Percent]

| Calendar year | Total for OASDI and HI | OASI | DI | OASDI | HI |
|-------------------------------|------------------------------|-------|-------|-------|------|
| Employees and employers, each | | | | | |
| 1982..... | 6.70 | 4.575 | 0.825 | 5.40 | 1.30 |
| 1983..... | 6.70 | 4.775 | .625 | 5.40 | 1.30 |
| 1984..... | 7.00 | 5.200 | .500 | 5.70 | 1.30 |
| 1985..... | 7.05 | 5.200 | .500 | 5.70 | 1.35 |
| 1986-87..... | 7.15 | 5.200 | .500 | 5.70 | 1.45 |
| 1988-89..... | 7.51 | 5.530 | .530 | 6.06 | 1.45 |
| 1990-99..... | 7.65 | 5.600 | .600 | 6.20 | 1.45 |

| Calendar year | Total for OASDI and HI | OASI | DI | OASDI | HI |
|-----------------------|------------------------------|---------|--------|-------|------|
| 2000 and later..... | 7.65 | 5.490 | .710 | 6.20 | 1.45 |
| Self-employed persons | | | | | |
| 1982..... | 9.35 | 6.8125 | 1.2375 | 8.05 | 1.30 |
| 1983..... | 9.35 | 7.1125 | .9375 | 8.05 | 1.30 |
| 1984..... | 14.00 | 10.4000 | 1.0000 | 11.40 | 2.60 |
| 1985..... | 14.10 | 10.4000 | 1.0000 | 11.40 | 2.70 |
| 1986-87..... | 14.30 | 10.4000 | 1.0000 | 11.40 | 2.90 |
| 1988-89..... | 15.02 | 11.0600 | 1.0600 | 12.12 | 2.90 |
| 1990-99..... | 15.30 | 11.2000 | 1.2000 | 12.40 | 2.90 |
| 2000 and later..... | 15.30 | 10.9800 | 1.4200 | 12.40 | 2.90 |

10. BENEFITS FOR CERTAIN WIDOWS, DIVORCED, AND DISABLED WOMEN

A. BENEFITS FOR SURVIVING DIVORCED OR DISABLED SPOUSE WHO REMARRIES

Present law

Current law permits the continuation of benefits for surviving spouses who remarry after age 60. However, benefits for disabled widow(er)s and disabled surviving divorced spouses (payable from age 50 to 60) and for surviving divorced spouses (payable at age 60) are terminated if the individual remarries.

House bill

Allows the continuation of benefits for disabled and surviving divorced spouses upon remarriage if that marriage takes place after the age of first eligibility for benefits. Effective for benefits for months after December 1983.

(No change would be made in the current dual entitlement provision of the law which allows an individual to receive only the highest benefit for which such individual is eligible.)

Senate amendment

Same as House bill.

B. CHANGE IN INDEXING DEFERRED SURVIVOR BENEFITS

Present law

Survivor benefits are based on the amount of benefits that would have been payable to the deceased worker as determined by applying a benefit formula to the worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.

Should the worker die long before retirement age, the benefit to which the widowed spouse ultimately becomes eligible in old-age (or at disability) is based on outdated wages. Thus, women who become widowed at a relatively young age, but do not become eligible for benefits for many years, are deprived of their husband's un-

realized earnings as well as the economy-wide wage increases that may have occurred since the death of their husbands.

House bill

In the case of deferred survivor benefits, continues indexing the worker's earnings to reflect economy-wide wage increases rather than price increases. Such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow's benefits, whichever is earlier. Effective for newly eligible survivors after December 1984.

Senate amendment

Same as House bill.

C. INDEPENDENT ENTITLEMENT FOR DIVORCED SPOUSES

Present law

A divorced spouse, eligible for benefits at age 62, may not begin to draw social security benefits until the former spouse begins to draw benefits. For some divorced women, this means that they must wait several years beyond their own retirement age (because their former spouse delays retirement or otherwise fails to apply for benefits) before they can begin to draw benefits.

House bill

Allows divorced spouses (who have been divorced for at least 2 years) to draw benefits at age 62 if the former spouse is eligible for retirement benefits, whether or not benefits have been claimed or suspended because of substantial employment. Effective for benefits for months after December 1984.

Senate amendment

Same as House bill except for technical difference.

Conference agreement

The conference agreement follows the Senate Amendment.

D. INCREASED BENEFITS FOR DISABLED WIDOWS

Present law

Social Security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the worker's primary insurance amount) at age 65, and at reduced rates at ages 60-64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits are also payable at reduced rates to disabled widows and widowers aged 50-59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).

House bill

Increases benefits of disabled widow(er)s age 50-59 to 71.5 percent of the primary insurance amount, the amount to which

widow(er)s are entitled at age 60. Effective for benefits for disabled widows and widowers for months after December 1983.

Senate amendment

Same as House bill.

11. STABILIZER

Present law

Social security benefits are adjusted automatically every June to reflect increases in the Consumer Price Index. Such adjustments are made without regard to the status of the trust fund reserves.

Income to the social security system depends on the level of wages on which social security contributions are made. When increases in prices outrun increases in wages, income to the trust fund falls behind increases in benefit payments. Cash flow problems may then result, depending on whether accumulated fund reserves are sufficient to make up the gap between income and outlays.

There is no mechanism under current law to adjust trust fund outlays and revenues to take account of economic fluctuations.

House bill

Beginning with 1988, if the fund ratio of the combined OASDI Trust Funds as of the beginning of a year is less than 20.0%, the automatic cost-of-living (COLA) adjustment would be based on the lower of the CPI increase or the increase in average wages. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" benefit payments would be made during the following year, as supplements to monthly benefits otherwise payable, to the extent necessary to increase overall benefit levels in order to make up for any losses in inflation protection that result from basing COLA's on wages rather than prices. Such payments would be made only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32.0%

Senate amendment

Similar to House bill, except that the catch-up payments would supplement monthly benefits otherwise payable to make up for the cumulative dollar losses that could result from basing the adjustment on wages rather than prices.

Conference agreement

The conference agreement follows the House bill with an amendment to provide that the stabilizer would take effect with respect to the cost-of-living increase payable in January 1985 if the trust funds ratio at the end of 1984 is less 15 percent. Beginning in 1989 the stabilizer would take effect if the trust fund ratio falls below 20 percent.

12. PROCEDURES TO ASSURE CONTINUED BENEFIT PAYMENTS (FAIL-SAFE)

Present law

a. Social security benefits are financed by a payroll tax fixed in the law. While benefits are paid out within the first five days of each month, payroll tax revenues are estimated daily by the Treasury, and credited to the trust fund accounts each day.

House bill

Fixed Monthly Tax Transfers: Provides for a revision of accounting procedures under which the Treasury would credit to the OASDHI trust funds, at the beginning of each month the amount of payroll tax revenues estimated to be received during the month. These amounts would be invested by the trust funds as all other trust fund assets are invested; interest will also be paid by the trust funds on amounts transferred to the trust funds in advance of procedures in effect on January 1, 1983. Effective on the first day of the month following enactment.

Senate amendment

Similar to House provision, except that tax receipts would only be advanced for months the Secretary of the Treasury determines that the balances of the OASDI trust funds are less than 20% of outgo. Also, the interest paid to the General Treasury on the excess sums so transferred would be at the rate equal to the average 91-day Treasury bill rate during the month, with such interest being payable at the end of each month.

Effective.—On enactment through 1989.

Conference agreement

The conference agreement follows the House bill.

Present law

b. Interfund borrowing was authorized during 1982, but this authority terminated at the end of the year.

House bill

Interfund borrowing: Authorizes interfund benefit borrowing between the OASI, DI and HI funds for calendar years 1983-87, with provisions for repayment to the lending fund(s) of the principal and interest of all such loans (including amounts borrowed in 1982) at the earliest feasible time but not later than the end of calendar year 1989. Borrowing would be permitted only to the extent there is sufficient balance in the lending fund to meet its own obligations.

Senate amendment

Similar to House bill, except that (1) interest would be paid monthly to HI on any outstanding loans to OASDI; (2) OASDI could not borrow from HI in any month in which the HI trust fund ratio is under 10 percent (with no more to be borrowed than would reduce such ratio to 10 percent); (3) in 1983-87, OASDI would repay loans from HI whenever the OASDI fund ratio at the end of the

year exceeds 15 percent; and (4) in 1988-89, OASDI would repay HI, in 24 equal monthly payments, the loan balance outstanding at the end of 1987 (plus interest on any outstanding loan balance). Faster payment would be authorized.

Similar protections would be provided for the OASI and DI trust funds in the event that HI were to borrow from OASDI.

Conference agreement

The conference agreement follows the Senate Amendment.

Present law

c. If at any point revenues from the payroll tax exceed amounts needed for benefit payments, the excess is placed in the trust fund reserve. If revenues fall short of the amount needed, the reserves are drawn on to make up the difference. If the reserves are not adequate to make up the shortfall, under current law the trust funds have no way of making benefit payments on time. (Thus, it is considered critical to have at least one month's benefit payments in reserve at the beginning of each month, and to have enough of a reserve to continue benefit payments through any decline in revenues during the year.) The Board of Trustees is required to report immediately to the Congress if any of the trust funds is unduly small.

House bill

Managing Trustee Report to the Congress Concerning Trust Fund Shortfalls: Requires the Board of Trustees to report immediately to the Congress whenever it is of the opinion that the amount of any of the trust funds may become unduly small and recommend a specific legislative plan to adjust the inflow and outgo of funds to remedy this shortfall with due regard to the economic situation that created the problem and the amount of time available to act in a prudent manner. It is the intent that such legislative action would be effective only so long as is necessary to restore the fund to solvency.

Senate amendment

Requires the Secretary of Health and Human Services to make an annual evaluation of the projected balances in the OASDHI trust funds, taking into account cost-of-living increases. If at the start of any year after 1984 the OASDHI reserve ratio is projected to decline from the start of the next year to the start of the following year and to then be less than 20 percent of a year's benefits, the Secretary would be required to notify the Congress by the preceding July 1 that action to limit the next COLA will be necessary. If no action is taken, the Secretary would be required to scale back the COLA to the extent necessary to prevent a decline in the reserve ratio. (For years after 1987, the fund ratios only for OASDI would be considered.)

Insofar as possible, the limitation of the COLA would be applied to people whose benefits are based on a primary benefit level of more than \$250 per month. The determination as to whether a limitation on the cost-of-living increase was necessary would be made

only after taking into account all other statutory provisions for assuring adequate funds.

Effective for determinations beginning July 1, 1984.

Conference agreement

The conference agreement follows the House bill with an amendment under which the Trustee's report to the Congress must provide specific information as to the extent to which benefits would have to be reduced, payroll taxes increased, or some combination thereof, in order to restore the trust fund to solvency.

13. DELAYED RETIREMENT CREDIT

Present law

Persons who delay retiring—and claiming social security benefits—beyond age 65 receive increases in their benefits amounting to 3 percent per year for each year they delay retirement up to age 72.

House bill

Gradually increases the delayed retirement credit from 3 percent to 8 percent per year for persons who attain age 65 between 1990 and 2008. In order to conform to the reduction in the age at which the earnings test no longer applies, lowers the age after which the delayed retirement credit will no longer be given from age 72 to 70 for those who attain age 70 after December 1983.

Senate amendment

Similar to House bill except would first apply to people attaining age 62 in 1990, rather than 65 in 1990, and would be fully phased in by 1995. In addition, would remove the upper age limit on receipt of delayed retirement credits, effective January 1984 (floor amendment).

Conference agreement

The conference agreement follows the House bill.

14. REIMBURSEMENT TO TRUST FUNDS FOR MILITARY WAGE CREDITS AND UNCASHED OASDI CHECKS

A. MILITARY WAGE CREDITS

Present law

Gratuitous military wage credits are provided to persons who served in the military after September 16, 1940. Although members of the armed forces were compulsorily covered under social security in 1957, wage credits continue to be provided to military personnel in recognition of the value of non-cash compensation received.

The cost of the additional benefits and the administrative expenses arising from these non-contributory wage credits are borne by the General fund on a retroactive reimbursement basis (i.e., the costs are reimbursed only after benefits have been paid).

House bill

Provides for a lump-sum payment to the OASDI trust funds from the General Fund for: (i) The present value of the estimated additional benefits arising from the gratuitous military service wage credits for service before 1957; (ii) the amount of the combined employer-employee OASDI taxes on the gratuitous military service wage credits for service after 1956 and before 1983. In addition, the HI trust fund would be credited with the combined employer-employee HI taxes on gratuitous military wage credits for services after 1965 and before 1983. (In the future, the trust funds would be reimbursed on a current basis for such employer-employee taxes on such wage credits for service after 1982.)

Senate amendment

Similar to House bill, except that the lump sum reimbursement for the post 1956 wage credits includes 1983. Also, the initial transfer for pre-1957 military wage credits would be provided through the normal appropriations process.

Conference agreement

The conference agreement follows the Senate amendment, except with respect to the appropriation process for pre-1957 military wage credits.

B. UNCASHED OASDI CHECKS*Present law*

The trust funds are not credited for any uncashed OASDI benefit checks. Instead, the value of benefit checks which are not cashed remains in the General Fund of the Treasury.

House bill

Provides for a lump-sum payment to the OASDI trust funds from the General Fund representing the amount of uncashed benefit checks which have been issued in the past plus appropriate amounts of interest. In addition, requires the implementation of a procedure under which: (1) the Treasury Department would make it possible to distinguish OASDI checks from other government checks; and (2) the trust funds would be credited on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of 6 months.

Senate amendment

Similar to House bill, except that unnegotiated checks are defined to be those outstanding for a period 12 months after issuance, and no interest is payable to the trust funds on unnegotiated checks. Also, transfers to the trust funds would be subject to the annual appropriation process.

Conference agreement

The conference agreement follows the House bill; except for the Senate amendment making the transfers subject to the annual appropriations process.

II. ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

1. ADJUSTMENTS IN THE NORMAL RETIREMENT AGE

Present law

Normal retirement age (i.e., the age at which full retirement benefits can be received) is age 65. Early retirement benefits are available at age 62 at a rate of 80 percent of the full benefit. Medicare and SSI benefits are also available at age 65. Unreduced retirement benefits are available to workers, spouses, and widows and widowers at age 65. Actuarially reduced benefits are available at age 62 for workers and spouses and at age 60 for widows and widowers.

In computing social security benefits, a worker's earnings under social security are averaged and a benefit formula is applied to those average indexed monthly earnings (AIME) to arrive at the initial basic benefit amount called the primary insurance amount (PIA). The PIA is the amount a worker is eligible to receive at 65. Dependents' and survivors' benefits are based on the worker's PIA.

The formula for a worker who becomes eligible for benefits in 1983 is: 90 percent of the first \$254 of AIME, plus 32 percent of the AIME from \$254 through \$1,528, plus 15 percent of the AIME over \$1,528.

The two dollar figures in the formula, \$254 and \$1,528, are raised (indexed) each year to reflect increases in average wages in the economy. Thus, a new formula is created each year for the new group of workers becoming eligible for benefits in that year.

The annual adjustment of the benefit formula by the full amount of the increase in average wages leads to higher initial benefits over time and to replacement rates—the percentage of a worker's prior earnings that are replaced by his social security benefit—that remain at approximately the same level.

Social security beneficiaries under age 70 who work and have earnings are subject to a one dollar reduction in benefits for every two dollars of earnings, when their earnings exceed certain exempt amounts. For 1983, the annual exempt amount is \$6,600 for people age 65 and older. The annual exempt amount is increased each year according to increases in wages.

House bill

(1) Raises the normal retirement age to 67 in two steps.

(A) Raises retirement age to 66 by increasing the age for full benefits by two months a year for six years so that provision would be fully effective beginning with those attaining age 62 in 2005 (66 in 2009).

(B) Raises retirement age from 66 to 67 by increasing the age for full benefits by two months a year for six years so that the provision would be fully effective beginning with those attaining age 62 in 2022 (67 in 2027).

(2) Age 62 benefits would be maintained at an ultimate rate of 70 percent of full benefits. (After age for full retirement is changed to 67.) No changes would be made in Medicare or SSI benefits.

(3) Requires the Secretary, by January 1, 1986, to conduct and submit with recommendations to Congress a comprehensive study and analysis of the implications of the change in retirement age for those individuals affected by this change who, because they are engaging in physically demanding employment or because they are unable to extend their working careers for health reasons, may not benefit from improvements in longevity.

(4) Makes no changes in the current law earnings test.

Senate amendment

(1) Raises the normal retirement age to 66, by increasing the age for full benefits one month a year for 12 years (between 2000 and 2011) so that the provision would be fully effective beginning with those attaining age 66 in 2015. The first age of eligibility for Medicare would shift in tandem with the new retirement age.

(2) Early retirement benefits would continue to be payable at age 62, but at an ultimate rate of 75 percent of full benefits (after age for full retirement is changed to 66.)

(3) Requires the 1987 Social Security Advisory council to study the effect of raising the retirement age and requires recommendations on changes to the DI, SSI and unemployment compensation programs to meet the special needs of older workers. In addition, provides for the appointment, subject to approval by the Chairmen of the Committees on Finance and Ways and Means, of Council representatives of organized labor and experts on the problems of older workers, disability and unemployment and the labor market.

(4) Between 2000 and 2007, gradually reduces initial benefit levels by 5.3 percent for future beneficiaries. The percentage factors in the benefit formula would be reduced by two-thirds of one percent each year for 8 years, beginning with those first becoming eligible in the year 2000, and would be fully effective for those becoming eligible in 2007. The benefit factor reduction would be phased-in under the following schedule:

| For initial eligibility (or death) in— | The applicable percentage | | |
|--|--------------------------------|--|---------------------------------|
| | Up to the first bend point is— | Between the first and second bend points is— | Above the second bend point is— |
| 1979-99 (current law) | 90.0 | 32.0 | 15.0 |
| 2000 | 89.4 | 31.8 | 14.9 |
| 2001 | 88.8 | 31.6 | 14.8 |
| 2002 | 88.2 | 31.4 | 14.7 |
| 2003 | 87.6 | 31.1 | 14.6 |
| 2004 | 87.0 | 30.9 | 14.5 |
| 2005 | 86.4 | 30.7 | 14.4 |
| 2006 | 85.8 | 30.5 | 14.3 |
| 2007 and after | 85.2 | 30.3 | 14.2 |

(5) Gradually phases out, beginning in 1990, the retirement earnings test for people 65 and older. The exempt amount of earnings (as it would be automatically increased by wage trends) would be further increased by \$3,000 in 1990 and by a further \$3,000 in each

of the next four years, with the earnings test (for people 65 and older) completely eliminated in 1995.

Conference agreement

The conference agreement follows the House Bill except for a Senate amendment, effective beginning in 1990, to reduce the earnings test offset for those age 65 and older to one dollar for every three dollars earned over the annual exempt amount.

III. MISCELLANEOUS AND TECHNICAL PROVISIONS

1. CASH MANAGEMENT

A. FLOAT ALLOWANCE REVISION

Present law

Social security benefit checks are issued to beneficiaries on the third day of each month. Current Treasury procedures allow a two-day float before trust fund monies are actually transferred to the Treasury in order to pay the checks which have been issued.

House bill

Requires the Secretaries of Treasury and Health and Human Services to conduct a study consisting of two separate investigations. The first concerns the actual average length of time between the issuance of benefit checks and their redemption; the second would deal with the feasibility and desirability of providing for the transfer on a daily basis to the general fund from the appropriate trust fund amounts equal to the amounts of benefit checks which are paid by the Federal Reserve Banks on that day.

The Secretary of the Treasury would be required to promulgate regulations to implement the changes found appropriate by these investigations.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. INTEREST ON LATE STATE DEPOSITS

Present law

The annual interest rate charged on late payments of social security contributions due on the earnings of State and local employees is 6 percent per annum.

House bill

Changes the rate of interest charged on late payments of social security contributions due on the earnings of state and local employees to a rate equal to the average interest rate earned by new special obligations of the trust funds during the period of the delinquency. (Effective with respect to payments due for wages paid after Dec. 31, 1983.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate Amendment.

C. TRUST FUND INVESTMENT PROCEDURES

Current law

Payroll tax revenues which are in excess of the amount necessary to pay current benefits generally must be invested in "special issue" obligations available for purchase only by the trust funds. Such obligations have maturities fixed with due regard for the needs of the trust funds and bear an interest rate equal to the average market yield on all marketable, interest bearing obligations of the U.S. which are not due or callable within 4 years.

House bill

Requires the managing trustee of the Social Security Trust Funds to redeem most current trust fund investments and make all future investments in a new type of Treasury public debt obligation bearing interest at a rate that varies from month to month. For each month, the interest rate on the new type of obligation will be equal to the higher of (1) the average market yield over the preceding month on all public-debt obligations (other than "flower bonds") with maturities of more than 4 years or (2) the average market yield for similar obligations with 4 years or less to maturity.

Requires that annual reports of the Social Security Boards of Trustees to the Congress include a certification by the chief actuary of the Social Security Administration that the reports meet generally accepted standards within the actuarial profession.

Allows the 1983 annual reports to be filed any time before 45 days after enactment.

Senate amendment

Similar to House bill, except that the interest rate to be applied to the social security investments would be the same long-term, special-issue rate used under current law. The redeemed investments and all future funds would be invested in special depository accounts, rather than new special issue obligations.

Also, requires actuarial statement, but does not have to certify the reasonableness of the assumptions and cost estimates underlying the trustee's report (floor amendment).

No provision.

Conference agreement

Both Houses recede with respect to trust fund investment procedures. With respect to the actuarial statement and the delay of the 1983 Trustees' report, the conference agreement follows the House bill, with an amendment providing that the certification shall not refer to economic assumptions underlying the Trustees' report.

D. SEPARATE TREATMENT OF TRUST FUND OPERATIONS UNDER UNIFIED BUDGET

Present law

Beginning with 1969, the financial operations of the social security trust funds have been included in the unified budget of the Federal Government.

House bill

Provides for the display of OASI, DI, HI and SMI fund operations as a separate function within the budget. Beginning with fiscal year 1989, these trust fund operations (except for SMI) would be removed from the unified budget.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the trust fund operations would not be removed from the unified budget until fiscal year 1992.

2. ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Unless otherwise noted, the proposed amendments concerning the elimination of gender-based distinctions would be effective with respect to benefits payable for months after the month of enactment.

A. DIVORCED HUSBANDS

Present law

The Social Security Act provides for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives but benefits are not provided for similarly situated men.

House bill

Amends the statute to conform to court decisions by providing social security benefits for aged divorced husbands and aged or disabled surviving divorced husbands based on their former wives earnings records. (SSA is currently complying with court decisions.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE 60

Present law

Widows and widowers who remarry before age 60 are treated differently with respect to their eligibility for benefits based on their deceased spouses' earnings. A woman may qualify for benefits as a

surviving spouse, even though she has remarried, so long as she is not married at the time she applies for benefits. A man, however, under current law loses forever his eligibility as a surviving spouse of his deceased wife worker if he remarries before age 60. Since the decision of *Mertz v. Harris* (1980), SSA has paid benefits to remarried widowers on the same basis as to remarried widows.

House bill

Amends the statute to conform to court decisions by making the requirements for widowers' and widows' benefits consistent. (SSA is currently complying with the aforementioned court decisions.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. ILLEGITIMATE CHILDREN

Present law

An illegitimate child may be eligible for benefits based upon a man's earnings, without regard to the appropriate State intestate laws, if among other things, the man has been decreed by a court to be the father of the child, or the man is shown by evidence satisfactory to the Secretary to be the father of the child. Similar provisions do not currently apply when an illegitimate child claims a benefit based upon his mother's earnings.

House bill

Provides that illegitimate children would be eligible for benefits based on their mother's earnings as they are currently for benefits based on their father's earnings.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. TRANSITIONAL INSURED STATUS

Present law

Certain workers who attained age 72 before 1969 are eligible for social security benefits under transitional insured status provisions which require fewer quarters of coverage than would ordinarily be required. Wives and widows of eligible male workers who reached 72 prior to 1969 also are eligible for benefits under this provision, but husbands and widowers of eligible female workers are not.

House bill

Extends to husbands and widowers the transitionally insured status provisions which currently apply to wives and widows.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

E. PROUTY BENEFITS

Present law

Special payments are provided to persons who attained age 72 before 1968 and who have no quarters of coverage and to persons age 72 in 1968 or after who have at least three quarters of coverage for every year after 1966 and before the year of attainment of age 72. However, even though each spouse must meet the same eligibility requirements if he or she were not married, once the eligibility of both is determined, the couple is treated as if the husband were the retired worker and the wife were the dependent. The benefit is allocated so that the husband is paid two-thirds of the benefit and the wife is paid one-third.

House bill

Provides that where both husband and wife each qualify for Prouty benefits under Section 228 of the Social Security Act, each would receive a full monthly benefit.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. FATHERS' INSURANCE BENEFITS

Present law

A young wife, widowed mother or surviving divorced mother who has an entitled child under age 16 in her care receives a benefit for both herself and her child based upon the earnings of her husband. Under the law a similarly situated father cannot qualify for benefits based on his retired, disabled, or deceased wife's earnings.

House bill

Amends the statute to conform to court decisions by providing social security benefits for a father who has in his care an entitled child of his retired, disabled, or deceased wife (or deceased former wife). (SSA is currently complying with the aforementioned court decisions.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

G. EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY AND OTHER
DEPENDENTS' OR SURVIVORS' BENEFITS

Present law

When a childhood disability beneficiary is married to another childhood disability beneficiary or to a disabled worker beneficiary, and the disability benefits of one of the beneficiaries is terminated because the beneficiary recovers or engages in substantial work, the continued eligibility of the other spouse depends upon the spouse's sex. A woman's childhood disability benefits end when her husband's disability benefits end. However, a man's childhood disability benefits are not terminated when his wife's disability benefits end.

House bill

Continues the benefits of a childhood disability beneficiary, regardless of sex, when the beneficiary's spouse is no longer eligible for benefits as a childhood disability beneficiary or disabled worker beneficiary.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

H. EFFECTS OF MARRIAGE ON OTHER DEPENDENTS' OR SURVIVORS'
BENEFITS

Present law

If a childhood disability beneficiary or disabled worker beneficiary marries a person receiving certain kinds of social security dependent or survivor benefits, the benefits of each individual continue. If the disabled beneficiary is a male and he recovers or engages in substantial work and his benefits are terminated, his wife's benefits also end. If, however, the disabled beneficiary is a woman, her husband's benefits are not terminated when her disability benefits end.

House bill

Continues social security payments to an individual, regardless of sex, who is receiving dependents' or survivors' benefits, when his or her spouse is no longer eligible for childhood disability benefits or benefits as a disabled worker.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

I. CREDIT FOR MILITARY SERVICE

Present law

A widow (but not a widower) is permitted, under certain circumstances, to waive the right to a civil service survivor's annuity and receive credit (not otherwise possible) for military service prior to 1957 for purposes of determining eligibility for and the amount of, social security survivors' benefits.

House bill

Allows widowers to exercise the option to waive the right to a civil service survivor's annuity in the same way as is currently permitted for widows.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. COVERAGE

A. FOREIGN AFFILIATES OF AMERICAN EMPLOYERS

Present law

Work by a U.S. citizen outside the U.S. for a foreign subsidiary of a domestic corporation is covered by social security if the domestic corporation arranges for coverage by entering into a voluntary agreement with the Internal Revenue Service; the agreement applies to all citizens subsequently employed by the subsidiary if their work would be covered if performed in the U.S.

A "foreign subsidiary" of a domestic corporation is defined as a foreign corporation of which: not less than 20 percent of its voting stock is owned by a domestic corporation; or more than 50 percent of its voting stock is owned by another foreign corporation and at least 20 percent of the latter corporation's voting stock is owned by a domestic corporation.

A domestic corporation which has entered into a voluntary agreement providing for social security coverage of U.S. citizens employed by its foreign subsidiary can also elect to include such U.S. citizens in its qualified pension, profit-sharing, stock bonus, etc. plans. A similar rule applies to U.S. citizens employed by a domestic corporation's domestic subsidiary that operates primarily abroad.

House bill

Broadens the availability of social-security coverage to American citizens working abroad by: (1) permitting coverage of American citizens working outside the United States for a foreign affiliate of an American employer; and (2) reducing the ownership interest in the foreign affiliate that is required to be held by the American employer from 20 percent to 10 percent (either directly or through one or more entities). These changes would be effective upon enactment.

In addition, coverage would be extended to include employees of American employers and affiliates who are residents of the United States as well as American citizens. (This provision applies generally to remuneration paid after December 31, 1983.)

Conforming changes would be made in the provisions relating to the extension of coverage under qualified pension, profit-sharing, stock bonus, etc. plans for employees of a domestic corporation's subsidiary.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. FOREIGN EARNED INCOME EXCLUSION

Present law

U.S. citizens and resident aliens who are not residents of a foreign country for a full year compute their net self-employment income for purposes of social security taxes (SECA) without regard to the foreign earned income exclusion. However, no coverage is provided for these taxable earnings.

U.S. citizens who are residents of a foreign country compute their net self-employment income excluding amounts which are also excluded for income tax purposes by the foreign earned income exclusion.

House bill

Provides that foreign earned income which is currently subject to social security self-employment tax would be creditable for social security coverage purposes, effective with respect to taxable years beginning after December 31, 1981.

Provides that all net self-employment income would be computed for SECA purposes without regard to the foreign income exclusion, effective with respect to remuneration paid after December 31, 1983.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. INCLUDING ELECTIVE FRINGE BENEFITS AND NONQUALIFIED DEFERRED COMPENSATION IN THE SOCIAL SECURITY WAGE BASE

Present law

(1) *Cash or deferred arrangements (Code section 401(k)).*—Under a cash or deferred arrangement forming a part of a qualified profit-sharing or stock bonus plan, a covered employee may elect to have the employer contribute an amount to the plan on the employee's behalf or to receive such amount directly in cash. Amounts contributed to the plan pursuant to the election are treated as employer

contributions and are excluded from the employee's taxable income and social security wage base.

(2) *Cafeteria plans (Code section 125).*—Under a cafeteria plan of an employer, an employee may choose among various benefits including cash, taxable benefits and nontaxable benefits (including a cash or deferred arrangement) offered under the plan. If certain requirements are met, amounts applied toward nontaxable benefits are excluded from the employee's taxable income and generally from the social security wage base.

(3) *Tax-sheltered annuities (Code section 403(b)).*—Subject to certain limitations, amounts paid by the employer for the purchase of a tax-sheltered annuity for an eligible employee are excluded from the employee's taxable income and social security wage base. Tax-sheltered annuities may be purchased for employees of educational institutions and certain tax-exempt organizations. Tax-sheltered annuities may be purchased pursuant to a salary reduction agreement.

(4) *Nonqualified deferred compensation plans.*—Amounts deferred under a nonqualified deferred compensation plan generally are taxable when they are paid or when there is no substantial risk of forfeiture, depending upon whether or not the plan is unfunded or funded. However, if the plan is a retirement plan or the amounts are paid on account of retirement, the amounts are generally excludible from FICA and FUTA. These plans may be utilized by (1) taxable employers to provide retirement benefits in excess of those permitted under tax-qualified retirement plans or coverage limited primarily to highly compensated or management employees, (2) tax-exempt employers, and (3) State and local governments.

House bill

(1) An employer's plan contributions on behalf of an employee under a qualified cash or deferred arrangement would be includible in the social security wage base for tax and coverage purposes to the extent that the employee could have elected to receive cash in lieu of the contribution, effective for remuneration paid after Dec. 31, 1983.

(2) Amounts subject to an employee's designation under a cafeteria plan would be includible in the social security wage base to the extent that such amounts may be paid to the employee in cash or property or applied to provide a benefit for the employee not excluded from the FICA wage base effective for remuneration paid after Dec. 31, 1983.

(3) Amounts paid by an employer for a tax-sheltered annuity for an employee will be includible in the social security wage base.

(4) No provision.

Senate amendment

(1) Same as House bill.

(2) Same as House bill, except applies only to cafeteria plans which include a cash-or-deferred arrangement as one of the optional fringe benefits.

(3) Any amounts paid by an employer to a tax-sheltered annuity by reason of a salary reduction agreement between the employer

and the employee would be includible in the social security wage base.

(4) The amount deferred under a (nonqualified) compensation plan will be includible in the social security wage base as of the later of (1) when the services are performed or (2) when there is no substantial risk of forfeiture of the rights to the amounts. In the case of a governmental plan, a deferred compensation plan will only include certain nonqualified plans of State and local governments.

Conference agreement

(1) The conference agreement generally follows the House bill and the Senate amendment with respect to qualified cash or deferred arrangements. Employer contributions to these arrangements will be taxable for FICA and FUTA purposes whether or not the cash or deferred arrangement is part of a cafeteria plan. A transition rule is provided to exclude certain remuneration paid after the effective date of this provision if paid pursuant to certain elective deferrals made before January 1, 1984 (January 1, 1985, with respect to FUTA taxes).

(2) The conference agreement contains no other provision concerning the inclusion of amounts applied toward nontaxable (for FICA purposes) benefits in a cafeteria plan.

(3) The conference agreement generally follows the Senate amendment by providing that employer contributions to a section 403(b) annuity contract would be included in the wage base if made by reason of a salary reduction agreement (whether evidenced by a written agreement or otherwise). For this purpose, the conferees intend that employment arrangements, which under the facts and circumstances are determined to be individually negotiated, would be treated as salary reduction agreements. Of course, the mere fact that only one individual is receiving employer contributions (*e.g.*, where the employer has only a few employees, only one of whom is a member of a class eligible for such contributions) is not, by itself, to be considered proof of individual negotiation.

(4) With respect to nonqualified deferred compensation plans, the conference agreement generally follows the Senate amendment that includes amounts deferred in the employee's FICA and FUTA wage base when services are performed or, if later, when there is a lapse of a substantial risk of forfeiture (within the meaning of sec. 83) of the employee's right to those amounts. As under present law, amounts treated as employer contributions under a State pick-up plan (sec. 414(h)(2)) or amounts deferred under eligible State and local deferred compensation arrangements are includible in the wage base when deferred. The conference agreement provides that any payment to, or on behalf of, an employee or his beneficiary under certain supplemental retirement plans, which provide cost-of-living adjustments to the pension benefits under tax-qualified plans, will not be included in the wage base. Finally, under the conference agreement, in the case of certain agreements, in existence on March 24, 1983, between a nonqualified deferred compensation plan and an individual, the provision would only apply to services performed after December 31, 1983 (December 31, 1984, for FUTA purposes).

D. STANDBY PAY

Present law

Any payment (other than vacation or sick pay made to an employee after the month in which he or she attains age 62, where the employee did not work for the employer in the period in which such payment is made, is excluded from the definition of wages for both benefit and tax purposes.

House bill

Includes in the statutory definition of wages, payments made to an individual with the expectation that he or she will subsequently render services (effective with respect to calendar years beginning after the sixth month after date of enactment).

Senate amendment

Same as House bill, except it would be effective for remuneration paid after 1983.

Conference agreement

The conference agreement follows the Senate amendment.

E. CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND LODGING

Present law

In *Rowan Companies, Inc. v. United States*, 452 U.S. 247 (1981), the Supreme Court stated that the definition of "wages" for FICA purposes must be interpreted in regulations in the same manner as for income-tax withholding purposes. At issue in *Rowan Companies, Inc.* was the exclusion, for FICA tax purposes, of employer provided meals and lodging from gross income under code sec. 119.

House bill

With the exception of the value of meals and lodging provided for the convenience of the employer, the determination of whether or not amounts are includible in the social security wage base is to be made without regard to whether such amounts are treated as wages for income tax withholding purposes. In addition, the bill provides that the definition of wages for social security tax and benefit purposes is revised to exclude the value of employer provided meals and lodging if such value is excluded from the employee's gross income. The provision applies to remuneration paid after December 31, 1983.

Senate amendment

Same as House bill.

F. EXCLUSION OF EMPLOYER PAYMENTS MADE UNDER SIMPLIFIED EMPLOYEE PENSION PLANS

Present law

In 1978, the Internal Revenue Code was amended to exclude from wages for social security tax purposes employer payments to

or on behalf of an employee under a simplified employee pension (SEP) plan. However, no corresponding change was made to the Social Security Act definition of covered wages.

House bill

Amends the Social Security Act to exclude in the definition of covered wages for social security coverage purposes employer contributions to a simplified employee pension (SEP) plan. Effective with respect to remuneration paid after December 31, 1983.

Senate amendment

Same as House bill, except also changes definition for FUTA purposes effective January 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

G. DEFINITION OF EMPLOYER FOR WITHHOLDING ON SICK PAY

Present law

Present law includes in the definition of wages for the purpose of social security and railroad retirement taxes, payments made under a sick pay plan to an employee or any of his dependents by a third-party on account of the employee's illness.

Proposed Treasury regulations would require a third-party payor (for example, an insurance company) to withhold social security or railroad retirement taxes on the sick pay payments they make as if they were paying wages. However, the third-party payor would be permitted to shift responsibility for the employer's portion of the tax to the last employer for whom the employee worked.

House bill

Provides that, to the extent permitted in regulations, a multi-employer plan which makes sick pay payments will be treated as the agent of the employer for whom services are normally rendered.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

H. CONFORMING AMENDMENTS TO FUTA WAGE BASE

Present law

The definition of wages subject to tax under the Federal Unemployment Tax Act (FUTA) is similar to the definition of wages subject to FICA.

House bill

No provision.

Senate amendment

The bill amends FUTA to conform to changes made in the FICA wage base by this bill and P.L. 97-123 with respect to elective compensation, standby pay, the *Rowan* decision, simplified employee pensions, and sick pay (items above).

Conference agreement

The conference agreement follows the Senate amendment.

I. INTERNATIONAL SOCIAL SECURITY AGREEMENTS

Present law

An international Social Security agreement is to establish "methods and conditions for determining under which system [i.e., the foreign system or our own] employment, self-employment, or other service shall result in a period of coverage". However, through an inadvertent drafting error earnings that are intended to be covered under the U.S. system pursuant to an international social security agreement are not covered because U.S. social security taxes cannot be imposed on the earnings.

House bill

Provides for the imposition of social security taxes if an international social security agreement provides for coverage under the U.S. social security system. (Effective for taxable years after the date of enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

J. STATE AND LOCAL EMPLOYEE GROUPS IN UTAH

Present law

Utah is permitted to extend social security coverage to specific entities listed in the law as separate coverage groups. The names of some of the entities specifically listed in the law have changed since the provision was enacted.

House bill

Amends the provision in the Social Security Act listing entities for which Utah may arrange social security coverage to provide that coverage would not be affected by a subsequent change in the name of any of the entities.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

K. EFFECTIVE DATES OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS

Present law

Totalization agreements can only become effective after the expiration of a period during which each House of the Congress has been in session on each of 90 days. (This has been interpreted to mean that both Houses of Congress must be in session on a particular day for it to count in the 90-day calculation.)

House bill

Provides that totalization agreements can become effective after the expiration of a period during which only one House of the Congress must be in session on each of 60 days.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. ADDITIONAL AMENDMENTS

A. TECHNICAL AND CONFORMING AMENDMENTS TO THE MAXIMUM FAMILY BENEFIT PROVISIONS

Present law

When children are simultaneously entitled to benefits on the records of two or more workers, the Maximum Family Benefits payable on each record are combined for the purposes of determining the benefits payable to those children. The law contains a limit, however, on the highest possible combined Maximum Family Benefit, sometimes referred to as the super maximum. Whenever the wage base increases (in January of every year), the super maximum is recomputed. In addition, in June of each year the super maximum is increased when the cost-of-living adjustment is made in general benefit levels. Thus, families whose benefits are limited by the super maximum can have their benefits unexpectedly increased or decreased each January when the super maximum is recomputed.

House bill

Provides that after initial entitlement, a family's super maximum would be adjusted each year when a cost-of-living increase is provided to everyone on the benefit rolls.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. RELAXATION OF INSURED STATUS REQUIREMENTS FOR CERTAIN
WORKERS PREVIOUSLY ENTITLED TO DISABILITY INSURANCE BENEFITS

Present law

Workers who are disabled before age 31 have a lower insured status requirement than older workers. However, such a worker who recovers from his or her disability and subsequently becomes disabled again at age 31 or later may have difficulty establishing entitlement to disability benefits at that time because he or she has not had sufficient time to obtain the necessary 20 quarters of coverage before the subsequent disability.

House bill

Provides that a worker who had a period of disability which began before age 31, recovered, and then became disabled again at age 31 or later would again be insured for disability benefits if he/she had quarters of coverage in half the calendar quarters after age 21 and through the quarter in which the later period of disability began (up to a maximum of 20 out of 40 quarters). Effective generally for applications filed after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. ILLEGITIMATE CHILDREN OF DISABLED BENEFICIARIES—FIRST MONTH
OF ENTITLEMENT

Present law

The first month for which certain benefits are paid is delayed from the month *during which* the individual satisfied the various entitlement conditions to the first month *throughout which* those conditions were satisfied. This provision does not apply to the benefits of illegitimate children of retired beneficiaries. However, this provision does apply to the illegitimate children of disabled workers.

House bill

Provides social security monthly benefits to the illegitimate child of a disabled worker for a month in which the child satisfied all other entitlement conditions but was not eligible for benefits because the acknowledgment or court decree or order establishing parenthood occurred later than the first day of that month. Effective on enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. ONE-MONTH RETROACTIVITY OF WIDOW'S AND WIDOWER'S BENEFITS

Present law

The payment of retroactive benefits is prohibited if such payment would require the lowering of future benefits.

House bill

Allows an aged widow or widower to receive actuarially reduced benefits for the month in which the insured spouse died, if the application is filed in the following month, even though the retroactive payment would result in lower future monthly benefits than would be the case if benefits were not paid retroactively. Effective for applications filed after the second month following the month of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

E. CLARIFY THE PROVISION IN SOCIAL SECURITY LAW EXEMPTING BENEFITS UNDER SSA-ADMINISTERED PROGRAMS FROM ASSIGNMENT

Present law

Since 1935, the Social Security Act has prohibited the transfer or assignment of any future social security or SSI benefits payable and further states that no money payable or rights existing under the Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Based on the legislative history of the Bankruptcy Reform Act of 1978, some bankruptcy courts have considered social security and SSI benefits listed by the debtor to be income for purposes of a Chapter XIII bankruptcy and have ordered SSA in several hundred cases to send all or part of a debtor's benefit check to the trustee in bankruptcy.

House bill

Specifically provides that social security and SSI benefits may not be assigned notwithstanding any other provisions of law, including P.L. 95-598, the "Bankruptcy Reform Act of 1978". Effective on enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. USE OF DEATH CERTIFICATES TO PREVENT ERRONEOUS BENEFIT
PAYMENTS TO DECEASED INDIVIDUALS

Present law

There are currently no well-developed procedures or arrangements to permit SSA to determine on a timely basis when a beneficiary has died.

House bill

Provides authority for the Secretary of HHS to contract with states for death certificate information. This information would be matched with SSA benefit records to help insure that benefit payments are promptly terminated when the beneficiary dies.

Senate amendment

Similar to House except incorporates GAO and SSA comments.

Conference agreement

The conference agreement follows the Senate amendment.

G. STUDY OF SSA AS AN INDEPENDENT AGENCY

Present law

The Social Security Administration is currently part of the Department of Health and Human Services.

House bill

Authorizes a feasibility and implementation study with respect to establishing SSA as an independent agency. Such study shall include but not be limited to the following points: the feasibility of changing the current status of SSA; how to manage the transition; what authorities would need to be transferred or amended; what programs would be involved; what agency administrative relationships would need to be adjusted, etc. The study would be conducted (in consultation with the Commissioner of Social Security) by a panel of administrative experts appointed by the House Committee on Ways and Means and the Senate Committee on Finance, with a report and recommendations to be submitted to the Committees no later than January 1, 1984.

Senate amendment

Similar to the House provision except—

- (1) commission would be appointed by the President with advice and consent of the Senate,
- (2) report would be due no later than April 1, 1984, and
- (3) implementation, not feasibility, of independent SSA, is included in study mandate.

Conference agreement

The conference agreement provides for the following:

In keeping with the recommendations of the National Commission on Social Security Reform, a study shall be conducted with respect to the establishment of the Social Security Administration as an independent agency under a bipartisan board appointed by the

President, by and with the advice and consent of the Senate. The study shall be conducted by a Commission consisting of experts widely recognized in the fields of government administration, social insurance, and labor relations. The study shall address, analyze and report to the Congress on: how to manage the transition, what authorities would need to be transferred or amended, the program(s) which should be included within the jurisdiction of the new agency, the legal and other relationships of the Social Security Administration with other organizations which would be required as a result of establishing the Social Security Administration as an independent agency, and any other details which may be necessary for the development of appropriate legislation to establish the Social Security Administration as an independent agency.

The study would be conducted (in consultation with the Commissioner of Social Security) by a panel of experts appointed by the House Committee on Ways and Means and the Senate Committee on Finance, with a report and recommendations to be submitted to the Committees no later than April 1, 1984.

H. PUBLIC PENSION OFFSET

Present law

Under a provision enacted in 1977, people becoming eligible for a public pension on their own account after November 1982, will generally have the amount of any social security dependents or survivors' benefits reduced dollar-for-dollar on account of that public pension.

Under a provision adopted last year, persons who become eligible for a public pension after November 1982 and before June 1983 who meet a "one-half support" dependency test are exempt from the offset.

House bill

For persons who become eligible for public pension after June 1983, the amount of the public pension used for purposes of the offset against social security benefits would be one-third of the public pension.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the percentage of the public pension to be used for purposes of the offset would be two-thirds.

I. CHILD-CARE DROP OUT YEARS

Present law

In computing a worker's covered earnings history under social security (upon which family benefits are based), up to five years of low earnings are dropped.

House bill

No provision.

Senate amendment

The provision would allow up to two additional years to be dropped for persons who leave the workforce to care for a child under 3 in the home. To qualify for a child-care drop year, the worker can have no earnings at all during the year.

Effective for persons first eligible for benefits after 1983.

Conference agreement

The conference agreement follows the House bill.

J. PUBLIC MEMBERS ON BOARD OF TRUSTEES

Present law

The Board of Trustees of the four social security trust funds (Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplemental Medical Insurance) consists of, ex officio, the Secretaries of the Treasury, Health and Human Services, and Labor, with the Secretary of the Treasury serving as the managing trustee. Among other responsibilities, the Board of Trustees is required to report to Congress each year on the operation and status of the trust funds, review the general policies followed in managing the trust funds, and recommend changes in such policies.

House bill

No provision.

Senate amendment

Add two public members to the Board of Trustees of the OASDI, HI, and SMI trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party. Trustees would not be considered fiduciaries and would not be personally liable for actions taken in such capacity with respect to the trust funds.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate Amendment.

K. LIMITATION ON BENEFITS TO ALIENS

Present law

There are no citizenship or residence requirements for receiving social security cash benefits (OASDI). Any alien in the U.S.—whether legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he has engaged in covered employment and otherwise meets the eligibility requirements. Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker.

House bill

No provision.

Senate amendment

Limitations would be placed on the payment of benefits to alien workers, their dependents and survivors who reside abroad. Benefits would continue to be paid only under the following conditions:

(1) the worker is the citizen of a country with which the United States has a treaty or totalization agreement; and

(2) until total benefits paid to the wage earner (after any income taxes paid) and dependents equal social security taxes payable by the wage earner plus interest.

This provision would apply to new eligibles on or after January 1, 1985.

In addition, prohibits the payment of social security benefits to noncitizens who are unable to establish at the time they apply for benefits that they had ever been legally admitted to work in the United States.

Effective for those first eligible after December 1983.

Also, in the case of beneficiaries who are under final orders of exclusion, departure or voluntary departure in lieu of deportation and can be shown by the Attorney General to have earned social security credits during periods of illegal work, those credits would not be used in computing social security benefits, thereby potentially eliminating benefits. (Floor amendment.)

Conference agreement

The conference agreement would suspend the payment of benefits to any alien receiving benefits as a dependent or survivor of an insured worker (whether or not the worker is a U.S. citizen) when the alien beneficiary has been outside the U.S. for six consecutive calendar months. Alien auxiliary beneficiaries who could prove that they had lived in the U.S. for a total of at least five years during which their relationship with the worker was the same as the relationship upon which eligibility for benefits is based (e.g., spouse, child, parent) would be exempt from the suspension of benefits. Children would be deemed to meet the 5-year residence requirement if the residence requirement could be met by the child's parents.

L. LIMITATION ON PRISONERS BENEFITS

Present law

Persons imprisoned for the conviction of a felony may not receive student benefits (which are being phased out anyway), and are not eligible for disability benefits unless they are participating in a court-approved rehabilitation program. (Dependents benefits are not affected.) Also, impairments resulting from the commission of a crime cannot be the basis for disability benefits and impairments occurring during imprisonment cannot be the basis for disability benefits during the period of imprisonment.

Presently, benefits may continue to be paid to incarcerated felons who are either retired workers, widow or widower beneficiaries,

spouses of retired or disabled workers, and to those DI beneficiaries in a court-approved rehabilitation program.

House bill

No provision.

Senate amendment

The provision would eliminate all benefits to felons during their period of incarceration. In addition, would prohibit payments to inmates of facilities for the criminally insane (Floor amendment). Benefits of dependents and survivors of incarcerated felons would not be affected.

Effective for benefits paid for the month after enactment.

Conference agreement

The conference agreement follows the Senate amendment, with an amendment providing that the limitation on prisoner's benefits will only extend the provision in current law applying to disability insurance benefits to old age and survivors' insurance benefits.

M. ACCELERATE STATE AND LOCAL DEPOSITS

Present law

Requires the deposit of withheld social security taxes for State and local employees within thirty days after the end of the month in which the applicable wages were paid.

By contrast, the frequency with which deposits of social security taxes and income taxes are made by private employers is determined under regulations issued by Treasury and vary in accordance with the tax liability of the employer. Deposits are required as frequently as every week for employers with large liabilities and as infrequently as every three months for employers with smaller liabilities.

Although State and local governments are now governed by the same rules as private employers with regard to depositing withheld income taxes, deposits of social security taxes continue to be treated differently.

House bill

No provision.

Senate amendment

The provision would apply the same social security tax deposit requirements to State and local governments that now apply to private employers.

Effective for deposits required to be made after December 1983.

Conference agreement

Under the conference agreement State and local governments would be required to deposit withheld social security taxes on a bi-weekly (i.e. every two weeks) basis.

**N. EXCLUSION FROM SOCIAL SECURITY COVERAGE FOR SERVICES
PERFORMED BY MEMBERS OF CERTAIN RELIGIOUS SECTS**

Present law

In general, social security (FICA) tax is imposed on every individual who receives wages with respect to employment. In addition, social security tax is imposed on employers who pay wages with respect to employment. There is no exemption, under present law, for employers or employees who are members of religious sects that oppose the social security system. However, present law does provide an exemption from self-employment tax (SECA) for members of religious sects that are conscientiously opposed to the acceptance of private or public insurance and which make provision for the care of their dependent members.

House bill

No provision.

Senate amendment

The provision will exempt from social security tax wages paid by individuals who are exempt from self-employment taxes because of their religious beliefs to individuals who are members of religious sects that conscientiously oppose the acceptance of private or public insurance and which make provisions for the care of their dependent members. This exemption applies both to the employer and employee portion of social security tax.

The exemption applies only in the case of religious sects that have been in existence at all times since December 31, 1950.

Effective for remuneration paid after 1983.

Conference agreement

The conference agreement follows the House bill.

O. INCREASE IN FICA AND WITHHOLDING TAX DEPOSIT THRESHOLD

Present law

In general, employers that have \$500 or more of undeposited FICA and withholding taxes at the end of any month must deposit those taxes within 15 days after the end of that month. However, employers that have \$3,000 or more of undeposited taxes at the end of any eighth-monthly period must deposit those taxes within 3 days after the close of the eighth-monthly period.

House bill

No provision.

Senate bill

Eighth-monthly deposits for any month will not be required until the employer has at least \$5,000 of undeposited taxes. Once this \$5,000 threshold is reached, the employer will be required to make further eighth-monthly deposits so long as there is \$3,000 or more of undeposited taxes at the end of any eighth-monthly period falling within the same month.

The provision is effective for months beginning after December 31, 1983. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

P. APPLICATION OF COMMON PAYMASTER RULES TO CERTAIN NONPROFIT ORGANIZATIONS EMPLOYING MEDICAL SCHOOL FACULTY MEMBERS

Present law

Present law generally requires an employer to pay FICA taxes with respect to a given employee only up to the amount of annual wages referred to as the wage base. Thus, if an employee works for more than one employer during the year and if his annual wages exceed the tax base, employer FICA taxes, taking into account all the employers for whom the individual worked, may be paid on amounts in excess of the wage base.

There is a "common paymaster" exception to these general rules which provides that if two or more related corporations concurrently employ the same individual and compensate him through a common paymaster that is one of the corporations, then the common paymaster is considered to be the only employer regardless of the fact that the individual performed services for other related corporations. Under one of the tests provided in regulations, two corporations are related if 30 percent or more of one corporation's employees are concurrently employees of the other corporation.

House bill

No provision.

Senate bill

A State university that employs health care professionals as faculty members at a medical school and a tax-exempt faculty practice plan that employs faculty members of the medical school would be deemed to be related corporations for purposes of the common paymaster rules, provided that 30 percent or more of the employees of the plan are concurrently employed by the medical school. Remuneration that is disbursed by the faculty practice plan to an individual employed by both the plan and the university which, when added to remuneration actually disbursed by the university, exceeds the contribution and benefit base will be deemed to have been actually disbursed by the university as a common paymaster and not to have been disbursed by the faculty practice plan.

The provision is effective on enactment (Floor amendment.)

Conference agreement

The conference agreement follows the Senate amendment.

Q. ELECTIVE COVERAGE FOR MINISTERS AS EMPLOYEES

Present law

Under present law, ministers are not employees for social security tax (FICA) purposes. However, ministers generally are subject to the self-employment (SECA) tax.

House bill

No provision.

Senate amendment

The provision allows ministers and their churches to treat services performed by ministers as employment for FICA tax purposes. Remuneration for such services would not be subject to the SECA tax. Once made, this election is irrevocable.

The provision is effective with respect to service performed on or after the first calendar quarter beginning after the date of enactment. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

R. STUDY OF FEASIBILITY OF IMPLEMENTING SOCIAL SECURITY OPTION ACCOUNTS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires an 18-month study by Treasury of a plan to permit workers to have part of their (and their employers') social security taxes allocated to an IRA type account. The designated deposits would be tax deductible. Subsequent social security benefits would be reduced to take IRA deposits into account. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

S. EARNINGS SHARING IMPLEMENTATION STUDY (SECTION 161 OF SENATE AMENDMENT)

Present law

Earnings are credited for social security purposes to the record of the worker to whom they are paid.

House bill

No provision.

Senate amendment

By January 1, 1984, requires the Secretary of Health and Human Services to report to the House Committee on Ways and Means

and the Senate Committee on Finance on proposals that combine earnings of a husband and wife during the period of their marriage and divide them equally for social security benefit purposes. The study will analyze the impact of earnings sharing proposals on social security beneficiaries, and include recommendations (1) to provide adequate protection to particular classes of beneficiaries where necessary and (2) with respect to a feasible time period for implementation. In addition, the study will include cost estimates. (Floor amendment.)

Conference agreement

The conference agreement follows the Senate amendment with an amendment to delay the date to July 1, 1984.

T. CASHING OF CHECKS ISSUED TO DECEASED BENEFICIARIES

Present law

OASDI checks do not include a notice stating that cashing of a check to deceased individuals constitutes a felony.

House bill

No provision.

Senate amendment

Requires that all checks issued, and the envelopes in which they are mailed, include a notice that cashing or attempted cashing of a check which was erroneously issued to a deceased person constitutes a felony punishable under section 208 of the Social Security Act. Effective for checks issued for months after December 1983. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

U. ADMINISTRATIVE REORGANIZATION OF VETERANS' ADMINISTRATION
LOS ANGELES DATA PROCESSING CENTER

Present law

The Veterans' Administration is generally prohibited from reducing the staff at any of its offices by more than 10 percent in any fiscal year without advance notice to the Congress approximately 8 months prior to the beginning of that fiscal year.

House bill

No provision.

Senate amendment

Waives the requirements of veterans law (section 210(b)(2)(A) of title 38, USC) in the planned administrative reorganization at the Veterans Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees.

Conference agreement

The conference agreement follows the Senate Amendment.

V. TREASURY STUDY OF INDIVIDUAL RETIREMENT SECURITY ACCOUNTS
(IRSA)

Present law

No provision.

House bill

No provision.

Senate amendment

Treasury would study the feasibility of implementing IRSA's which would be similar to an IRA. Individuals would establish and fund the IRSA and receive a tax credit limited to 20 percent of the individual's social security taxes, with a proportionate reduction in Old-Age and Survivors and Disability benefits. The study would be submitted to Congress before July 1, 1984.

Conference agreement

The conference agreement follows House bill.

W. TREATMENT OF EARNINGS OF DISABLED BLIND INDIVIDUALS

Present law

Blind disabled individuals are regarded as demonstrating the ability to engage in substantial gainful activity if their earnings exceed the exempt amount under the earnings test for individuals age 65 and over.

House bill

No provision.

Senate amendment

Provides that no individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity solely on the basis of earnings; the benefits of such individuals shall be reduced in accordance with the earnings test for individuals age 65 and over. This would be effective for people applying for benefits after enactment.

Under a related amendment, the SGA level for the blind would be phased out as the earnings test is phased out for individual 65 and older (between 1990 and 1995).

Conference agreement

The conference agreement follows the House bill.

X. TRANSITIONAL BENEFITS TO WIDOW(ER)S

Present law

Nondisabled widow(er)s who do not have a child in their care are first eligible for benefits at age 60. If disabled, such widow(er)s are eligible for benefits at age 50 or older. Widow(er)s with a child in care are eligible for benefits regardless of their age.

House bill

No provision.

Senate amendment

Provide 6 months of benefits to persons widowed between the ages of 55 and 60. The benefit amount would be 71.5 percent of the worker's primary insurance amount (i.e., unreduced from the benefit payable at age 60). Effective for monthly benefits after date of enactment.

Conference agreement

The conference agreement follows House bill.

Y. BANKNOTE PAPER SOCIAL SECURITY CARDS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires that new and replacement social security cards be issued on banknote-quality paper beginning not later than 193 days after enactment.

Conference agreement

The conference agreement follows the Senate Amendment.

TITLE IV—SUPPLEMENTAL SECURITY INCOME (SSI)
PROVISIONS

1. INCREASE IN FEDERAL BENEFIT STANDARD

Present law

The current maximum monthly SSI benefit is \$284.30 for a single person and \$426.40 for married couples. Benefits are indexed to the Consumer Price Index (CPI). Cost-of-living increases are provided annually in July if the CPI for the first quarter of the calendar year increases by at least 3 percent over the first quarter of the previous year. Benefits are increased by the same percentage as social security benefits. This occurs through a reference in the SSI law to the social security cost-of-living provision. For example, the current payment level of \$284.30 per individual, which became effective July 1982, represents an increase of 7.4 percent (or \$19.60 monthly) from the previous July 1981 level of \$264.70.

House bill

The Federal SSI benefit payment is increased by \$20 per month for individuals and \$30 per month for couples, effective July 1, 1983.

The next Federal SSI cost-of-living adjustment (COLA) is delayed from July 1983 until January 1984. Federal SSI benefits will be adjusted in January 1984, and every January thereafter, by the same

percentage and under the same procedures as OASDI benefits. The provision to pay the lower of the increase in wages or prices, which is applicable to OASDI benefit increases beginning in 1988, would apply to SSI. As with title II, the 1983 COLA, to be paid in January, 1984, will be provided even if the CPI increase is less than 3 percent.

Senate amendment

Same as the House bill, (with technical correction), except that the provision to pay the lower of the increase in wages or prices, which would be applicable to OASDI benefit increases beginning in 1988, would not apply to SSI.

Conference agreement

The conference agreement follows the Senate amendment.

2. ADJUSTMENT IN FEDERAL PASS-THROUGH PROVISIONS

Present law

P.L. 94-585, enacted October 21, 1976, established Federal SSI "pass-through" requirements, effective with the cost-of-living increase provided in July 1977. These provisions provide States with two options for meeting the pass-through requirements.

(1) *Aggregate spending level option.*—A State may make State supplementary payments in any current 12-month period that are no less, in the aggregate, than were made in the previous 12-month period (17 States use this option); or

(2) *Individual payment level option.*—A State may maintain the supplementary payment levels that were in effect for categories of individual recipients in December 1976. (All other States use this measure, except Texas and West Virginia which have no State supplementation program.)

An amendment in P.L. 97-248 allows a State that shifts from the aggregate spending option to the individual payment level option to maintain State supplementation levels in effect in the previous December rather than the levels in December 1976.

House bill

States would be allowed the following options in meeting the pass-through requirement:

(1) *Aggregate spending level option.*—Same as present law.

(2) *Individual payment level option.*—Current law is modified (a) by substituting the State supplementary payment levels in effect in March 1983 for those in effect in December 1976 as the levels that States must maintain in complying with the payment level pass-through requirement and, (b) with regard to the \$20/\$30 increase in the Federal SSI standard in July 1983, by requiring States to pass-through only as much as would have been required if the SSI COLA were not changed from July 1983 to January 1984.

Senate amendment

States would be allowed the following options in meeting the pass-through requirements:

(1) *Aggregate spending level option.*—Same as present law.

(2) *Individual payment level option.*—The payment levels that must be maintained would be either (a) those in effect in December 1976, or the previous December, as under current law; or (b) those in effect in March 1983, as provided in the House bill. In other words, the March 1983 supplementary payment levels would be an additional option for complying with the payment level pass-through provision, rather than a substitute for the December 1976 levels as under the House bill.

Conference agreement

The conference agreement follows the House bill.

3. SSI ELIGIBILITY FOR TEMPORARY RESIDENTS OF EMERGENCY SHELTERS FOR THE HOMELESS

Present law

Under current law, aged, blind or disabled individuals who are residents of private emergency shelters are eligible for SSI. However, such residents of public shelters cannot receive SSI.

House bill

Aged, blind or disabled individuals who are temporary residents of public emergency shelters could receive SSI payments for a period of up to three months during any 12-month period.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. DISREGARDING OF EMERGENCY AND OTHER IN-KIND ASSISTANCE PROVIDED BY NONPROFIT ORGANIZATIONS

Present law

SSI: In-kind assistance (other than assistance to meet home energy needs) that is provided by a private nonprofit organization to aged, blind, or disabled individuals must generally be counted as income under the SSI program.

AFDC: Under HHS rules, States have the authority to decide whether or not to count in-kind assistance as income under the AFDC program. There is no provision in the AFDC statute (other than in the case of home energy assistance) which specifically provides that authority.

House bill

SSI: Effective upon enactment until September 30, 1984, any support or maintenance assistance provided in-kind by a private nonprofit organization to aged, blind, or disabled individuals must be disregarded under the SSI program, if the State determines that the assistance is provided on the basis of need for such support or maintenance.

AFDC: The AFDC statute would be amended to give States specific authority, at their option, to disregard such assistance in de-

termining AFDC benefits. This would be effective upon enactment until September 30, 1984.

Senate amendment

No provision

Conference agreement

The conference agreement follows the House bill.

5. NOTIFICATION REGARDING SSI

Present law

Currently, there is no statutory requirement that OASDI beneficiaries be contacted and informed of potential eligibility for Supplemental Security Income (SSI) payments. However, since the beginning of the SSI program, the Social Security Administration has undertaken a number of outreach efforts to identify those potentially eligible. SSA routinely provides information about SSI eligibility and takes applications for SSI payments at the time of application for OASDI benefits, if the applicant is potentially eligible for SSI payments. In addition, many State agencies and other private relief groups routinely refer clients to SSA. Presently, about 6.9 percent of elderly social security recipients also receive SSI.

House bill

No provision.

Senate amendment

Prior to July 1, 1984, the Secretary of Health and Human Services would be required to notify, on a one-time basis, all elderly OASDI beneficiaries who are potentially eligible, of the availability of SSI and encourage them to contact their district offices. In addition, the provision would require that the same information be included with the notification to OASDI beneficiaries of upcoming eligibility for Supplemental Medical Insurance.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE V—UNEMPLOYMENT COMPENSATION (UC)
PROVISIONS

1. EXTENSION OF FEDERAL SUPPLEMENTAL COMPENSATION (FSC)
PROGRAM

Present law

Under the current FSC program, which became effective on September 12, 1982, and expires March 31, 1983, additional weeks of Federally financed unemployment compensation benefits are provided to jobless workers who have exhausted all other State and Federal unemployment benefits. The number of weeks of FSC benefits that jobless workers may receive depends on (a) the number of weeks of State unemployment benefits received by each claimant,

and (b) the State in which the claimant qualified for or receives the benefits.

As originally enacted, the FSC program, depending upon State insured unemployment rates (IUR),¹ provided a maximum of 10, 8, or 6 additional weeks of benefits. As amended by provisions contained in the Surface Transportation Assistance Act of 1982 (P.L. 97-424), beginning with the week of January 9, 1983, the FSC program provides the following maximum weeks of benefits:

- (1) 16 weeks in States with a 13 week average insured unemployment rate (IUR) of at least 6.0 percent;
- (2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983;
- (3) 12 weeks in the remaining States that have a 13 week average IUR of at least 4.5 percent;
- (4) 10 weeks in the remaining States that have a 13 week average IUR from 3.5 percent to 4.4 percent; and,
- (5) 8 weeks in all other States.

The number of weeks of FSC a qualified individual may receive is the lesser of 65 percent of the number of weeks of regular State benefits he received or the maximum number of weeks of FSC payable in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in the State in which he qualified for FSC benefits.

To qualify for FSC an individual must have exhausted all State and extended benefits to which he is entitled, and he must meet State and extended benefit qualification requirements. This means he must have worked at least 20 weeks or have the equivalent in wages during the base period.

House bill

The FSC program is extended for 6 months, from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(a) *Basic FSC Benefits.*—Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

- (1) 14 weeks in States with average IUR 6.0 percent and above;
- (2) 13 weeks in States with average IUR 5.0 to 5.9 percent;
- (3) 11 weeks in States with average IUR 4.5 to 4.9 percent;
- (4) 10 weeks in States with average IUR 3.5 to 4.4 percent;
- (5) 8 weeks in all other States.

(b) *Additional FSC Benefits.*—Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks equal to three-fourths of the basic FSC entitlement payable in the State, up to a maximum of:

- (1) 10 weeks in the 14 basic week States (average IUR 6.0 or above);

¹ The Insured Unemployment Rate (IUR) is the percentage of workers covered under the State unemployment compensation law who are claiming State unemployment benefits in a particular week. The number of weeks of FSC payable in a State depends upon the average IUR measured over a moving 13 week period.

(2) 8 weeks in the 13 and 11 basic week States (average IUR 4.5 to 5.9);

(3) 6 weeks in the 10 and 8 basic week States (average IUR 4.4 and below).

(c) Transitional FSC Benefits.—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

Section 503 provides for the coordination of the FSC extension with the Trade Readjustment program.

Senate amendment

The FSC program is extended for 6 months from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(a) Basic FSC Benefits.—Individuals would begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

(1) 14 weeks in States with average IUR 6.0 percent and above;

(2) 12 weeks in States with average IUR 5.0 to 5.9 percent;

(3) 10 weeks in States with average IUR 4.0 to 4.9 percent;

(4) 8 weeks in all other States.

The maximum number of weeks payable in a State after April 1, 1983 could be no more than 4 weeks less than the maximum number payable on March 27, 1983.

(b) Additional FSC Benefits.—Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks of FSC benefits up to a maximum of:

(1) 8 weeks in States with IUR at 6.0 and above

(2) 6 weeks in States with IUR at 5.0 to 5.9

(3) 4 weeks in all other States.

(c) Transitional FSC Benefits.—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

(d) Phaseout FSC Benefits.—Individuals who have not exhausted their FSC entitlement on September 30, 1983, when the program expires, would be eligible to receive up to 50 percent of their remaining FSC entitlement. No new claimants would be added to the FSC program on or after September 30, 1983.

(e) New Qualification Requirement.—Claimants must have worked 26 weeks or have earned the equivalent in wages during their base period to qualify for FSC. This applies only to claimants becoming eligible for FSC on or after April 1, 1983.

Conference agreement

(a) Basic FSC Benefits.—The conference agreement follows the Senate amendment with a modification in the provision under which the maximum number of weeks payable in a State after

April 1, 1983 could be no more than 4 weeks less than the maximum number of weeks payable under the FSC law in effect as of March 27, 1983. Under the modification, this provision would apply only in those States where the maximum number of FSC weeks payable for the first week beginning after March 27, 1983 or, if later, the first week FSC benefits provided under this bill are payable was more than 4 weeks less than the maximum number of weeks payable under the FSC law in effect on March 27, 1983.

(b) *Additional FSC Benefits.*—The conference agreement follows the House bill with the following adjustment: 10 additional weeks would be payable in States with average IUR at 6.0 percent and above; 8 additional weeks would be payable in States with average IUR at 4.0 to 5.9 percent; and, 8 additional weeks would be payable in all other States.

(c) *Transitional FSC Benefits.*—The conference agreement follows the House bill.

(d) *Phaseout FSC Benefits.*—The conference agreement follows the Senate amendment.

(e) *New Qualification Requirement.*—The conference agreement follows the House bill.

(f) *Coordination of FSC and Trade Readjustment Assistance.*—The conference agreement follows the House bill.

2. LIMITATION ON DISQUALIFICATION OF FSC CLAIMANTS WHO ENROLL IN TRAINING

Present law

The Federal Unemployment Tax Act provides, as a condition for employers in a State to receive the normal FUTA tax credit, that the State law not deny unemployment compensation to otherwise eligible claimants for any week during which they are attending a training course with the *approval* of the State agency. Many States frequently disapprove of training, however. In addition, State laws must provide that individuals in approved training must not be denied benefits because they are unavailable for work, are not actively searching for work, or have refused suitable work.

House bill

No provision.

Senate amendment

Would prohibit the denial of FSC to any otherwise eligible claimant for any week because: (1) the claimant is attending training or an accredited educational institution on a full-time basis; or (2) because of State law requirements that the claimant must be available for work, actively searching for work, or must not have refused work during the training, unless the State agency determines that the training will not improve the claimant's employment opportunities.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

3. DEFERRAL OF INTEREST PROVISION

Present law

Present law imposes interest of up to 10 percent per year on Federal unemployment compensation loans obtained by the States after April 1, 1982, except for "cash flow" loans that States repay by the end of the fiscal year in which the loans were obtained. A State with high unemployment can defer payment of, and extend the payment for, 75 percent of interest charges due in any year. The State must pay one-third of the deferred amount in each of the three years following the fiscal year for which it is due. Interest is charged on the deferred interest. In order to qualify for this deferral and extension of the payment period, the State insured unemployment rate must have equaled or exceeded 7.5 percent during the first 6 months of the preceding calendar year.

House bill

No provision.

Senate amendment

(a) The Senate amendment makes the provisions imposing interest on loans to States permanent.

(b) The amendment also allows States to defer 80 percent of the interest due for a fiscal year, effective for interest accrued in fiscal years 1983, 1984, and 1985. The deferred amount would be payable in 4 installments in the succeeding years equal to at least 20 percent of the original amount of interest due. A State would be required to meet conditions 1 and 2(A) or 2(B) below to qualify for the deferral:

(1) no action has been taken to reduce its tax effort or trust fund solvency; and

(2)(A) action (certified by the Secretary of Labor) has been taken after March 31, 1982 which increases revenues and decreases benefits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first deferral is requested; and, deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made; or,

(B) for taxable year 1982, total State UC tax revenues equaled at least 2 percent of total wages paid by employers covered under the State UC law.

(c) Interest will not be charged against any interest for which payment is deferred under current law deferral provisions or those added by this bill and summarized in (b) above.

(d) The amendment allows a State to delay for up to nine months the payment of interest due for any calendar year after 1982 during which the average total unemployment rate in the State was 13.5 percent or higher. The average total unemployment rate for a State shall be computed using the 12-month period for which the most recent information is available prior to the month in which the interest is due. Interest will *not* be charged against interest for which payment is delayed.

(e) The amendment allows States to receive a discounted interest rate that would be one percentage point below the interest rate

that would otherwise apply. This would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. It would be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

For purposes of determining whether a State meets the conditions in (2) above, the Secretary of Labor will provide an estimate of the unemployment rate for the base year, the calendar year in which the deferral is requested. The level of benefits and revenue liabilities will be determined using the State law in effect before passage of the legislation. The estimate of changes as a result of new legislation will be made from the base year in each year for which a deferral is requested. Changes in State law which automatically provide for increases in benefit amounts will be considered as if they were in effect in the base year for purposes of determining the change occurring as a result of new legislation. The Secretary of Labor may use historical growth rates for indexed items if appropriate. Once a deferral is approved, a State must continue to maintain its solvency effort. Failure to do so would result in immediate payment of all deferred interest.

Increases in the taxable wage base from \$6,000 to \$7,000 after calendar year 1982 and increases in the maximum FUTA tax rate to 5.4 percent after calendar year 1984 will not be counted for purposes of meeting condition (2).

States will not be penalized or rewarded if economic events change from those used in the base year for computing eligibility under conditions (2).

Conference agreement

The conference agreement follows the Senate amendment.

4. CAP ON CREDIT REDUCTION

Present law

The Federal Unemployment Tax Act (FUTA) imposes a Federal unemployment compensation (UC) tax on employers in all States at a rate of 3.5 percent on a taxable wage base of \$7,000. However, employers in States generally receive a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. States with insufficient State unemployment compensation revenues to meet State unemployment compensation obligations may borrow from the Federal Unemployment Account. If a State defaults on its loans from the Federal account, employers in the State begin to lose the FUTA tax credit at the rate of at least .3 percent a year. For example, because of overdue Federal UC loans, sixteen States are experiencing a reduction in the 2.7 percent credit for tax year 1982.

Specifically, if a Federal UC loan is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of that year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc.). Additional offset credit reduc-

tions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1975-1980 for States satisfying specific requirements.

The 1981 Budget Reconciliation Act made two major changes in loan payment conditions, effective from January 1, 1981 to December 31, 1987: (1) interest of up to 10 percent is charged on loans made after April 1, 1982 (except those made for "cash flow" purposes and repaid by the end of the fiscal year in which they occur); and (2) States were allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met.

In a State that qualifies for the cap, the tax credit reduction is limited to the higher of 0.6 percent, or the rate that was in effect for the State for the preceding calendar year.

The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State trust funds to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability.

In order to qualify for the cap on the automatic credit reductions a State must demonstrate that:

- (1) the net solvency of its UI system has not diminished (effective for taxable years 1981-1987);
- (2) there have been no decreases in its unemployment tax effort (effective for taxable years 1981-1987);
- (3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983-1987); and
- (4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983-1987 the comparable year for taxable year 1983, however, is 1981).

House bill

No provision.

Senate amendment

(a) Makes the credit reduction cap provisions in present law permanent.

(b) A State would still be required to meet all four conditions in present law to qualify for the full credit reduction cap. The amendment would, however, provide two lower *annual* credit reductions, if a State does not qualify for the total cap:

(1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the *annual* credit reduction would be reduced by 0.1 percentage points from what it would have been if the State had not qualified for a cap; and

(2) If a State meets the first two credit reduction cap conditions and qualifies for the interest deferral as a result of substantial changes in its unemployment compensation law, the annual credit reduction would be reduced by 0.2 percentage points from what it would have been if the State had not qualified for a cap. A substantial change in action (certified by the Secretary of Labor) taken after March 31, 1982 which increases revenues and decreases bene-

fits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first interest deferral is requested. Deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made.

The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities. Credits earned during this period would be applied in determining the State's offset credit reduction for years after 1985.

The January 1st of each year for which a State qualifies for a partial limitation on the offset credit reduction will be taken into account for purposes of determining future offset credit reduction. The credit reduction applicable in each subsequent year after the partial limitation is in effect would continue to be reduced by the amount by which the offset credit was reduced.

Conference agreement

The conference agreement follows the Senate amendment.

5. AVERAGE EMPLOYER CONTRIBUTION RATE

Present law

Present law provides that a State, in the second year in which the offset credit reduction is imposed to repay outstanding loans, may be subject to an additional credit reduction equal to the amount by which the State's average tax rate is lower than 2.7 percent. The average tax rate and the 2.7 percent are computed from the ratio of taxes collected to State and Federal taxable wages, respectively. Taxable wages are determined by the taxable wage base. Any wages above the taxable wage base are therefore not included.

In States where the taxable wage base exceeds the Federal taxable base of \$7,000, the ratio of the State's UC tax revenues to the State's taxable wages will be lower than it would be if the taxable wage base was \$7,000. This could activate the additional credit reduction in the second year even though these States have relatively higher tax efforts.

House bill

No provision.

Senate amendment

Changes the calculations so that all wages instead of just taxable wages are counted in the denominators of the State tax rates and the 2.7 percent. Each State's tax rate on all wages subject to contributions under the Federal Unemployment Tax Act (FUTA) is compared to an estimate of the national percentage of all wages subject to FUTA contributions that 2.7 percent of taxable wages represents. The 2.7 percent factor is calculated as the product of 2.7 percent and the ratio of the Federal taxable wage base (\$7,000) and the estimated United States average annual wage in covered employment for the calendar year in which the determination is made.

Effective for taxable years beginning with 1983.

Conference agreement

The conference agreement follows the Senate amendment.

6. DATE FOR PAYMENT OF INTEREST

Present law

Present law requires that interest is due no later than the first day of the next fiscal year. If the next fiscal year falls on a weekend, interest is due in the prior fiscal year. Otherwise, it is due on the first day of the next fiscal year.

House bill

No provision.

Senate amendment

Requires payment of interest before the first day of the next fiscal year.

Effective on date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

7. PENALTY FOR FAILURE TO PAY INTEREST

Present law

If a State does not pay interest when it is due, there are no provisions in present law through which the Federal government can penalize the State or enforce the collection of interest charges.

House bill

No provision.

Senate amendment

Provides that, if a State fails to pay interest charges when they are due, (a) Federal unemployment compensation and employment service administrative funds will be withheld and (b) the State's unemployment compensation program will lose its Federal certification, which will result in employers in the State losing eligibility for the credit against the Federal unemployment tax.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

8. TREATMENT OF EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

Present law

The Federal Unemployment Tax Act (FUTA) covers employees of educational institutions. FUTA *requires* States to deny benefits between academic years or terms to certain professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term. FUTA gives the States the

option of applying the same denial of benefits provision to non-professional employees of educational institutions.

House bill

No provision.

Senate amendment

(a) States would be *required* to deny benefits between academic years or terms to nonprofessional employees of educational institutions if the employees have a reasonable assurance of returning to work in the next academic year or term;

(b) States would be *required* to deny benefits between terms to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency.

The provisions would be effective on or after April 1, 1984. States in which there is no legislative session before that date, however, would be given additional time to comply with this provision.

Conference agreement

The conference agreement follows the Senate amendment in (a) above that requires States to deny benefits between terms to non-professional employees of educational institutions. The conference agreement follows the Senate amendment in (b) above with the modification that it would be optional to the States to extend the between term denial to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or the agency.

9. EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

Present law

Present law disqualifies claimants from receiving Extended Benefits or Federal Supplemental Compensation if they are not actively seeking work. Moreover, the disqualified claimant must go back to work for at least 4 weeks and earn at least 4 times his weekly benefit amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation.

House bill

No provision.

Senate amendment

Permits States to determine weekly eligibility based on availability for work for claimants of Extended Benefits and FSC who are serving on jury duty or are hospitalized for treatment of an emergency or life-threatening condition. A State must treat these individuals in accordance with their own State unemployment compensation law.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

10. OPTION FOR VOLUNTARY HEALTH INSURANCE DEDUCTION FROM UNEMPLOYMENT BENEFITS

Present law

Section 3304(a)(4) of the Federal Unemployment Tax Act prohibits States from withdrawing money from the State unemployment trust fund for anything except the payment of unemployment compensation benefits or to refund certain taxes erroneously paid by employers.

House bill

Provides States the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

11. TREATMENT OF CERTAIN ORGANIZATIONS WHO WERE RETROACTIVELY GRANTED 501(c)(3) STATUS

Present law

Unemployment insurance coverage was extended to employees of certain nonprofit organizations in 1970 and then extended to employees of generally all nonprofit organizations in 1976.

Under the 1970 and 1976 amendments, nonprofit organizations were given the option of financing unemployment benefits paid to their former employees through the State unemployment payroll tax system that applies to private employers (contribution method) or by retroactively reimbursing the State trust fund for the amount of benefits paid to their former employees (reimbursement method).

Nonprofit employers who had voluntarily covered their employees prior to the 1970 or 1976 amendments and financed benefit costs by the contribution method, and after enactment of the 1970 or 1976 amendments chose to switch to the reimbursement method of financing, were permitted to apply any accumulated balance in their accounts toward costs incurred in the future and paid for on a reimbursement basis. The authority to make such a transfer, however, was available for a limited period of time that expired shortly after enactment of the 1976 and 1970 amendments.

House bill

Allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under the following conditions:

- (1) the organization did not elect to switch to the reimbursement method under prior authority because during these peri-

ods the organization was treated as a 501(c)(4) organization by the IRS, but the organization has been subsequently determined by the IRS to be a 501(c)(3) organization; and,

(2) the organization elects to switch to the reimbursement method before the earlier of 18 months after such election was first available to it under State law or January 1, 1984.

Senate amendments

No provision.

Conference agreement

The conference agreement follows the House bill.

12. WAIVER OF PENALTY TAX ON WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS (IRA'S) BY CERTAIN UNEMPLOYED WORKERS

Present law

An individual generally is subject to a penalty tax equal to 10 percent of any distribution from an individual retirement account (IRA) to the individual for whose benefit the IRA was established if the individual is less than age 59½ when the distribution is made. However, the penalty tax does not apply if the distribution is attributable to the individual's becoming permanently and totally disabled.

House bill

No provision.

Senate amendment

The 10 percent penalty tax would not apply in the case of distributions from an IRA to an individual who has at least 20 quarters of coverage under social security, and who has received, within the preceding 12-month period, regular unemployment compensation under State law, and has exhausted all rights to such compensation in his most recent benefit year. The amendment would apply to withdrawals after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

13. REEMPLOYMENT VOUCHERS

Present law

No provision.

House bill

No provision.

Senate amendment

Would permit claimants of Federal Supplemental Compensation (FSC) to offer a voucher equal to 75 percent of their maximum potential FSC benefits to prospective employers in lieu of FSC benefits no later than one month after they become eligible for FSC. If the employer hires the claimant, the State agency will certify the

employer's use of the following portions of the voucher's face value in payment of Federal employment taxes (FUTA and FICA): (1) 25 percent within the first month of employment; (2) 25 percent in each of the next groups of three months of employment. If a claimant cannot use the voucher or only uses a portion, he would receive the balance of his maximum potential FSC benefits, reduced by the payments made to employer or the amount of FSC he would have received for the period.

The employer must certify that the employment under the voucher meets the following conditions: (1) the employee will be employed for an average of at least 30 hours per week during the payment period; (2) displacement of current employees, including reduced nonovertime hours, will not occur; and (3) the employee will not be hired to fill a vacancy created by laying off or terminating a regular employee.

Also, no "payment" may be made to a claimant's base year employer.

Effective upon enactment.

Conference agreement

The conference agreement follows the House bill.

**TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE
INPATIENT HOSPITAL SERVICES**

1. PROSPECTIVE PAYMENT AMOUNT

Present law

Under present law, medicare payment amounts are retrospectively determined based upon a hospital's reasonable costs, subject to the limits established by TEFRA. Certain reimbursement limits are applied to (1) hospital inpatient operating costs ("section 223" limits) and (2) the rate of increase in inpatient operating costs (this limit expires after fiscal year 1985).

House bill

Under the House bill, the Secretary would be required to determine prospectively a payment amount for each hospital discharge. Hospital cases (discharges) would be classified into "diagnosis related groups" (DRG's).

Senate amendment

Same as the House bill.

2. DRG RATES

A. SEPARATE RATES

Present law

No provision.

House bill

Under the House bill, separate payment rates would apply to urban and rural areas in each of the 9 census divisions (the 50 States and the District of Columbia).

Senate amendment

Under the Senate amendment, separate payment rates would apply to urban and rural areas in each of the 4 census regions (the 50 States and the District of Columbia).

Conference agreement

The conference agreement follows the House bill.

B. TERMINATION OF REGIONAL ADJUSTMENTS

Present law

No provision.

House bill

Under the house bill, regional adjustments (i.e., by census divisions) would no longer apply after the fourth year of the program.

Senate amendment

Under the Senate amendment, regional adjustments (i.e., by census regions) would no longer apply after the third year of the program.

Conference agreement

The conference agreement follows the Senate amendment as it applies to the 9 census divisions.

3. EFFECTIVE DATE/TRANSITION

A. PHASE-IN PERIOD

Present law

Under present law, the section 223 limits are authorized indefinitely; the rate of increase limits will not apply to hospital cost reporting periods beginning on or after October 1, 1985.

House bill

Under the House bill, implementation of the new prospective payment system would be phased in over a 3-year period, starting with each hospital's first cost reporting period beginning on or after October 1, 1983. During year one, 25% of the payment would be based on regional DRG rates; 75% of the payment would be based on each hospital's cost base. In year two, 50% of the payment would be based on regional DRG rates and 50% on each hospital's cost base. In year three, 75% of the payment would be based on regional DRG rates and 25% would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the DRG payment methodology. In year five, 100% of the payment would be determined under a national DRG payment methodology.

Senate amendment

The Senate amendment contains a similar provision, except that during year one, 25% of the payment would be based on a combination of national and regional DRG rates (25% national, 75% regional); 75% would be based on each hospital's cost base. In year two, 50% of the payment would be based on a combination of national and regional DRG rates (50% each); 50% would be based on each hospital's cost base. In year three, 75% of the payment would be based on a combination of national and regional DRG rates (75% national, 25% regional); 25% would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the national DRG payment methodology.

Conference agreement

The conference agreement follows the Senate amendment with modifications. Under the agreement, implementation of the prospective payment system would be phased-in over a 3-year period. During year one, 25% of the payment would be based on regional DRG rates; 75% would be based on each hospital's cost base. In year two, 50% of the payment would be based on a blend of national and regional DRG rates (25% national, 75% regional); 50% of the payment would be based on each hospital's cost base. In year three, 75% of the payment would be based on a blend of national and regional DRG rates (50% national, 50% regional); 25% of the payment would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the national DRG payment methodology.

B. CALCULATION OF COST-BASED PORTION OF PAYMENT*Present law*

No provision.

House bill

Under the House bill, for the first 2 reporting periods, the calculation of that portion of a hospital's payment which is cost-based would be the lesser of the hospital's payment under the rate of increase limits, without the penalties and bonuses of present law, or the section 223 limits without regard to any exemptions, exceptions or adjustments thereto. For the third reporting period, the calculation of the cost-based portion would be the hospital's payment under the rate of increase limit only.

Senate amendment

Same provision, except the Section 223 limits would not apply.

Conference agreement

The conference agreement follows the Senate amendment. The managers note that during the phase-in period, some portion of the prospective payment rate will be related to each hospital's own experience in a base cost reporting year. The managers recognize that, in some cases, the Secretary will have to use estimates to adjust some portions of the hospital's base year experience to make

it comparable to inpatient operating costs that will be paid under the prospective system—e.g., FICA taxes that would have been paid if the hospital had been in the social security system or the adjustment needed to exclude the nursing differential which is no longer payable. Since the hospital's specific portion of the rate must be determined in advance of the hospital's first fiscal year under the system, the managers expect the Secretary will use the best data available at that time to determine operating costs for the purposes of the phase-in.

C. MAINTENANCE OF COST-REPORTING SYSTEM

Present law

Under present law, hospitals are required to file annual cost reports which are used to determine the amount of each hospital's reasonable cost reimbursement.

House bill

Under the House bill, the Secretary would be required to maintain a system of cost reporting during the period of transition to the new prospective payment system and for at least two years after full implementation of the new payment program (at least until the end of fiscal year 1988).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The managers intend that the Secretary consider the needs of the States prior to changing cost-reporting requirements. Many States use the medicaid cost reports for purposes of reimbursement under the medicaid program. It is the managers' intention that extensive cost reports be maintained, at least during the first year of implementation, in order to allow States time to adjust their medicaid reporting requirements.

4. AREA WAGE ADJUSTMENT

Present law

Under present law, an adjustor, using Bureau of Labor Statistics data for hospital wages, is used under current section 223 limits to adjust for area differences in hospital wage levels.

House bill

Under the House bill, DRG rates would be adjusted for area differences in hospital wage levels compared to the national average hospital wage level.

Senate amendment

Under the Senate amendment, DRG rates would be adjusted for area differences in hospital wage levels compared to the national or regional average hospital wage levels as appropriate.

Conference agreement

The conference agreement follows the House bill.

5. INITIAL PAYMENT LEVEL

A. GENERAL

Present law

Under present law, medicare payments to hospitals are made according to the lower of actual reasonable costs, the section 223 total cost limits, or the rate of increase limits added by TEFRA. The TEFRA rate of increase limits are based on each hospital's historical costs. These costs are updated by the marketbasket of goods and services purchased by hospitals, plus 1 percentage point.

House bill

Under the House bill, the rates for each DRG would be derived from historical medicare cost data for each hospital. The rates would be updated to fiscal year 1983 by the estimated industry-wide actual increase in hospital costs. The rates would be further updated for fiscal year 1984 by the increase in the marketbasket plus 1 percentage point. In fiscal year 1984, the DRG rates would be reduced, as may be required, to achieve budget neutrality in relationship to the reimbursement levels that would have applied under the TEFRA legislation.

Senate amendment

Same as the House bill.

B. SERVICES COVERED

Present law

Under present law, services provided to medicare beneficiaries who are inpatients of a hospital are ordinarily billed under part A and reimbursed on a reasonable cost basis. However, some payments for certain non-physician services rendered to inpatients are billed by suppliers of services under part B on a reasonable charge basis.

House bill

Under the House bill, effective October 1, 1983, all non-physician services provided in an inpatient setting would be paid only as inpatient hospital services under part A, except as provided below.

The Secretary is given authority to waive these restrictions, and to provide for adjustments in the DRG payments rates, for hospitals which can demonstrate to the Secretary that their practices prior to October 1, 1982, were such that their services were extensively billed independently under part B. Such hospitals could be permitted, by the Secretary, to continue such billing arrangements during the transition period for phasing-in the prospective payment system. Such arrangements would not be recognized once the prospective payment system is fully implemented. The Secretary would estimate, each year, amounts that would have been reimbursed under part B for inpatient hospital services (other than physician

services) and include, each year, in the base rate for determining the DRG payment rates an approximation of this amount.

Senate amendment

The Senate amendment would also provide payment for all non-physician services provided to hospital inpatients, effective October 1, 1983, only as inpatient hospital services, except that the Secretary may waive these restrictions during the transition period in the case of hospitals that have allowed direct billing under part B so extensively that immediate compliance with such restrictions would threaten the stability of patient care. The Secretary could allow continued payment of part B billings as long as he or she subsequently deducted the total amount for these billings from the payments made under the prospective system to the hospital. If such a waiver is granted, the Secretary, at the end of the transition, may provide for such methods of payment under part A as appropriate given the organizational structure of the institution.

Conference agreement

The conference agreement follows the Senate amendment with a modification requiring the Secretary to define, by regulation for this purpose, non-physician services which would be considered inpatient hospital services covered by prospective DRG-based payments.

C. ADJUSTMENTS FOR SOCIAL SECURITY

Present law

Under present law, a downward adjustment is made to a hospital's medicare payment to account for a hospital's withdrawal from the Social Security system.

House bill

Under the House bill, the provision in present law would be repealed.

Senate amendment

Under the Senate amendment, the provision also would be repealed. In addition, in setting the initial payment rates, the Secretary would be required to recognize the payroll costs some hospitals will incur as the result of being required to enter the Social Security system, by adjusting base costs for individual hospitals and by adjusting the DRG prospective rates to include these additional costs.

Conference agreement

The conference agreement follows the Senate amendment.

6. ANNUAL UPDATES

A. ANNUAL INCREASE

Present law

Under present law, the rate of increase limits are updated by the increase in a marketbasket of goods and services purchased by hospitals, plus 1 percentage point.

House bill

Under the House bill, for fiscal year 1985, payment amounts from the previous fiscal year would be increased by the marketbasket, plus 1 percentage point. There would be an overall budget limitation to maintain budget neutrality for fiscal year 1985.

Senate amendment

Same as the House bill.

B. SECRETARY'S DETERMINATION OF ANNUAL INCREASE FACTOR

Present law

No provision.

House bill

Under the House bill, taking into consideration the recommendations of the panel, the Secretary must determine, for each fiscal year beginning with fiscal year 1986, the appropriate increase factor.

Senate amendment

Under the Senate amendment, taking into consideration the recommendations of the commission, the Secretary must determine, for each fiscal year beginning with fiscal year 1986, the increase factor; such factor must assure adequate compensation for the efficient and effective delivery of medically appropriate and necessary care of high quality.

Conference agreement

The conference agreement follows the Senate amendment with a modification which requires that the Secretary, in determining the increase factor, must take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

C. PUBLICATION OF SECRETARY'S DETERMINATION

Present law

No provision.

House bill

Under the House bill, the Secretary must publish in the Federal Register (1) not later than the June 1 before each fiscal year beginning with fiscal year 1986, his or her determination of the proposed increase factor and (2) not later than the September 1 before such

fiscal year, his or her final determination of the increase factor. The Secretary must include in the publication due by June 1 the report of the panel's recommendations for that fiscal year.

Senate amendment

Same as the House bill.

D. EXPERT PANEL/COMMISSION'S DETERMINATION OF ANNUAL INCREASE FACTOR

Present law

No provision.

House bill

The House bill requires the Secretary to appoint a panel of independent experts to review the increase factor and make recommendations to the Secretary on the appropriate percentage increase for fiscal years beginning with fiscal year 1986. The panel must take into account changes in the marketbasket, hospital productivity, technological and scientific advances, quality of care, and utilization of relatively costly, though effective, methods of care.

Senate amendment

The Senate amendment contains a similar provision, except the review of the increase factor and recommendations to the Secretary would be conducted by a commission selected by the Office of Technology Assessment, and would begin with fiscal year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

E. EXPERT PANEL/COMMISSION'S REPORT ON ANNUAL INCREASE FACTOR

Present law

No provision.

House bill

Under the House bill, the panel must report its recommendations on the increase factor to the Secretary not later than May 1 before the beginning of each fiscal year, beginning with fiscal year 1986.

Senate amendment

Under the Senate amendment, the commission must report its recommendations on the increase factor to the Secretary not later than April 1 before the beginning of each fiscal year, beginning with fiscal year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

7. RECALIBRATION OF DRG'S

A. SECRETARY'S DETERMINATION OF DRG RECALIBRATION

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to establish (and would be permitted from time to time to make changes in) a system of classification of inpatient hospital discharges by DRGs and a methodology for classifying specific hospital discharges within the DRGs. For each DRG, the Secretary would be required to assign (and would be permitted from time to time to recompute) an appropriate weighting factor which reflects the relative hospital resources used for discharges classified within that DRG compared to resources used for discharges classified in other DRGs.

Senate amendment

The Senate amendment contains a similar provision except the Secretary would be required to adjust the classifications and weighting factors at least once every 3 years to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

Conference agreement

The conference agreement follows the Senate amendment with a modification requiring the Secretary to adjust the DRG classifications and weighting factors for fiscal year 1986 and subsequently, as necessary, but no less often than once every four years.

B. EXPERT COMMISSION'S DETERMINATION OF DRG RECALIBRATION

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, the commission would be required to consult with, and make recommendations to, the Secretary with respect to changes in the DRGs, based on its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The commission must report to Congress its evaluation of any adjustments to the DRGs made by the Secretary.

Conference agreement

The conference agreement follows the Senate amendment.

8. ATYPICAL CASES/OUTLIERS

A. BASIS FOR OUTLIER PAYMENTS

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to make additional payments where the length of stay for any case in a DRG exceeds, by more than 30 days, the average length of stay for cases within the same DRG. In addition, if a case has some other unusual length of stay or unusual cost, the Secretary could provide additional payment amounts.

Senate amendment

Under the Senate amendment, the Secretary would be required to make additional payments where (1) the length of stay exceeds the mean length of stay by some fixed number of days or (2) by a certain number of standard deviations, whichever is less. Hospitals would be permitted to appeal for additional payments for cases where charges adjusted to costs are equal to or greater than some multiple of the DRG rates or some dollar criterion, whichever is greater.

Conference agreement

The conference agreement follows the Senate amendment. The managers are equally concerned that adjustments may be required for cases which have an unusually short length of stay or which are significantly less costly than the DRG payment. The Secretary would be required to report on this with recommendations on how to address this issue.

B. PAYMENT LEVELS FOR OUTLIER CASES

Present law

No provision.

House bill

Under the House bill, the additional payment amounts per case would be determined by the Secretary.

Senate amendment

Under the Senate amendment, the amount of additional payments would be determined by the Secretary and approximate the marginal cost of care beyond the outlier cut-off criteria (days or dollar amounts).

Conference agreement

The conference agreement follows the Senate amendment.

C. TOTAL PROPORTION OF OUTLIER PAYMENTS

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to provide additional payments for outlier cases amounting to not less than 4 percent of total DRG related payments.

Senate amendment

Under the Senate amendment, the Secretary would be required to provide additional payments for outlier cases amounting to not less than 5 percent, and not more than 6 percent, of total projected or estimated DRG related payments.

Conference agreement

The conference agreement follows the Senate amendment.

9. CAPITAL EXPENSES

A. CAPITAL IN GENERAL

Present law

Under present law, medicare reimburses hospitals for the reasonable costs of capital (including depreciation, interest and rent).

House bill

Under the House bill, capital expenses, as defined by the Secretary, would be specifically excluded from the prospective payment proposal and would continue to be reimbursed on a reasonable cost basis.

Senate amendment

Under the Senate amendment, capital expenses, as defined by the Secretary, would be specifically excluded from the prospective payment system until October 1, 1986, during which time they would continue to be reimbursed on a reasonable cost basis. After October 1, 1986, such expenses would no longer be excluded.

Conference agreement

The conference agreement follows the Senate amendment. The managers intend that capital, as defined by the Secretary, includes return on equity. The managers also note that the Secretary is required to complete, within 18 months, a thorough review of the methods by which capital, including return on equity, can be incorporated into the prospective payment system. The managers expect that additional legislation will be enacted by Congress to deal with capital-related issues under the prospective payment system before October 1, 1986. However, if the Secretary has implemented a system of prospective payment for capital without legislative action and the mandatory section 1122 capital planning approval provision has gone into effect, the conferees intend that the Secretary

will adjust the prospective payment for capital to reflect a disapproval project under section 1122.

B. RETURN ON EQUITY

Present law

Under present law, medicare reimburses proprietary institutions a return on equity.

House bill

The House bill provides for the phase-out of return on equity for hospitals under the prospective payment system over the three-year transition period during which the cost-based payment is being phased out (75% in the first year, 50% in the second year and 25% in the third year). No payment for a return on equity would be made for cost reporting periods beginning on or after October 1, 1986.

Senate amendment

No provision.

Conference agreement

Under the conference agreement, effective with respect to cost reporting periods beginning on or after the date of enactment, the rate of return on equity will be reduced from one and one-half times to an amount equal to the rate of interest paid by the Federal Treasury on the assets of the Hospital Insurance Trust Fund.

C. NEW CAPITAL

Present law

No provision.

House bill

The House bill expresses the intent of Congress that, in implementing a system for including capital-related costs under a prospective payment system, costs related to capital projects initiated on or after March 1, 1983, may be distinguished and treated differently from projects initiated before such date.

Senate amendment

The Senate amendment expresses the intent of Congress that, in implementing a system for including capital-related costs under a prospective payment system, costs related to capital projects initiated on or after the effective date of the implementation of such system may or may not be distinguished and treated differently from projects initiated before such date.

Conference agreement

The conference agreement follows the Senate amendment. The managers believe no assurances can be given that, under a new system of paying for capital, projects obligated (as defined by regulations under section 1122) after the date of enactment of this legislation will continue to be paid on a reasonable cost basis.

D. SECTION 1122 CAPITAL APPROVAL

Present law

Under present law, the Secretary is authorized to exclude from reimbursement to providers certain costs related to capital expenditures that have been disapproved by a section 1122 planning agency.

House bill

Under the House bill, at the end of 3 years, medicare would not make payment for a new capital project unless the State had a section 1122 capital approval process and the capital expenditures had been recommended by the State under such mechanism.

Senate amendment

The Senate amendment changes for cost reporting periods prior to October 1, 1986: (1) the financing of reviews of capital projects from the Hospital Insurance Trust Fund to general revenues; (2) increases the amount of capital projects that is subject to the 1122 approval process from \$100,000 to \$600,000; (3) exempts from the review process expenditures made by or on behalf of a health care facility where 75 percent of the patients using the services of such facility are enrollees in HMO's or CMP's and such expenditures are for services and facilities needed by such organization to operate efficiently; and (4) requires hospitals to make their overall expenditure plans and capital budgets available to section 1122 agencies.

Conference agreement

The conference agreement follows the provision in the House bill with the following modification: the requirement that medicare payment for new capital projects be conditional on section 1122 approval would be effective October 1, 1986, only if no legislation were enacted by that date which includes capital-related costs in the prospective reimbursement system. In addition, effective upon enactment: (1) the financing of reviews of capital projects would be made from general revenues; (2) the maximum threshold a State may use for determining which capital projects are subject to the section 1122 review process would be increased from \$100,000 to \$600,000; States would be permitted to set a lower threshold; (3) in order for a health care facility, where 75 percent of the patients are HMO or CMP enrollees, to be exempt from the section 1122 review process because needed services and facilities are not otherwise readily accessible, the organization must establish that one of the following five conditions is met:

- (a) the facilities are geographically dispersed
- (b) the facilities are not available under a contract of reasonable duration
- (c) full and equal medical staff privileges are not available
- (d) the arrangements are not administratively feasible, or
- (e) the services are more costly than if provided by the HMO or CMP; and

(4) hospitals would be required to make their overall expenditure plans and capital budgets available to the section 1122 or other appropriate agency.

10. MEDICAL EDUCATION EXPENSES

A. DIRECT COST

Present law

Under present law, medicare reimburses direct medical education expenses, such as the salaries of interns and residents in approved education programs, on the basis of reasonable cost.

House bill

Under the House bill, direct medical expenses for approved educational programs would be specifically excluded from payment determinations under the prospective payment system and would be paid on the basis of reasonable cost.

Senate amendment

Same as the House bill.

B. INDIRECT COST

Present law

Under present law, the section 223 limits provide an adjustment to recognize individual hospital differences in indirect costs due to approved teaching activities.

House bill

Under the House bill, the Secretary is required to provide additional payment amounts under the prospective payment system for hospitals with indirect costs of medical education. The adjustment for such payment amounts would equal twice the section 223 adjustment, provided under regulations, in effect as of Jan. 1, 1983, for such costs.

Senate amendment

Same as the House bill.

11. EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS

A. PAYMENTS TO EXEMPTED HOSPITALS AND HOSPITAL UNITS

Present law

No provision.

House bill

Under the House bill, hospitals or units of hospitals exempted from the prospective payment system would be subject to the section 223 limits (until hospital cost reporting periods beginning on or after October 1, 1985) and the rate of increase limits applicable under current law.

Senate amendment

The Senate amendment contains a similar provision, except the section 223 limits would no longer apply for hospital cost reporting periods beginning on or after October 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment.

B. PSYCHIATRIC, LONG-TERM CARE, AND CHILDREN'S HOSPITALS*Present law*

Under present law, section 223 limits do not apply to children's hospitals, long-term care hospitals or to rural hospitals with less than 50 beds. In addition, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of psychiatric hospitals.

House bill

Under the House bill, psychiatric, long-term care, children's and rehabilitation hospitals would be specifically exempted from the prospective payment system. Upon request of a hospital, rehabilitation and psychiatric units which are distinct parts of acute care hospitals would also be specifically exempted.

Senate amendment

The Senate amendment contains a similar provision, except (1) hospitals would not have to request exemptions for distinct parts of rehabilitation or psychiatric units and (2) exemptions of any such hospitals or hospital units would no longer apply when the Secretary determines that adequate data of clinical and statistical significance is available to include these institutions and units under the prospective payment system.

Conference agreement

The conference agreement follows the provision in the House bill with a modification that deletes the provision which conditions granting of an exemption on the receipt by the Secretary of a request from a hospital.

C. SOLE COMMUNITY HOSPITALS*1. Payments**Present law*

Under present law, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of sole community hospitals.

House bill

Under the House bill, the Secretary would be authorized to provide exceptions and adjustments to take into account the special needs of sole community hospitals.

Senate amendment

Under the Senate amendment, payments to sole community hospitals for hospital cost reporting periods beginning on or after October 1, 1983, would be on the same basis, as payments to all other providers in the *first* year of the transition period: 25% of the payment would be based on a blend of national and regional DRG rates (25% national, 75% regional); 75% would be based on each hospital's own cost base. In no case would total medicare payments in those cost reporting years beginning on or after October 1, 1983, and before October 1, 1986, be less than the payments made in the preceding year.

Conference agreement

The conference agreement follows the provision in the Senate bill with modifications: (1) Confirms the basis of payment to the first-year blend of payment rates applicable to other hospitals agreed to by the conferees (item 3a); and (2) where a sole community hospital experiences a change of more than 5 percent in its total volume over a previous year, due to circumstances beyond its control, the Secretary would be required to provide, for 3 years, an adjustment to fully compensate the hospital for the fixed costs it incurs and for the reasonable cost of maintenance of core staff and services.

*2. Definition**Present law*

No provision.

House bill

Under the House bill, "sole community hospitals" are defined as those that, by reason of factors such as isolated location or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available in a geographical area to part A medicare beneficiaries.

Senate amendment

The Senate amendment contains a similar provision, except includes weather and travel conditions in the list of factors defining a sole community hospital.

Conference agreement

The conference agreement follows the Senate amendment.

D. PUBLIC AND OTHER HOSPITALS

Present law

Under present law, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of public and other hospitals that serve a disproportionate number of low income or part A medicare beneficiaries.

House bill

Under the House bill, the Secretary would be required to provide exceptions and adjustments, as he or she deems appropriate, to take into account the special needs of public or other hospitals that serve a disproportionately large number of low-income or part A medicare beneficiaries.

Senate amendment

The Senate amendment contains a similar provision, except also applies to regional and national referral centers (including very large acute care hospitals in rural areas).

Conference agreement

The conference agreement follows the Senate amendment.

E. OTHER PROVIDERS

Present law

Under present law, the Secretary is required to provide exemptions, exceptions, and adjustments to the "section 223" and the rate of increase limits as he or she deems appropriate to take into account the special needs of new hospitals, risk-based health maintenance organizations, hospitals providing atypical or essential services and to take account of extraordinary circumstances beyond a hospital's control; and for other purposes.

House bill

Under the House bill, the Secretary is required to provide, by regulation, for such exceptions and adjustments as he or she deems appropriate (including those that may be appropriate with respect to public and teaching hospitals and hospitals involved extensively in treatment for, and research on, cancer).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the provision in the House bill with a modification which deletes the requirement with respect to public and teaching hospitals. The conferees wish to make it clear that this authority permits the Secretary to provide for such exceptions and adjustments as may be appropriate with respect to hospitals experiencing special problems because of their location in a particular census division.

F. ALASKA AND HAWAII

Present law

Under regulation, special adjustments are provided to the section 223 limits for hospitals in Alaska and Hawaii.

House bill

Under the House bill, the Secretary is authorized to provide adjustments to the DRG payment amounts as he or she deems appro-

priate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

Senate amendment

Same as the House bill.

G. HOSPITALS IN TERRITORIES, INCLUDING PUERTO RICO

Present law

No provision.

House bill

The House bill exempts from the prospective payment system hospitals located outside the fifty States or the District of Columbia (e.g., the territories, including Puerto Rico).

Senate amendment

Same as the House bill. (See study section.)

12. ADMISSIONS AND QUALITY REVIEW

A. CONTRACTS WITH PROFESSIONAL REVIEW ORGANIZATIONS

Present law

Present law (title XI of the Social Security Act) requires the Secretary to enter into contracts for utilization and quality control peer review with professional review organizations (PROs) or other review organizations, including medicare intermediaries (subject to certain conditions and limitations).

House bill

Under the House bill, effective October 1, 1984, as a condition for receipt of medicare payments, a hospital receiving payments according to the prospective DRG rates would be required to contract with a peer review organization, in the area, designated by the Secretary under Title XI for the review of admissions, discharges, and quality of care with respect to medicare hospital inpatient services. The 12-month waiting period for intermediaries to qualify as review organizations as specified in present law would begin on the date the Secretary enters into contracts or on October 1, 1983, whichever is earlier.

Senate amendment

Under the Senate amendment, hospitals receiving payments under the prospective payment system would be required to enter into an agreement with a peer review organization (if such as organization has a contract with the Secretary under title XI for the area in which the hospital is located). The purpose of this contract is to provide for the review of the validity of the diagnostic information provided by such hospitals, the completeness and adequacy of the care provided, the appropriateness of admissions, and the appropriateness of care provided to patients designated by the hospitals as outliers. These reviews would be covered as a hospital cost of care under part A but the PRO would be paid by the Secretary

on behalf of the hospital on the basis of a rate per review established by the Secretary. The amount expended will be no less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs, adjusted for inflation, and will be expended from the trust fund and not subject to appropriations.

Conference agreement

The conference agreement follows the Senate amendment with modifications. Under the agreement, (1) hospitals receiving payments under the prospective payment system would be required from the date of enactment through September 30, 1983, to contract with a professional review organization (PRO), if there is a PRO in the area which has contracted with the Secretary under title XI; (2) such hospitals would be required, on or after October 1, 1984, to contract with a PRO, in the area, designated by the Secretary under title XI as a condition of receiving payments under the medicare program (if the Secretary has not contracted with a PRO in the area such hospitals would not receive payment); (3) the 12-month waiting period for intermediaries to qualify as PROs (as specified in present law) would begin on the date the Secretary enters into contracts or on October 1, 1983, whichever is earlier as in the House bill; (4) where a contract between the Secretary and a PRO is terminated after October 1, 1984, the Secretary would be required to enter into a new contract with a PRO in that area within 6 months of such termination, during which period hospitals would not be penalized because no PRO exists in the area, and (5) the amount expended for review purposes must also be no less than an amount equal to the total expenditures made during 1982 for review costs adjusted for inflation.

B. MONITORING SYSTEM ESTABLISHED BY THE SECRETARY

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to establish a system for monitoring admissions and discharges of both hospitals receiving prospective payment and hospitals reimbursed on a cost basis, utilizing HCFA, medicare intermediaries, professional review organizations/professional standards review organizations, or such other medical review authority, to review admissions and discharge practices and quality of care.

Senate amendment

No provision.

Conference agreement

The conference agreement strikes the provision in the House bill but modifies the review requirements of professional review organizations (PROs) to include review of patterns admissions and discharges and quality of care of hospitals receiving medicare payments.

C. PENALTIES FOR UNACCEPTABLE PRACTICES

Present law

No provision.

House bill

Under the House bill, the Secretary would be authorized to take corrective action where hospitals, paid according to the prospective rates or on a cost basis, were determined to be engaged in unacceptable admissions, medical, or other practices. The Secretary would be permitted to disallow part or all of the medicare payment with respect to an unnecessary or multiple admissions, or to require hospitals to take other corrective action necessary where a provider was determined to have engaged in such practices.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the provision in the House bill with a modification which authorizes the Secretary to take such corrective action based on the findings of the PRO.

13. PAYMENTS TO HMO'S AND CMP'S

Present law

Current law provides that health maintenance organizations (HMO's) and competitive medical plans (CMP's) may be reimbursed either on the basis of reasonable costs or under a risk-based contract, a payment equal to 95% of the adjusted average per capita cost (AAPCC) for medicare enrollees in the HMO's area.

House bill

Under the House bill, the proposal would permit, at its election, an HMO or a CMP that receives medicare payments on a risk basis to choose to have the Secretary directly pay hospitals for inpatient hospital services furnished to medicare enrollees of the HMO or CMP. The payment amount would be at the DRG rate (or on the basis of reasonable cost, as applicable) and would be deducted from medicare payments to the HMO or CMP.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the provision in the House bill with a technical amendment.

14. STATE COST CONTROL SYSTEMS

A. AUTHORITY UNDER PRE-TEFRA LEGISLATION

Present law

Under present law, the Secretary has authority to establish medicare demonstration projects. There are currently four State-wide medicare demonstrations (MD, NJ, NY, and MA) and one area-wide (Rochester, NY) demonstration.

House bill

Under the House bill, the Secretary would be expressly authorized to continue to develop, carry out, or maintain medicare experiments and demonstration projects.

Senate amendment

Same as the House bill.

B. AUTHORITY FOR STATE PROGRAMS

Present law

Present law authorizes the Secretary, at the request of a State, to pay for medicare services according to the State's hospital cost control system if such system—

- (1) applies to substantially all non-acute care hospitals in the State;
- (2) applies to at least 75% of all inpatient revenues or expenses in the State;
- (3) provides assurances that payors, hospital employees and patients are treated equitably; and
- (4) provides assurances that the State's system will not result in greater medicare expenditures over a three-year period than would otherwise have been made. (To date, no State systems have been approved under this authority).

House bill

Under the House bill, the Secretary would be prohibited from (1) denying a State application on the ground that the State's system is based on a payment methodology other than DRGs, or (2) requiring that medicare expenditures under the State's system be less than the expenditures which would have been made under the Federal prospective payment system. It includes the 4 requirements in TEFRA for approval of a State system and adds a fifth requirement: if the Secretary determines that the State system will not preclude an HMO or CMP from negotiating directly with hospitals with respect to payment for inpatient hospital services.

Senate amendment

The Senate amendment contains the same provision, except adds a sixth requirement that States must provide for a prohibition on payments under part B for nonphysician services provided to inpatients.

Conference agreement

The conference agreement follows the Senate amendment with a modification under which the Secretary would be required to issue regulations setting forth the conditions under which States could waive restrictions under State systems relating to payments for certain non-physician services provided to hospital inpatients.

C. CONTINUATION OF CURRENT STATE PROGRAMS

Present law

No provision.

House bill

Under the House bill, for those States which currently have a medicare waiver the Secretary would be required to continue the State program if, and for so long as, the conditions described above are met.

Senate amendment

Same as the House bill.

D. REQUIRED STATE PROGRAMS

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to approve any State program which meets the following 6 requirements in addition to the conditions indicated above, that the system: (1) is operated directly by the State or an entity designated by State law; (2) is prospective; (3) provides for hospitals to make such reports as the Secretary requires; (4) provides satisfactory assurances that it will not result in admissions practices which will reduce treatment to low income, high cost, or emergency patients; (5) will not reduce payments without 60 days notice to the Secretary and to hospitals; and (6) provides satisfactory assurances that, in the development of its program, the State has consulted with local officials concerning the impact of the program on publicly owned hospitals.

The Secretary would be required to respond to requests from States applying under these 11 conditions within 60 days of the date the request is submitted.

Senate amendment

Same as the House bill.

E. MODIFICATION OF EXISTING CONTRACTS

Present law

Under current demonstration project agreements between the Secretary and the States of New York and Massachusetts, the States are required to maintain a rate of increase in medicare hospital costs which is 1.5 percent below the national rate of increase in such costs.

House bill

Under the House bill, the Secretary would be required, upon request of a State, to modify the terms of an existing demonstration agreement (entered into after August 1982 and in effect as of March 1, 1983—New York and Massachusetts) so that the demonstration project is not required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in such costs.

Senate amendment

The Senate amendment contains a similar provision, except provides that such demonstration agreements be modified so that the percentage by which such project is required to maintain a rate of increase in such costs in that State below the national rate of increase be decreased by one-half of one percentage point for the contract year, beginning in 1983, by an additional one-half of 1 percentage point for the contract year beginning in 1984, and by an additional one-quarter of 1 percentage point for the contract year beginning in 1985.

Conference agreement

The conference agreement follows the House bill with a modification permitting either the State or the party to the agreement to request a modification of the contract.

F. JUDGING THE EFFECTIVENESS OF STATE SYSTEMS

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, during the 3 cost reporting periods beginning on or after October 1, 1983, for existing State systems, the Secretary must judge their effectiveness on the basis of their rate of increase or inflation in medicare inpatient hospital payments compared to the national rate of increase or inflation for such payments. The State would retain the option to have the test applied on the basis of either aggregate payments per inpatient admission or discharge. After the transition period, this test would no longer apply, and such State systems would be treated in the same fashion as other waived systems.

Conference agreement

The conference agreement follows the Senate amendment.

G. REDUCTION IN PAYMENTS TO HOSPITALS WHICH EXCEED EXPENDITURE LIMITS

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, if the Secretary determines that the amounts paid over a three-year period under a State system exceed what medicare would have otherwise paid over the same three-year period, the Secretary may reduce subsequent payments to hospitals under the State system by that amount.

Conference agreement

The conference agreement follows the Senate amendment. The managers expect that the Secretary will provide a State, at least annually, with such information as is needed to keep the hospitals in a State fully informed, on an estimated or other basis, of the projected potential liabilities that could result if medicare expenditures in the State exceed the medicare expenditures which would have been made in the absence of the State system.

15. ADMINISTRATIVE AND JUDICIAL REVIEW

A. LIMITATION

Present law

Under present law, a provider may request administrative review of a final decision of a fiscal intermediary by the Provider Reimbursement Review Board (PRRB). A provider may appeal the PRRB decision to Federal court or, where it involves a question of law or regulation which the PRRB does not have the authority to review, the provider may appeal directly to Federal court.

House bill

Under the House bill, permits administrative and judicial review in all cases except the narrow items necessary to maintain budget neutrality: (1) the level of the payment amount, and (2) the establishment of the DRG classifications.

Senate amendment

Same as the House bill.

B. VENUE

Present law

Under present law, an individual provider may bring suit in the judicial district in which it is located or the District of Columbia. Groups may bring suit only in the District of Columbia.

House bill

No provision.

Senate amendment

The Senate amendment permits action to be brought jointly by several providers in a judicial district in which the greatest number of such providers is located. Any appeals to the PRRB for

action for judicial review brought by providers which are under common ownership or control would have to be brought by providers as a group with respect to any matter involving an issue common to such providers.

Conference agreement

The conference agreement follows the Senate amendment.

16. STUDIES, REPORTS, AND DEMONSTRATIONS

Present law

No provision.

House bill

Under the House bill, the Secretary is required to study and report to Congress on various topics.

Senate amendment

Under the Senate amendment, the Secretary is also required to study and report to Congress on various topics.

Conference agreement

The conference agreement requires the Secretary to study and report to Congress on the following:

a. Capital-related costs—the method by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included in the prospective payment system; due within 18 months after enactment.

b. Skilled nursing facilities (SNFs)—

1. The impact of hospital prospective payment systems on skilled nursing facilities and recommendations concerning SNFs; due at the end of 1983.

2. Requires the Secretary to conduct demonstrations with hospitals in areas with critical shortages of SNFs to study the feasibility of providing alternative systems of care or methods of payment.

3. The effect that the implementation of section 102 of TEFRA would have on hospital-based SNFs, given the differences (if any) in the patient populations served by such facilities and by community-based SNFs; due prior to December 31, 1983.

c. Impact of the prospective payment methodology—the impact of the prospective payment methodology during the previous year on classes of hospitals, beneficiaries, other payors for inpatient hospital services, other providers, and the impact of computing averages by census division, rather than national averages; must include the Secretary's recommendations for changes in legislation, as appropriate; due annually at the end of each year for 1984 through 1987.

d. Physician's services to hospital inpatients—during fiscal year 1984, requires the Secretary to begin the collection of data necessary to compute, by DRGs, the amount of physician charges for services furnished to hospital inpatients classified in those DRGs; requires the Secretary to include, in a report to Congress in 1985, recommendations on the advisability and feasibility of providing for the determination of payments based on a DRG-type classification for

physician's services furnished to hospital inpatients and legislative recommendations.

e. Urban/rural rates—the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates; due at the end of 1985 as part of the 1985 annual report.

f. Prospective payments for hospitals not included in the system—whether, and the method under which, hospitals not paid under the prospective system can be paid on a prospective basis for inpatient services; due at the end of 1985 as part of the 1985 annual report.

g. Payments for outliers/intensity—the appropriateness of the factors used to compensate hospitals for the additional expenses of outlier cases; application of severity of illness, intensity of care, or other modifications to DRG's, and the advisability and feasibility for providing for such modifications; due by the end of 1985 as part of the 1985 annual report.

h. Payments for all payers—the feasibility and desirability of applying a prospective payment methodology to payment by all payers for inpatient hospital services, including consideration of the extent of cost-shifting to non-Federal payers, and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees; due by January 1, 1985.

i. Impact on admissions—the impact of the prospective payment methodology on hospital admissions and the feasibility of making a volume adjustment in the DRG rates or requiring preadmission certification in order to minimize the incentive to increase admissions; due by the end of 1985 as part of the 1985 annual report.

j. Impact of State systems—the overall impact of State hospital payment systems, approved under either section 1886(c) or other provisions of the Social Security Act, on the medicare and medicaid programs, on payments and premiums under private health insurance plans, and on tax expenditures; due at the end of 1986 as part of the 1986 annual report.

k. Sole community hospitals, information transfer between parts A and B, uncompensated care, and making hospital cost information available—requires the Secretary to study and make legislative recommendations to Congress on an equitable method of reimbursing sole community hospitals, taking into account their unique vulnerability to substantial variations in occupancy; requires the Secretary to examine ways to coordinate an information transfer between parts A and B of medicare, particularly where a denial of coverage is made in the reimbursement to the admitting physician(s); the Secretary also reports on the appropriate treatment of uncompensated care costs and adjustments that might be appropriate for large teaching hospitals; the Secretary also reports on the advisability of having hospitals make available information on the costs of care to patients financed by both public programs and private payors; due prior to April 1, 1985.

l. The territories, including Puerto Rico—requires the Secretary to study and make recommendations to Congress on the method for including hospitals located outside of the 50 States and the District of Columbia under a prospective payment system; due before April 1, 1984.

17. DELAY OF SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES (SNFs)

Present law

Under present law, the Secretary is required to establish a single reimbursement limit for both hospital-based and free-standing SNFs to be effective for cost reporting periods beginning on or after October 1, 1982.

House bill

No provision.

Senate amendment

The Senate amendment delays the effective date for the single reimbursement limit for SNFs from cost reporting periods beginning on or after October 1, 1982, to cost reporting periods beginning on or after October 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment.

18. ON LOK DEMONSTRATION

Present Law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, the Secretary would be required to approve, with appropriate terms and conditions as defined by the Secretary, within 30 days of enactment: (1) the risk-sharing application of On Lok Senior Health Services (dated July 2, 1982) for waivers of certain medicare requirements over a period of 36 months in order to carry out a long-term demonstration project, and (b) the application of the California Department of Health Services (dated November 1, 1982) for the waiver of certain medic-aid requirements over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

Conference agreement

The conference agreement follows the Senate amendment.

19. APPOINTMENT, MEMBERSHIP AND ACTIVITIES OF THE EXPERT COMMISSION

A. APPOINTMENT

Present law

No provision.

House bill

No similar provision.

Senate amendment

Under the Senate amendment, the Secretary is required to provide for the appointment of a commission of 15 independent experts, selected and appointed by the Director of the Office of Technology Assessment (OTA). Commission members must be appointed no later than April 1, 1984, for a 3-year term, except that the OTA Director may provide initially for shorter terms to insure that the terms of no more than 7 members will expire in one year. Commission members would be eligible for reappointment for no more than 2 consecutive terms.

The commission's membership must provide expertise and experience in the provision and financing of health care including, but not limited to, physicians and registered professional nurses, employers, third-party payors, and individuals skilled in biomedical, health services, health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care. The OTA Director must seek nominations from a wide range of groups including, but not limited to, (a) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals; (b) national organizations representing hospitals, including teaching hospitals; and (c) national organizations representing the business community, health benefits programs, labor, the elderly and national organizations representing manufacturers of health care products.

The commission may employ such personnel (not to exceed 50) as may be necessary to carry out its duties. Subject to approval by the OTA Director, the commission must appoint one of its staff members as Executive Director. The commission is authorized to seek assistance and support from appropriate Federal departments and agencies as required. Establishes compensation rates for members of the commission, the Executive Director, and staff.

The Commission is authorized to enter into contracts; make advance, progress, and other payments; accept services of voluntary and uncompensated personnel; acquire, hold, and dispose of real and personal property; and prescribe rules and regulations.

The commission is required to have access to relevant information and data available from Federal agencies and to maintain confidentiality of all confidential information. Establishes a Federal Liaison Committee, consisting of delegates from appropriate Federal agencies, to arrange for the acquisition of information, coordinate its activities with those of Federal agencies, and advise the commission on the activities of Federal agencies. The Administrator of HCFA would be chairman of the committee, and the committee would meet not less than 6 times a year.

OTA must report to Congress on the functioning and progress of the commission and the status of assessment of medical procedures and services by the commission. Such reports must be annual for the first 3 years and biannual thereafter, by March 15 of each year.

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the commission and the committee, 85% payable from the HI Trust Fund and 15% from the SMI Trust Fund.

In order to identify medically appropriate patterns of health resources use, the commission of independent experts would be required to collect and assess information, medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient care data, giving special attention to treatment patterns for conditions appearing to involve excessively costly or inappropriate services not adding to the quality of care provided. Requires the commission, in coordination to the extent possible with the Secretary, in order to assess the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures, to collect and assess factual information, giving special attention to the needs of updating existing DRGs, establishing new DRGs, and making recommendations on relative DRG weights to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the commission must (1) use existing data where possible, collected and assessed either by its own staff or under other arrangements, and (2) carry out, or award grants or contracts for, original research where existing information is inadequate for the development of useful and valid guidelines by the commission.

With the concurrence of the Secretary, payment is permitted under part A or part B of medicare for expenses incurred for clinical care items and services with respect to research and demonstration conducted by the Secretary or the commission.

Conference agreement

The conference agreement follows the Senate amendment with numerous modifications designed to provide greater flexibility in the operation of the Commission, to reduce its maximum staffing from 50 to 25 individuals, and to provide for OTA oversight of the Commission's administrative activities.

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BOB DOLE,
JOHN DANFORTH,
JOHN H. CHAFEE,
JOHN HEINZ,
LLOYD BENTSEN,
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Managers on the Part of the Senate.

provement of it. I hope my colleagues who voted against it before will reconsider and focus on the improvements that have been made and be a part of this historic moment.

The report is very close to the bill, H.R. 1900, which was passed in this Chamber 2 weeks ago. It would be superfluous to restate all of those provisions. Therefore, I will confine my remarks to significant changes forged in the conference, and the truly major elements of the compromise agreement.

The report differs significantly from the House-passed bill in these respects, and this is not central but it is of interest to the Members. I am sure:

An addition which would stop social security benefits to alien dependents and survivors who have been outside the United States for 6 consecutive months. These persons, in order to receive any benefits, must have for 5 years been residents of this country and had a dependency relationship with the primary beneficiary while they were in this country.

Now, Mr. Speaker, the effect of this proposal is to prevent the addition of dependents after an alien who is otherwise qualified for benefits leaves the country. It does not, of course, take away the benefits from such an alien, but it does prevent him from accruing beneficiaries who might go on indefinitely and never have been in the United States at all or had any relationship with him or her during the period of time when they were accruing benefits in this country.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Speaker, I want to thank the gentleman very much because I believe the conference committee has done a great service and has said to Americans that we are not only going to raise some taxes, but we are going to clear up one of the very major and glaring problems in the current law. A hard currency transfer of workers' dollars out of that trust fund, particularly to the dependent of a nonresident alien who might have been here, for example, as a student, has now been eliminated by this action. I commend the gentleman and I want to thank him very much for this improvement.

Mr. CONABLE. I know my friend has had a very creative role and significant role in this area, and I want to assure him that this does not necessarily constitute the final action.

Mr. DAUB. Indeed.

Mr. CONABLE. But it is something that the conference committee could agree on, and it appeared to be a reasonable way to address what in the view of many people has become a serious abuse. We will continue to follow up on this.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. PEASE. I thank the gentleman for yielding, and I commend him and the other conferees for that section of the conference report.

As the gentleman will remember, the gentleman from Minnesota (Mr. FRENZEL) and I attempted to get such an amendment in in the Ways and Means Committee.

Mr. CONABLE. Correct.

Mr. PEASE. Our amendment was imperfect. It was not adopted by the committee. I am happy that the Senate and the conference committee have been able to work out good language.

Mr. CONABLE. I appreciate the gentleman's help on this matter, too.

Mr. DAUB. Mr. Speaker, will the gentleman yield further?

Mr. CONABLE. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding, and I would say that I think that, of all of the possibilities, this dependent limitation is the major structure reform, and indeed a great deal of progress has been made, and I think every Member of this body does appreciate it.

Mr. CONABLE. It is a good addition. It addresses one of the leading complaints that many of my colleagues and many of our fellow citizens have lodged against social security and its relationship to aliens.

The conference agreement also eliminates old age and survivor insurance benefits for felons during their period of incarceration. Benefits for dependents and survivors of these prisoners would not be affected, but felons would not receive their benefits during the period of incarceration. Of course, after they leave, if they are entitled to the benefits, they will resume them. In 1980 similar legislation was enacted which applied to disability insurance benefits. This agreement thus provides that OISI and DI benefits for incarcerated felons would be treated identically, and I believe that you will find that many of your constituents have been concerned about this particular provision also. It is in fact, in my view, a strengthening of the bill that this was included in the conference.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I want to commend the gentleman. As he knows, the matter he is discussing is of great concern to our constituents.

If I could return to the first matter the gentleman discussed having to do with aliens, as I recall, there were two sets of provisions having to do with social security and aliens, and one of them was the Nichols amendment that would prohibit an individual who is an undocumented alien from receiving any social security benefits if that person paid into the system while in

EXPLANATION OF CONFERENCE REPORT ON H.R. 1900, SOCIAL SECURITY ACT AMENDMENTS OF 1983

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, it occurs to me that while we are waiting the arrival of the conference report, it might be wise to try to cut down on the time of the body by explaining some of the measures that are in the conference report so that I will not have to repeat my remarks after the papers have arrived. It does seem to me that there is reason for some curiosity about the contents of this historic document.

We are at the end of a long, hard road on social security, and we have before us a conference report which will rescue the system from impending collapse and place it on a sound footing which holds a promise of lasting soundness.

Nobody who voted for this measure when it passed the House before has any reason to vote against the conference report. In my opinion, the conference report represents not only the best of the House measure but im-

an undocumented status. Could the gentleman tell us what disposition the conference made?

Mr. CONABLE. Yes; that was considered, of course, in the conference committee, and there was considerable resistance on the part of the administration to that proposal only because of fear that it would be extremely difficult to administer.

We are going to have to deal with the problem of illegal aliens, and perhaps in connection with that we can do something further, but that provision was dropped out of the bill primarily for administrative reasons, concern that the Social Security Administration would not be able to handle the administrative problems that such a proposal would bring up.

□ 1100

Mr. FISH. If the gentleman would yield further, I think the Senate amendment is absolutely appalling and I am delighted with the conference result. But I do think it underscores the necessity for this House to act in this session of Congress on the Simpson-Mazzoli Immigration Reform and Control Act.

I thank the gentleman very much.

Mr. CONABLE. I thank my friend for his comments.

Mr. Speaker, although the House bill provided some needed improvements in the treatment of women under the system, and those were the improvements that were included in the original House bill, they were not changed.

Mr. Speaker, rather than take any further time of the House, I understand the papers are now present and I would like to yield back the remainder of my 1 minute, whatever is unused.

The SPEAKER pro tempore. The gentleman has consumed 50 seconds.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the order of the House of March 23, 1983, I call up the conference report on the bill (H.R. 1900) to assure the solvency of the social security trust funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Pursuant to the order of the House of March 23, 1983, the conference report is considered as having been read.

The gentleman from Illinois (Mr. **ROSTENKOWSKI**) will be recognized for 30 minutes, and the gentleman from New York (Mr. **CONABLE**) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. **ROSTENKOWSKI**).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, before proceeding to explanation of the conference report, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report currently under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I bring to the floor perhaps the most important piece of legislation this Congress will address—the conference report on social security.

Social security, like no other national issue, binds us all. It is a contract between Government and the Nation—and between one generation and another.

No issue that we face has such broad economic and social implications. No issue carries such political power.

This is not the first time Congress has confronted a crisis in social security financing. This is not the first time that we have learned that the solvency of the social security system

hangs on the health and growth of the American economy—and that our assumptions are often guided more by hope than reality.

The conference agreement that has been shaped, first by the Greenspan Commission and then on the floors of both houses, is strongly anchored to reality. It is a cautious, fair plan that raises enough revenue to ease the system through the decade—and also closes the enormous deficit built up in the next century.

The agreement reflects not only the spirit of the House-passed bill (H.R. 1900) but the letter as well.

The major differences entering the conference centered around the long-term formula, the "fail safe" mechanism in the short term and coverage of new Federal workers. House conferees, stiffened by the courageous choices made right here 2 weeks ago, demanded and won the Pickle proposal to raise the retirement age from 65 to 67 over the first quarter of the next century—instead of the Senate plan to simultaneously raise the retirement age and cut benefits.

House conferees rejected a Senate "fail safe" provision that would demand cuts in cost-of-living adjustments to pay for any falling off of revenue through the end of the decade.

The conferees also rejected a Senate amendment to delay the effective date of coverage of new Federal employees until a supplementary pension plan is designed.

There remains no doubt that the Congress will design a formula that permits newly hired employees to be covered by such a supplemental retirement program. The conference agreement covers all new Federal workers, beginning January 1, 1984.

In addition, the conference agreement covers members of Congress, administration officials (including the President), sitting Federal judges and most nonprofit employees, as of January 1, 1984.

It delays the cost-of-living adjustment (COLA) from June 1983 to December 1983.

It stabilizes the COLA by pegging payments to the lower of wages or prices, beginning in 1985, but only if reserves are below 15 percent. This reserve trigger increases to 20 percent in 1989. A "catch up" in benefits is also established. Under moderate economic assumptions, it is unlikely that the stabilizer will take effect.

It phases down over 5 years the private pension offset against social security benefits from the current 90 percent of the first benefit formula bracket, to 40 percent, beginning in 1986—permitting no more than one-half of the amount of the private pension to be offset. All current employees newly covered by the bill are exempted from this offset formula change.

It increases the annual delayed retirement credit from 3 to 8 percent between 1990 and 2010.

It subjects to taxation up to one-half of benefits on incomes exceeding \$25,000 for singles and \$32,000 for couples.

It advances FICA tax increases in 1984 and 1988 while providing an individual income tax credit offset for 1984.

It changes the offsetting income tax credit against the self-employed FICA tax to 2.7 percent in 1984, 2.3 percent in 1985, and 2 percent from 1986 to 1989.

It liberalizes the earnings test by reducing benefits \$1 for every \$3, rather than the present \$2 of outside earnings beginning in 1990.

It tightens restrictions on proliferating income deferral plans that protect compensation from FICA taxes.

It permits benefits to widows or widowers in the month when a spouse dies.

It permits interfund borrowing with special provisions to protect the integrity of the hospital insurance fund.

It advances to the first of each month the Treasury Department's payment of estimated revenues to the social security trust funds.

It increases the Federal supplemental security income (SSI) benefit by \$20 for individuals and \$30 for couples, and delays the cost-of-living adjustment for 6 months, both changes effective July 1, 1983.

It extends by 6 months Federal supplemental compensation (FSC) which will provide 8 to 14 weeks of benefits for workers who have exhausted all other State and Federal benefits. Individuals who have already run out of their original FSC benefits are now eligible for between 6 and 10 more weeks of compensation.

It provides Federal tax and interest relief for States whose unemployment trust funds have had to borrow from the Federal Government, but only if substantial steps have been taken to bolster the solvency of their systems.

It phases in a prospective payment system for medicare over 3 years (as proposed by the Senate), and adjusts for regional differences (as proposed by the House).

The passage of this bill through Congress over the last 2 months is as remarkable as it is monumental. In the face of crisis we have shown that we can rise above partisan differences; that we can withstand enormous pressure from special interest; that we can raise the level of national confidence in Government.

We have reason to be very proud of ourselves tonight. Beyond these doors we may never receive the recognition we have earned. But we know that when we must work together—we can.

It is in that spirit that I ask you to support this conference report.

□ 2310

Mr. CONABLE. Mr. Speaker, I yield myself 12 minutes.

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

Mr. CONABLE. The distinguished chairman has done a good job of explaining the entire bill and I am going to limit my further remarks on this matter just to those issues that were changed in the conference.

The report also adds some interesting tax provisions and these were covered in part by the chairman; tax-exempt income is included in the base for determining the taxability of social security benefits, self-employment tax credit was increased so that the credit is in 1984, 2.7 percent, 1985, 2.3 percent and in 1986, through 1989, 2 percent.

Now that is a greater help to your self-employed and your farmers than what is included in the original House bill. This self-employment tax credit then which was somewhat controversial when the bill originally passed has been improved over the House version, if you wish to give a larger credit to your self-employed and your farmers. It was as much as the Senate version; it was a compromise figure.

Effective in 1990 and thereafter the credit would terminate and be replaced with a system designed to achieve parity between employees and the self-employed. The base of the self-employment tax would be adjusted downward to reflect the fact that employees do not pay FICA tax on the value of the employer's FICA tax. Deduction would be allowed for income tax purpose for half of the self-employment tax liability in recognition that employees do not pay income tax on the value of the employer's FICA tax; and the effect of that, Mr. Speaker, is also to give a better deal to farmers and self-employed after 1990 than they got under the original House bill.

Deferred compensation under section 457 of the Internal Revenue Code will be subject to the FICA tax as will certain forms of nonqualified deferred compensation. But provisions with potential impact on cafeteria plans were deleted so that their tax treatment is unchanged from existing law. In other words, if you had employers in response to the Tax Act in 1978 adopted cafeteria plans giving a wide range of options to their employees, they need not fear anything that is in this provision.

We have not changed the law with respect to them in ways that might work against the desirability of cafeteria plans.

Finally the conference agreement makes changes in the FUTA tax base to conform with the changes in the FICA tax base. In the medicare title the House insisted upon and retained the nine separate regional census divisions used to phase in the new prospective payment system. We accept the other body's provision to move to a national payment rate in 3 years.

rather than the 4 years in the House bill.

I think many people would consider that an improvement. I will not say, Mr. Speaker, that this will save medicare, by itself; we know we will have to be back here with further legislation on medicare in the future. However, this is an important step and a valuable additional reform for the medicare system.

The agreement also would allow the use of State payment systems where such systems meet certain requirements and where the State provides assurance that its system will not result in greater medicare expenditures.

I know there were some particular States concerned about that matter.

We agreed to the other body's transitional provision which would require the Secretary to recognize the increased payroll costs some hospitals will incur as a result of being required to enter into the social security system.

This would be accomplished by adjusting medicare payment rates to reflect these additional costs, changes adapted from the other body's bill relating to the supplemental security income would increase Federal benefit standard by \$20 per month for individuals and \$30 per month for couples and would delay the SSI COLA until January of 1984. The new stabilizer and incidentally this is a very important provision, which would pay the lower of increases in wages or prices applicable to OASDI increases beginning in 1985, would not apply to SSI.

Let me mention that stabilizer with some particularity. Recall that some of us thought this was one of the most important elements in the House bill. It was changed and expanded. The stabilizer now is reduced to 15 percent. You remember it triggered in the lower of wages or prices in 1988, triggered in 1988 whenever the fund got below 20 percent of the expected annual demand. We reduced that to 15 percent of the expected annual demand for the period of time from 1985 through 1988. Thereafter it will resume the 20-percent trigger. But in my view this adds to the stability of the system during a period of time when we all knew there might be some possible shortage in the fund.

It should not have the effect of reducing benefits, however, because we expect during that period of time that wages will be involved in some catch up, with the cost-of-living bulge that occurred during the 1970's.

Now, in unemployment compensation the report provides 8 to 14 weeks of basic FSC benefits but it follows the other body's distribution pattern, provides 6 to 10 weeks of additional FSC benefits to persons who exhausted their current FSC entitlement and allows States to establish voluntary health insurance programs for unemployed persons by having claimants contribute part of their unemploy-

ment compensation benefits to pay premium costs if the State elects to do so. That is just an additional option to help people maintain their health insurance if they are unemployed.

It also adds provisions for: First, an FUTA cap relief and interest payment relief to States with unemployment compensation loans; second, allowing FSC claimants to continue receiving benefits if they are enrolled in a full-time training program, something they cannot now do; third, changing the basis for computation of certain FUTA credit reductions from taxable wages to all wages; and fourth, denying the Federal payment of State administrative costs and disqualifying a State's UC program if it did not make a timely payment of interest due on UC loans. These departures from the House bill do not, I believe, weaken the legislation in any vital way. In many instances, they improve it.

The report thus includes what all conferences are expected to produce: a set of compromises. Among them are two elements which I believe are of monumental importance, considering the history and politics of social security.

First, the report brings Federal civilian employees, hired after this year, under social security protection. This was an important provision of the House bill, but it underwent radical surgery in the other body. Fortunately, there were enough stalwart managers on the part of the House to hold firm.

□ 2320

If they had willed it under pressure, the legislation would have suffered considerable damage.

Federal workers unfortunately have not recognized the fact that social security, because of its broader disability, survivor, and dependents benefits, offers them better overall protection.

Second, the report establishes a new social contract between Government and workers in its provisions to close the system's long-range deficit. In recognition of increasing longevity, the package follows the House lead in providing for a gradual increase in the minimum age for maximum benefits in the next century.

In short, workers would still be able to retire at age 62 with benefits actuarially reduced, but only modestly so.

In summary, Mr. Speaker, the conference report evolved only after virtually everyone associated with it gave ground. I think we all relinquished some long cherished objectives in this process. It was painful, but the sacrifice was well worth the effort and the result. This conference report may not be a work of art, but it is artful work. And I want to take my hat off to the chairman once again for the work he did, not only in this legislation, but in the conference.

It will do what it was supposed to do. It will save the Nation's basic social in-

surance system from imminent disaster.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding.

I would just like to address one question, as to whether or not payments in retirement other than for life be subject to social security withholding.

Law firms, accounting firms are not big enough in their retirement plans to really underwrite for life. And so they historically or uniformly underwrite for 10, 20 years, or so on payout.

Just a simple question. Even though law firms and certified public accountant firms may have retirement payouts of 10 or 20 years certain, they do not undertake life payouts. Because of that these payouts are subject to FICA deduction. Have we addressed that at all in this conference report?

Mr. CONABLE. We did not change the provisions in the House bill which dealt with that issue and for some purposes deferred compensation in the FICA tax base, but we did, because of confusion we feared would otherwise result, eliminate the provisions relating to cafeteria plans, a special type of deferred compensation, which could result in the special type of deferred compensation.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several years ago when I assumed the chairmanship of the Ways and Means Committee by the vote of my colleagues, I had the dilemma of requesting that a gentleman take charge of the Subcommittee on Social Security, which at the time, was a very sensitive area in which we were going to try to govern.

I must admit that I had for a long period of time twisted the arm of the gentleman from Texas and I knew that when he had assumed the chairmanship that it was in capable hands.

I never realized how aggressive and how persistent an individual trying to do what is best for the social security recipient could be.

JAKE PICKLE, who we all know is probably associated more with social security than any other piece of legislation, has done, in my opinion, one of the most outstanding jobs as a subcommittee chairman on Ways and Means that any chairman has ever done in the history of our committee.

I want to say to know him is to recognize the qualities of a calm individual, an individual who is totally unemotional, who is placid about everything that he does, who is reserved in every opinion that he has, and is unflappable in his character. JAKE PICKLE, I do not know what I am going to do for the next 6 months. I will not have a telephone call every morning, every evening, every weekend. I am just going to be lost.

I ask my colleagues to join with me in an expression of appreciation to a man, I think along side of CLAUDE PEPPER, who has done more for the senior citizens and for the young people of our country than any individual in the House of Representatives.

Mr. Speaker, I yield 15 seconds to the gentleman from Texas, Mr. JAKE PICKLE, for remarks.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I do not want to use the gentleman's full 15 seconds.

The gentleman is always saying "That dog won't hunt." I think this bill is not a dog and it will hunt. And I think it is largely due to the gentleman. To know him is to love him, friends.

Mr. PICKLE. Mr. Speaker, I hasten to thank my friend Chairman ROSTENKOWSKI and my friend Mr. CONABLE.

This has been a long, difficult task for all of us and no one person can take credit for this moment. I think this is the House's finest moment. It shows that we can make structural changes in a program even as vital as social security, the most important of all our national domestic programs. A lot of us can take credit.

We hope we have done the right thing. We believe and pray that we have. We have given assurance, I believe, to Americans that tonight throughout this land they can feel that social security is secure for as far as we can humanly and legislatively guarantee it.

I take this moment though to thank first the commission for having brought us this package. If we had not had the President's Commission, we could not have put together this type of legislative program.

I thank my chairman, DAN ROSTENKOWSKI, who has been steadfast and fair and impartial and who has held this conference in a masterful manner.

I thank the leadership, the Speaker, whose speech a week ago, in support of Senator PEPPER's measure, was magnificent and gave us a feeling again that we were approaching this in a bipartisan manner.

And I thank the majority leader and the minority leader for their support. I thank my subcommittee and the Members of the full Ways and Means Committee for their strong support and guidance.

And if I may, Mr. Speaker, I would like to add one other group, and those of us who have been chairmen or subcommittee chairmen know how much we owe to our staffs. My subcommittee staff and the Ways and Means Committee staff have performed in a most professional manner. Our country owes them a great debt of thanks because we cannot know how much they have given.

So I salute you.

□ 2330

Now, Mr. Speaker, I conclude by saying that I think perhaps the most important part of this package is that we have made a structural change by raising the age gradually in the future to 66 and 67, 25 and 40 years down the road. I think America has accepted it.

Tonight we have come of age, and I think we can assure the solvency of this system.

I would like to believe then, Mr. Speaker, that all of us together, as Daniel Webster says to us on the plaque high above our heads, that "we have done something in our time worthy to be remembered."

The conference report we bring to you today represents a good, solid compromise that will give assurance to the American people the Congress has acted responsibly on social security.

We retain the long-term provisions of the House bill—which offer the best assurance to America that Congress can make structural changes when they are needed in our important social programs. I will note that although he proposed a different solution on the House floor, our dear friend and esteemed colleague, the gentleman from Florida (Mr. PEPPER) has told me of the options available in the conference, he preferred the House version. I thank him again for his statemanship, his friendship and his concern for our elderly and for this program.

In this conference, we also provide backup procedures for the near term to give the best assurance we can that the Congress will not have to face social security financing again anytime soon.

We have addressed a multitude of issues in a fair and balanced manner.

And at the same time we have preserved intact the basic structure and purpose of the social security program. As confidence has dwindled in the program in recent years, many individuals and groups have come forward to say that social security no longer works. That is true only if the Congress does not act, and the Congress has proved in this bill that it can act. Social security is and will remain secure because Congress always will stand ready to deal with whatever problems may come its way.

The bill fundamentally is a financing bill. That is always the toughest. But I am immensely proud of the response of the Congress to this challenge. We have addressed this issue without rancor and with serious consideration and in a healthy, bipartisan manner. Mr. Speaker, we cannot overestimate the importance of having kept this program as free of partisanship as humanly possible. All of America can feel good tonight that this bill is neither a Democratic or a Republican bill but is a straightforward approach to our most important national domestic program.

Now, I will touch on some of the major provisions in the bill.

Basically the bill follows the agreement first laid out by the National Commission on Social Security.

It extends coverage to new Federal hires and to nonprofit employees as of January 1, 1984. This has been one of the most hotly contested and important parts of this package. Some Federal employees may feel that they have been hard hit or done in by this change. I say to them again that they have not. This change will be beneficial for the Federal Government and for its employees, present and future. The Federal retirement system will be the sounder for it, and the Federal employee will be more secure. Extension of coverage to nonprofits means that many of our workers who can benefit the most from social security coverage will now be covered. This, too, is a good step forward.

The conference agreement also ends the ability of State or local governments to opt out of social security and establishes a revised formula so that employees who derive a so-called windfall by having only a part of their earnings under social security will receive a benefit that is more in accordance with that of someone at their same overall wage level.

The conference agreement contains a one time delay of the cost-of-living increase from June to December 1983, which will have important savings both in the short and long term.

The agreement for the first time provides for the inclusion of social security benefits in the taxable income of individuals with substantial outside income, whether that income is taxable or not. It makes changes in the tax rates but provides for credits to offset some of the impact of these taxes.

The agreement includes two incentives long sought by various individuals and groups who want to encourage individuals to work longer. In particular, beginning in 1990 it contains an increase in the delayed retirement credit to 8 percent and it liberalizes the earnings test so that instead of offsetting \$1 of benefits for every \$2 earned, it offsets \$1 for every \$3 earned.

And, the bill contains key provisions to insure benefit payments. It provides a new accounting procedure so that the reserves in the funds will be highest at the first of each month, when benefits must be paid. It provides for continued interfund borrowing—but with important safeguards to protect lending funds. It provides for a report and recommendations to the Congress for action in case all the other procedures prove inadequate. And it provides for a permanent stabilizer, which will protect the funds during times of high inflation and low wage growth such as we have recently experienced. This stabilizer would stipulate that the COLA would be increased by the

lower of the increase in wages or prices if trust fund ratios were 15 percent and declining beginning in 1985, and 20 percent and declining beginning in 1989.

Finally, the bill raises the age from 65 to 66 between 2000 and 2009 and from 66 to 67 between 2017 and 2027.

This clearly is the most important and far reaching provision in the bill. I would like to point out that this critical change, which is inevitable given the increases in longevity, does not reduce benefits for any except those who retire early. If they wait, they, too, will receive no reduction. It does not reduce benefits for the disabled and the young survivors, the weakest links in our social security population, as would occur under a formula reduction. It is in keeping with our best knowledge about what we can expect in the future. The long-term social security problem is not an economic problem and not a problem with the basic system. It is a demographic problem, needing a demographic solution.

This change, however, is paced so that only the first step, to raise the age to 66, which was included in both the House and Senate bills, will affect individuals currently in the work force. The second step, to raise the age to 67 will affect virtually no one currently established in the work force. This differs strongly from the Senate approach, which lumped the increase in the age to 66 with simultaneous benefit cuts and would have severely and radically reduced benefits for individuals already working as well as reduced benefits for the disabled and the young survivor.

Many have expressed concerns about the effect of the retirement age change on those who must retire early. Let me first point out that benefit reductions, formula reductions, reduce the benefits of early retirees. In fact there is very little difference in benefit amounts between the effect of increasing the age 1 year or reducing benefits by 5 percent overall as far as the early retiree is concerned. The difference, however, is that by focusing on the age we also include a serious study to determine what we should do to provide adequate benefits and protection to those who must retire early by reason of health or occupation.

Mr. Speaker, the President's Commission put together a package of items that individually were unacceptable but together were acceptable because they provided new financial foundation for the social security program. Likewise, this Congress has put together a package many parts of which are unacceptable to individual Members, but as a package it is acceptable.

Mr. Speaker, tonight is an historic moment for Congress. A legislative miracle has taken place.

Mr. DAUB. Mr. Speaker, I support the social security compromise to rescue the social security system from its financial difficulties. This legisla-

tion is truly a compromise, and is truly bipartisan. I commend the members of the National Commission on Social Security Reform for their direction, and the members of the Ways and Means Committee and the Senate Finance Committee for their efforts regarding this legislation. It reaffirms our commitment to our most precious assets—our senior citizens. As a member of the House Select Committee on Aging, I have been particularly concerned about the social security situation since I came to Congress in 1981.

Despite the interfund borrowing from the hospital insurance trust fund to fund monthly social security checks, the system was projected to be unable to fund monthly retirement checks after June 1983. The National Commission on Social Security Reform projected that between \$150 and \$200 billion was needed to insure financial solvency of the system through the short-term (1983-89). These figures made it clear that a solution was urgently needed.

To rescue the social security system from its crisis, it is necessary that sacrifices are made by all Americans. The social security legislation before us provides this equity. The bill is fair, well-balanced, and clearly the only responsible solution to rescue the social security system. The bill does include more taxes than I would like, and I voted against the amendment in the House to increase taxes even more. In the final analysis, however, this is clearly the only choice to save our social security system.

The bill would provide savings of approximately \$165 billion in the short term. This will be adequate to cover the projected deficits during that timeframe.

The legislation contains some provisions particularly constructive for the social security system. Members of Congress, the Vice President, and the President will be included in the social security system. This is a measure that I have supported in the 97th and 98th Congresses. It will insure that legislators are not immune from the changes they recommend for such an important program.

The delayed retirement credit will be increased gradually from 3 to 8 percent in 1990. This will increase the important incentive for individuals to work beyond the normal retirement age. Studies reveal that older Americans who keep active by working have fewer health and other problems and are far less likely to need any other form of Government assistance.

Another important component of the bill would remove social security from the unified budget. This measure would allow the social security system to stay clear of the political maneuvering the Federal budget undergoes every year. It would provide for the special handling the social security system deserves.

The self-employed will be taxed at the full employer/employee tax rate,

but these increased taxes will be offset by tax credits. I support the agreement by the conference committee that the tax credit rates would be greater than those included in the House-passed social security bill.

Another provision would transfer all money for uncashed social security checks back to the social security trust funds from the General Treasury. This money clearly belongs to the social security system, and it is obvious that the time is right to correct the situation that allows this money to remain in the Treasury.

Other major provisions included in the bill are:

Postponement of this year's cost-of-living increase until next January 1, then providing for such increases each January thereafter;

Include all employees of nonprofit organizations and bar State and local government units from terminating social security coverage of their employees;

Tax half the social security benefits of higher income recipients;

Increase social security payroll taxes by speeding up already scheduled tax increases; and

Include newly hired Federal workers in the social security system.

The social security legislation that we are considering today also provides measures to insure solvency of the system in the long term. The aging of our population is providing additional problems for the social security system. Fewer deaths and fewer births mean that there will be fewer taxpayers supporting an ever increasing number of beneficiaries in the years to come.

I support the phasing in of an increased retirement age in the next century to help alleviate the long term problem. Since the enactment of the social security system in 1935, life expectancy has increased greatly. Therefore, I believe an increased retirement age is the most equitable solution for the long term. It is important to note, however, that benefits would still be provided for those who wish or need to retire at age 62, with a greater reduction from full benefits than currently exists.

One extremely important portion of the social security legislation that is not getting the attention it deserves is the prospective payment plan for medicare. The Congressional Budget Office projects that the balance of the hospital insurance trust fund, from which medicare expenditures are paid, will be exhausted by 1987. By 1995, a deficit of \$402 billion is expected in the trust fund at current expenditure levels. Clearly, it is crucial that reforms to our medicare system be undertaken.

Since medicare is a cost-based reimbursement system an important part of the problem is a result of the distortion of incentives under the prevailing hospital reimbursement practice. Pa-

tients, physicians, and hospitals have little incentive to control costs. Patients pay very little of their hospital expenses directly. In addition, hospitals are fully reimbursed under medicare for the costs they incur.

The prospective reimbursement system that has been included in this bill would provide incentives for providers to deliver services more efficiently and control costs. In addition, reimbursements for the same medicare service, which often vary dramatically, would be similar. It is important to note that the set payments to hospitals for services will be payment in full and not negotiable. Therefore, while promoting efficiency in services, this proposal would cause no increase in costs to the patients.

Mr. Speaker, today is important because it gives the social security system a clean slate—so to speak—with regard to financial soundness. Again, I commend the members of the Ways and Means Committee and the Senate Finance Committee for their hard work in formulating this compromise in a timely manner. With passage of this social security legislation, our senior citizens can be assured of our continued support and of their financial future. In addition, those who have not retired yet can be assured that the social security system which they continue to pay into will provide them benefits in the years to come.

● Mr. ROYBAL. Mr. Speaker, I rise in support of the conference report because its passage is the only way to insure the full and prompt payment of social security benefits to the 36 million current beneficiaries who might otherwise have their benefits interrupted or delayed within the next few months.

I commend the leadership, the responsible members of the Ways and Means Committee and the National Commission on Social Security Reform for their good efforts in bringing passable legislation to the floor within the tight timeframes required. However, I must say that I, like many others, am dissatisfied with many provisions of the final conference report.

Of special concern are the provisions passed by the other House which could unduly damage our relationships with other nations and may cause severe hardships for some U.S. residents and U.S. citizens living abroad.

Less than 0.7 percent of all beneficiaries and less than 0.6 percent of all benefit payments are paid to noncitizens outside the United States—yet the provisions inserted by the other body to reduce or prohibit payments to citizens of about one-third of the nations of the world will adversely affect our relationship with countries on all five populated continents. These provisions put up unnecessary barriers which could be used by other nations to justify the imposition or continuation or significant barriers to the free and uninhibited export of U.S. goods, services and technological expertise to

those countries. It can also be expected that some of the affected countries will respond with even harsher treatment of U.S. citizens receiving similar benefits from those countries.

Social security legislation is simply not the place to enact these major changes in trade and immigration/naturalization policy. The Congress will be considering and, hopefully, passing good legislation on both these issues in this Congress. The provisions from the other body set the wrong tone at the beginning of these great debates. They also establish errors in policy which will have to be corrected by the subsequent legislation.

The specific provisions which cause these problems are:

First, section 124 of the other body's bill which, in effect, unilaterally repeals the informal reciprocal understandings for the payment of social security benefits between the United States and 44 countries including Austria, Belgium, Brazil, Canada, Costa Rica, Denmark, El Salvador, Finland, France, Mexico, Panama, the Philippines, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom.

Although, under the legislation, the United States could still negotiate a formalized reciprocity agreement with these countries, there would be no practical responsibility of negotiating and implementing agreements with all 44 countries before the provision's effective date of January 1985. In the 5 years since the Social Security Administration was granted authority to conclude such agreements, only three agreements—with Italy, Switzerland and West Germany—have been implemented.

In addition, the provision could permanently prevent any formal or informal reciprocity agreement with some other friendly countries—like Australia—whose income maintenance programs are sufficiently different from the U.S. system so that no formalized agreements could ever be authorized or concluded under the statute.

Second, section 131 of the other body's bill establishes section 6050F(c) of the Internal Revenue Code which could abrogate provisions in treaties of friendship, commerce and navigation (FCN) with eight countries and might, in the view of several other countries, violate tax treaties they have with the United States.

This new IRC section requires withholding of a nonrefundable income tax of 15 percent of a nonresident alien's social security benefits. Only the English, whose tax treaty with the United States requires payment of full social security benefits, would be exempted. Since withholding does not apply to U.S. citizens and since nonresident aliens are required to pay U.S. income taxes on social security benefits even if their total income is below the income thresholds which trigger the taxation of benefits for U.S. citizens, other countries will object that the

United States is breaking the equal treatment traditions by which citizens of both countries are treated as each country treats its own citizens. Germany, Greece, Ireland, Israel, Italy, Japan, The Netherlands and Nicaragua may be particularly concerned since they may consider that their 27-year-old FCN treaty with the United States protects them from such non-"national treatment" of their citizens.

Third, an amendment by the Junior Senator from Oklahoma reduces or eliminates payments to legal residents and U.S. citizens who are dependents of affected noncitizens. It could also lead to a discriminatory review of the eligibility of millions of U.S. citizens and law-abiding noncitizens who are suspected of being illegal immigrants to the United States.

Most of the people who would have their benefits eliminated next January are already aged, disabled or survivor beneficiaries living in the United States. All of them have worked in the United States, paid social security taxes and met the same social security eligibility requirements that are the prerequisites for receipt of any social security benefit.

In the Senate debate, the amendments sponsor stated that this provision would not apply to illegal aliens who may be given legal status through a general amnesty provision in future immigration legislation. However, the amendment's legislative language specifically requires a noncitizen to prove he/she legally entered the United States with permission to work. Therefore, under the legislative provisions, current legal status might not be enough to permit full payments.

Inclusion of these provisions is unfortunate because: First, they will harm our relationships with substantial numbers of our allies while achieving trivial savings for social security; second, they may lead to similar responses by other countries toward U.S. citizens; and third, they could be detrimental to our efforts to expand U.S. exports.

Other provisions which concern me include the provision to reduce or eliminate the COLA after 1989 if the trust funds' reserves are low. This "fail safe" automatically puts the entire financial burden for solving any future problem on those beneficiaries who are least likely to have the ability for financial sacrifice.

Furthermore, the tax credits for the self-employed are still inadequate and the final formula for reducing "windfall" benefits to civil service annuitants is still too severe.

We also need to move swiftly to provide current and future civil servants and nonprofit employees with statutory guarantees that they will not unfairly forfeit any rights to benefits currently available to them.

In addition, the bill does not index the income thresholds for the taxation of benefits which, without indexing,

will eventually affect a majority of the elderly. Nor is there an increase in the thresholds for married couples to 150 percent of the individual's threshold.

Finally, the bill still depends entirely on benefit cuts early in the next century to solve a problem which may or may not become severe until the third decade of the next century.

Mr. Speaker, I know that, once we have solved the immediate crisis in social security, we will have more time to look at the finer details of this legislation and to correct some of these problems.

As chairman of the Aging Committee, I assure my colleagues, the elderly and the workers who are the future elderly, that the Aging Committee will monitor the impact of all legislation affecting them. We will develop creative and realistic proposals which will maintain the viability of the social security system and other programs to improve them so that they are fairer to beneficiaries and taxpayers regardless of their race, creed, color, sex, or ethnic background.●

● Mr. BIAGGI. Mr. Speaker, I rise in support although still qualified, of H.R. 1900 the Social Security Reform Act of 1983. The conference report before us is essentially the same bill we passed several weeks ago. It still contains the same positive and negative features but now as before this legislation is absolutely essential if we are to keep the social security system alive past July.

I regret the fact that the conferees did not retain the Senate amendment to delay for 1 year the mandatory coverage under social security of all new Federal and postal workers. That would have been the far more equitable route to travel on this issue and one which I have urged. I maintain that for the amount of revenue this provision will produce—it is not worth the cost to Federal and postal workers not to mention the future of the civil service retirement system.

The essence of this legislation is that it will produce \$168 billion in desperately needed new funds for social security sufficient to carry it through its immediate crisis and beyond. I regret the fact that a large amount of this is financed in a way that could produce hardship for people such as the 6-month delay in the cost-of-living increase for the 36 million on social security.

However we know this bill for what it is—strong medicine to cure a desperately ill patient. The alternative for not acting is very simple—but nothing we want to be party to. Social security could miss its first payroll in history as early as July. A total of 36 million elderly Americans could be deprived of their social security checks and for 26 percent of them—this is 90 percent and more of their income.

Whether we agree with all or just parts of this bill Congress should be commended for its expeditious consideration of this legislation. We hope it

proves to be the remedy which will restore the system to some degree of fiscal solvency. We should not assume that this is all we have to do with respect to reforms in the system. We should maintain our commitment to ridding the system of fraud and waste. We should look to new revenue possibilities for the system. However—the most important thing we must do is preserve the basic integrity of the system for those millions of men and women who faithfully contributed to the system during their working years with the expectation that they would have a secure retirement income. To jeopardize this is to break a covenant between the American people and their Government.

This legislation is a difficult proposition to accept. It has been since the time its foundation was developed in the National Commission on Social Security Reform. However the time has come to simply accept our fate and vote for this bill for the sake of the biggest issue of all—saving the social security system.●

● Mr. WYDEN. Mr. Speaker, most of us here tonight understand that we have a gun at our heads. If Congress refuses to act, by the end of the summer the retirement security of millions of Americans will be in jeopardy. We have a sword of Damocles hanging over us, and the fear of its dropping should we fail to pass a bill, will be the impetus we need to get 218 or more votes tonight.

But I would like to caution my colleagues not to imagine that we have adopted a failproof package that will permit us to avoid revisiting this issue for the next 75 years. We have not.

This is particularly true with regards to the issue of the retirement age.

Both Houses have voted to raise the normal retirement age beyond 65. I opposed this move because I think it will work a hardship on millions of older Americans whose health makes it virtually impossible to work, but who still cannot qualify for disability. When the retirement age is raised these older workers will simply fall between the cracks.

Last week I proposed an amendment to the package before us that would partially compensate older workers in poor health when the retirement age is raised. Under my proposal, which was developed with Senator BRADLEY of New Jersey, workers between 62 and the increased retirement age could receive a new retirement benefit if they could demonstrate inability to continue working in the occupation they had held during the previous 10-year period. The actuaries at the Social Security Administration estimated that the cost of this provision would not exceed 0.04 percent of payroll.

Unfortunately, neither the House nor the Senate agreed to this proposal and it is not before us tonight. Instead, both the House and the Senate voted to undertake a study to look at

the implications or raising the retirement age.

Mr. Speaker, a study is fine, but I believe we need more. Millions of older workers whose health is too poor to keep working, but not poor enough to be disabled, should not have their benefits cut simply because of their health.

It is true that we have almost 20 years to recognize the health problems facing some of our older workers and to take action to insure that they can retire with dignity.

But let us not wait that long to protect vulnerable older workers. Such protection should be part of a social security system that is fair, just, and efficient and I urge my colleagues to push for its inclusion at the earliest possible opportunity.●

● Mr. DICKS. Mr. Speaker, I want to commend the conferees for their fine work on this vital legislation, and to comment on one of the Senate amendments which corrects an unintended double payment of the unreimbursable employers' share of FICA by the regionalized medical school for the States of Washington, Alaska, Montana, and Idaho.

The House and Senate bills and the conference report extend social security coverage on a mandatory basis to all employees of nonprofit organizations. As a result, employees of such organizations who are also employed by a State university of a State which has agreed to provide social security coverage to its employees under section 218 of the Social Security Act would have been, without this amendment, subject to unreimbursable double payment of social security taxes. Although present law prevents such double taxation where the employers of the same individual are related corporations—section 3121(s) of the code—or are instruments of political subdivisions of the same State—section 218(e)(2) of the Social Security Act—there is no provision which would prevent double taxation where one employer is a nonprofit organization and another employer is an instrument of a State. Indeed, since exempt organizations up to now could voluntarily decide whether or not to participate in social security, such a provision was not needed. By mandating participation in social security, the bill has eliminated the only mechanism to avoid double taxation and created the need to allow exempt organizations to have equivalent relief to that available through a single paymaster system.

The amendment is specifically designed to prevent double taxation where one employer is a State university medical school and the other employer is a related nonprofit organization which also employs faculty members of such medical school. At least 30 percent or more of the organization's employees must also be employed by such medical school.

Under the amendment adopted in the conference report, a State university and nonprofit organization which meet the stated requirements are considered to be related corporations under section 3121(s) of the code. Furthermore, solely for purposes of sections 3102, 3111, and 3121(a)(1) of the code, a portion of the remuneration actually paid by the nonprofit organization from its own funds and on its own paychecks will be deemed to have been paid by the university. Such remuneration will not be subject to the section 3102 deduction from the employee's wages or to the section 3111 employer tax since employment by a State is not subject to social security taxation under sections 3101, 3102, and 3111 of the code. Such employment is subject to social security coverage only pursuant to section 218 of the Social Security Act and for the purpose of that section, a university meeting the requirements of this amendment will not be deemed to have paid any amounts actually paid by the nonprofit organization. Therefore, there is no question that the amendment does not affect the duty of a State university to report wages subject to social security or to pay or make a return of social security contributions.

The portion of remuneration paid by the related nonprofit organization which is deemed paid by the university is that portion which, when added to the total amount of remuneration actually paid by the university during the entire calendar year, exceeds the social security wage and contribution base. If the employee by the end of the calendar year has been paid less than the wage and contribution base by the university, that part of the employee's remuneration from the nonprofit organization needed to bring his entire compensation up to the wage and benefit base will retain its character as wages paid by the nonprofit organization and therefore will be subject to the social security tax. If the employee by the end of the year has been paid an amount equal to or greater than the wage and contribution base by the university, then the entire amount paid by the nonprofit organization will be considered as paid by the university. Thus, where the employee's total wages from both the university and the nonprofit organization exceed the wage and contribution base, it is intended that social security contributions will be made in full on the base amount but will not be paid more than once. Similarly, where the employee's total wages from both sources do not exceed the base, social security contributions will be made on the full amount paid to the employee.

The determination of whether remuneration paid by the nonprofit organization, when added to remuneration paid by the university during the calendar year, exceeds the wage and contribution base will be made throughout the year as wages are paid to the

employee. Any excess amounts deducted from an employee's wages by the nonprofit organization would be recovered by the employee under sections 31 and 6413(c) of the code. Any excess amounts paid as an employer tax by the organization will be treated as amounts paid in error. Of course, the organization will be deemed to have sufficient knowledge of the error to be able to correct it with respect to each employee only when the organization has sufficient knowledge to be able to determine the total amount of the excess paid for the entire taxable year. Usually, the organization will have such knowledge in whichever of the following social security reporting periods occurs first during the year: The period in which remuneration to date paid by the university to the employee reaches the wage and contribution base, the period in which the employee permanently terminates employment, or the last reporting period for the calendar year. Any overpayments of the employer tax will be the subject of a claim for refund or credit by the nonprofit organization in the social security reporting period in which the organization first has sufficient knowledge of the error to correct it or in the next subsequent reporting period. ●

● Mr. HEFTEL of Hawaii. Mr. Speaker, the Social Security Act amendments that we are considering today have been developed at the expense of everyone for the benefit of everyone. We are calling upon the entire country to make sacrifices to insure that a program that is vital to the entire country survives, not just in the short term, but for years to come.

If we did not act today to address the funding crisis that the system faces, the social security trust fund will have difficulty in meeting its obligations as early as this July 1983. Therefore, our first job as Members of Congress in considering this social security reform legislation has been to insure that social security recipients do not experience any interruption in their benefit checks. We all represent countless constituents who rely on this program who must live from one check to the next. Therefore, it is imperative that we act today to pass this program.

The Social Security Act Amendments of 1983 correct all three critical problems facing this vital retirement program. First, this legislation will correct the immediate funding crisis that would otherwise place July benefit checks in jeopardy. Second, we are correcting the short-term funding crisis that is expected to cause the trust fund to fall short of its benefit payment needs by between \$150 billion and \$200 billion by 1990. Finally, we have taken the bold and necessary step of addressing combined effects of several recent years of low birth rates and a high number of future retirees when the "baby boom" generations of the 1940's and 1950's begin reaching

retirement age would again force the system into funding difficulties.

I commend the National Commission, and I commend the Congress—in particular my distinguished chairman, Mr. PICKLE, with whom I had the privilege of working as a member of the Social Security Subcommittee—for developing the comprehensive, bipartisan package that we are voting on today. I am sure that many of my colleagues feel, as I do, that this package could be improved, that certain provisions are objectionable and that certain changes should be made. However, such feelings are inevitable in a process that requires compromise and consensus to accomplish the critical goal of rescuing our social security system.

Despite such objections, however, the provisions of this legislation have been designed so that no one group in this country is asked to make inordinate sacrifices in order to insure the integrity of the trust fund, both in the short and the long term. Instead, all groups must sacrifice a little to accomplish this goal in as fair a manner as possible.

Mr. Speaker, if for no other reason, I support this legislation today because the alternative is totally unacceptable. We have come to what we all hope and believe is the end of a long road. We can now go home knowing that we have faced up to one of the most important and most controversial issues of our time and that the social security system is secure for years to come. ●

● Mr. FISH. Mr. Speaker, this conference committee on social security deleted what I believe to be a very unfortunate provision added in the other body. That provision would have prohibited an individual who is an undocumented alien from receiving any social security benefits if that person paid into the social security system while in undocumented status.

Such a provision is unfortunate because it amounts to scapegoating those undocumented aliens who, although they are in this country technically illegally, in fact have been contributors to our economy and our society.

We are talking about individuals who have worked in this country, who answered the job lure which brought them from their home countries. They are here because of our failure to control our borders. We are penalizing them when they have been doing what any sensible person would do, come to this country and answer the many "help wanted" signs we have posted for them.

The Senate amendment made absolutely no allowance for any equities built up through long residence and commendable contribution to our society. Conceivably, an undocumented alien could become a successful businessman in the United States, have a number of American-born children, and hence, American citizen children.

He could be a respected pillar of society. He could, in all probability, have forgotten that he was undocumented. And, he would, after 30 to 40 years of paying taxes in the United States, be penalized upon his retirement.

I believe this is appalling.

The proper way to deal with the undocumented alien population is to pass H.R. 1510, the Immigration Reform and Control Act of 1983, sponsored by my good friend and chairman of the Immigration Subcommittee, Congressman RON MAZZOLI. That bill, by imposing penalties on employers who knowingly hire undocumented aliens, would end the job lure which brings them to this country. It does not do our Nation proud to have no effective control of our borders, and then penalize those who have come and work for us.

This Senate amendment is perhaps the first sign of something that has worried me and many of those who have worked on the immigration reform bill. If we do not achieve a rational and balanced immigration policy, such as that found in H.R. 1510, we will be inclined to take dramatic, and I believe improper steps directed against undocumented aliens. I hope that I am wrong and this amendment is an isolated incident. But, whether it is or not, I do not want to take any chances. I want to see the Immigration Reform and Control Act of 1983 signed into law. ●

Mr. CONABLE. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. DUNCAN
Mr. DUNCAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DUNCAN. In its present form, I am Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DUNCAN moves to recommit the conference report on the bill, H.R. 1900, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DUNCAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 102, not voting 88, as follows:

[Roll No. 47]

AYES—243

| | | |
|--------------|---------------|---------------|
| Albosta | Gramm | Pease |
| Alexander | Guarini | Penny |
| Anderson | Gunderson | Pepper |
| Andrews (NC) | Hamilton | Petri |
| Andrews (TX) | Hammerschmidt | Pickle |
| Annunzio | Harrison | Pritchard |
| AuCoin | Hatcher | Quillen |
| Badham | Hefner | Rangel |
| Bartlett | Heftel | Ray |
| Bateman | Hightower | Regula |
| Bates | Hiler | Reid |
| Bedell | Hillis | Richardson |
| Beilenson | Hopkins | Ridge |
| Bennett | Howard | Rodino |
| Bevill | Hubbard | Rogers |
| Biaggi | Hughes | Rostenkowski |
| Billirakis | Hutto | Roukema |
| Bliley | Hyde | Rowland |
| Bcehlert | Ireland | Roybal |
| Boggs | Jacobs | Russo |
| Boland | Johnson | Sabo |
| Boner | Jones (OK) | Sawyer |
| Bonior | Kaptur | Scheuer |
| Bouquard | Kastich | Schneider |
| Boxer | Kastenmeier | Schroeder |
| Breaux | Kennelly | Schumer |
| Britt | Kogovsek | Seiberling |
| Bryant | Kolter | Shannon |
| Burton (IN) | LaFalce | Sharp |
| Campbell | Latta | Shaw |
| Carper | Leach | Shelby |
| Carr | Lehman (CA) | Sikorski |
| Chandler | Lehman (FL) | Simon |
| Chapple | Levin | Sisisky |
| Cheney | Levitas | Skeen |
| Clarke | Lipinski | Skelton |
| Clinger | Long (MD) | Slattery |
| Coats | Lott | Smith (FL) |
| Coiho | Lowery (CA) | Smith (NE) |
| Coleman (MO) | Lowry (WA) | Smith, Robert |
| Coleman (TX) | Lumdine | Snyder |
| Conable | Mack | Solaz |
| Conte | MacKay | Spratt |
| Coughlin | Madigan | Staggers |
| Courter | Martin (NC) | Stark |
| Coyne | Matsui | Stratton |
| Crockett | Mazzoli | Sundquist |
| Daschle | McCain | Swift |
| Daub | McCandless | Synar |
| de la Garza | McCloskey | Talton |
| Derrick | McCollum | Tauzin |
| Dicks | McCurdy | Taylor |
| Dingell | McDade | Thomas (CA) |
| Dixon | McHugh | Thomas (GA) |
| Dorgan | McNulty | Torres |
| Dowdy | Mica | Udall |
| Downey | Michel | Valentine |
| Durbin | Mikulski | Vandergriff |
| Dwyer | Miller (CA) | Vento |
| Dyson | Miller (OH) | Volkmer |
| Eckart | Mineta | Vucanovich |
| Edgar | Moakley | Walker |
| Edwards (CA) | Mollohan | Watkins |
| Erdreich | Montgomery | Weber |
| Erlenborn | Moody | Wheat |
| Evans (IA) | Moore | Whitehurst |
| Fazio | Morrison (WA) | Whitley |
| Fields | Mrazek | Whittaker |
| Fish | Murtha | Wilson |
| Foglietta | Natcher | Winn |
| Foley | Neilon | Wirth |
| Ford (MI) | Nowak | Wise |
| Ford (TN) | O'Brien | Wolpe |
| Frenzel | Oberstar | Wortley |
| Frost | Obey | Wright |
| Fuqua | Olin | Wyden |
| Garcia | Ortiz | Wylie |
| Gephardt | Oxley | Young (FL) |
| Gibbons | Packard | Young (MO) |
| Glickman | Pashayan | Zablocki |
| Gradison | Patterson | Zschau |

NOES—102

| | | |
|------------|---------------|-------------|
| Ackerman | Clay | Frank |
| Archer | Collins | Gejdenson |
| Barnes | Crane, Daniel | Gekas |
| Bereuter | DeLoach | Gilman |
| Bethune | DeWine | Gingrich |
| Borski | Donnelly | Gonzalez |
| Bosco | Dreier | Goodling |
| Boucher | Duncan | Gray |
| Broomfield | Early | Hall (IN) |
| Brown (CA) | Evans (IL) | Hall (OH) |
| Brown (CO) | Feighan | Hall, Ralph |
| Byron | Fiedler | Hall, Sam |
| Carney | Florio | Hansen (ID) |

| | | |
|-------------|---------------|---------------|
| Hertel | McDonald | Rudd |
| Holt | McEwen | Sensenbrenner |
| Hoyer | McGrath | Shumway |
| Hunter | McKernan | Siljander |
| Jones (TN) | Minish | Smith (NJ) |
| Kazen | Mitchell | Snowe |
| Kemp | Molinaro | Solomon |
| Kildee | Moorhead | Spence |
| Kindness | Morrison (CT) | Stangeland |
| Kostmayer | Oakar | Stokes |
| Kramer | Owens | Studds |
| Lagomarsino | Panetta | Stump |
| Leath | Parris | Tauke |
| Lent | Patman | Towns |
| Lewis (CA) | Perkins | Traxler |
| Lungren | Ratchford | Walgren |
| Markey | Rinaldo | Waxman |
| Martin (IL) | Ritter | Weiss |
| Martin (NY) | Roberts | Whitten |
| Martinez | Roe | Williams (MT) |
| Mavroules | Roemer | Wolf |

NOT VOTING—88

| | | |
|---------------|-------------|---------------|
| Addabbo | Forsythe | Myers |
| Akaka | Fowler | Neal |
| Anthony | Franklin | Nichols |
| Applegate | Gaydos | Nelson |
| Aspin | Gore | Ottinger |
| Barnard | Green | Paul |
| Berman | Gregg | Porter |
| Bonker | Hance | Price |
| Brooks | Hansen (UT) | Pursell |
| Broyhill | Harkin | Rahall |
| Burton (CA) | Hartnett | Robinson |
| Chappell | Hawkins | Rose |
| Conyers | Horton | Roth |
| Cooper | Huckaby | Savage |
| Corcoran | Jeffords | Schulze |
| Craig | Jenkins | Shuster |
| Crane, Philip | Jones (NC) | Smith (LA) |
| D'Amours | Lantos | Smith, Denny |
| Daniel | Leland | St Germain |
| Dannemeyer | Levin | Stenholm |
| Davis | Lewis (FL) | Torricelli |
| Dickinson | Livingston | Vander Jagt |
| Dymally | Loeffler | Washington |
| Edwards (AL) | Long (LA) | Weaver |
| Edwards (OK) | Lujan | Williams (OH) |
| Emerson | Luken | Yates |
| English | Mariette | Yatron |
| Fascell | Marritt | Young (AK) |
| Ferraro | McKinney | |
| Flippo | Murphy | |

□ 2350

The Clerk announced the following pairs:

On this vote:

Mr. Berman for, with Mr. Murphy against.

Mr. Nichols for, with Mr. Addabbo against.

Mr. Rahall for, with Mr. Levine of California against.

Mr. Chappell for, with Mr. Torricelli against.

Mr. Cooper for, with Mr. Leland against.

Mr. Hance for, with Mr. Lantos against.

Mr. Flippo for, with Mr. Porter against.

Mr. Burton of California for, with Mr. Denny Smith against.

Mr. Green for, with Mr. Young of Alaska against.

Mr. Davis for, with Mr. Philip M. Crane against.

Mr. Pursell for, with Mr. Dannemeyer against.

Mr. Lewis of Florida for, with Mr. Horton against.

Mr. Livingston for, with Mr. Franklin against.

So the conference report was agreed to.

The result of the vote was announced as recorded.

A motion to reconsider was laid on the table.

SOCIAL SECURITY

Clearly the heart of this legislation is the package of provisions designed to assure the solvency of the social security system over both the short term and the long term. As my colleagues know, the basic features of both the House and Senate bills reflected the recommendations of the National Commission on Social Security Reform. However, there were some significant differences, and their resolution will be of interest to the Senate.

With regard to revenue provisions, the conference agreement implements the national Commission recommendations to tax social security benefits for certain higher income persons, accelerate payroll tax rate increases already scheduled by law between now and 1990, and conform payroll tax rates paid by the self-employed to the combined rates paid by employers and employees. The conferees agreed to the Senate provision to include interest from tax-exempt bonds in the taxpayer's income base solely for purposes of determining whether the taxpayer's income exceeds the threshold for taxing social security benefits. In addition, the conferees agreed to a compromise with regard to the payroll tax credit provided for the self-employed as a partial offset to the higher rates that class of taxpayers will pay. The compromise goes much further than the House bill did in providing relief for the self-employed—the credit will be 2.7 percent of self-employed income in 1984, 2.3 percent in 1985, and 2 percent in 1986 through 1989. In 1990 and thereafter, a combined deduction and wage base modification will put the self-employed on the same footing as employers from a combined income tax and payroll tax standpoint. That is a good result, and it should be of greater benefit to the self-employed in the long run.

LONG-RANGE FINANCING

Mr. President, there were major differences between the House and Senate in dealing with the long-term financing problem. While the conference agreement will not satisfy everyone, there was real give-and-take on both sides. The conferees agreed to raise the retirement age to 67 years as in the House bill, rather than 66 as in the Senate bill. And rejected the accompanying benefit adjustments in the Senate bill. The House conferees also could not agree to accept the fail-safe mechanism that could have required cost-of-living adjustments if trust fund reserves fell below a certain level. However, instead the conferees would move up the stabilizer provision from 1989 to 1985. As Members know, this provision would provide cost-of-living adjustments based on the lower of wages or prices. Under the conference agreement this stabilizer would be triggered by a 15-percent reserve ratio before 1988, and by a 20-percent reserve ratio thereafter.

Finally, with regard to long-range financing, the conferees agreed to

modify the earnings limitation beginning in 1990. The change is to reduce benefits by a ratio of 1 to 3 against other income, rather than the 1 to 2 ratio under present law. While this does not do as much as we hoped to eliminate disincentives for the elderly to stay in the work force, it is a significant change in that direction, and a welcome one.

UNEMPLOYMENT COMPENSATION

The conferees agreed to extend the Federal supplemental compensation (FSC) program for 6 months (from March 31, 1983 to September 30, 1983). The program will provide additional weeks of benefits for current FSC recipients as well as a redesigned basic tier of benefits.

The conferees agreed to the Senate proposals modifying the cap and interest provisions in current law dealing with State borrowing. A new interest deferral is authorized as well as a reduced interest rate which is available to States taking substantial legislative action to restore the solvency of the State UI programs. Several provisions were adopted making changes in the date interest is paid and clarifying the authority of the Federal Government to collect the interest when due.

The conferees adopted provisions dealing with participation in training programs by FSC recipients. Training will be permitted unless the State agency disapproves such training.

Additionally, for recipients of extended benefits and Federal supplemental compensation benefits, the conferees agreed to a provision which permits States to determine weekly eligibility for such recipients who are hospitalized or serving on jury duty. A State would be required to treat these individuals in accordance with their own State unemployment compensation law.

MEDICARE PROSPECTIVE PAYMENT

Mr. President, finally I would like to note that the conferees reached a good agreement on a new prospective payment system for medicare. Payment rates would be developed for nine census divisions, with a separate urban and rural rate in each. Payments would be fixed based on classification by "diagnosis related group." This system would be phased in over a 3-year period. Capital expenses of hospitals would be included in the prospective payment system beginning October 1, 1986, based on a return to equity equal to that earned by the trust fund. Psychiatric, rehabilitation, long-term, and children's hospitals would be exempted from prospective payment, as would institutions in the territories.

Mr. President, all in all this is a good piece of work that I hope our Members will accept. We have not, by any means, achieved all we would have liked to achieve—but we have achieved a great deal, considering the urgency and political sensitivity of the problems we faced. Those Members who have a different view of how we ought

SOCIAL SECURITY ACT AMENDMENTS OF 1983—CONFERENCE REPORT

Mr. BAKER. Mr. President, the social security conference report is here. I must tell Senators that I do expect a record vote on this tonight. I have been advised by more than one Senator that there will be such a request and, of course, the request will be honored.

I hope that the Senate can proceed promptly to debate this issue and to dispose of it. The adjournment resolution has been passed. It is now almost 12:10 a.m. I have no desire to cut off Senators or to truncate their remarks or statement of their position, but I do sincerely hope that we shall finish with this and be able to ask the Senate to stand in adjournment.

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 1900 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of today March 24, 1983.)

Mr. DOLE. Mr. President, I am pleased that we are able to lay before the Senate the conference report on H.R. 1900, the Social Security Act Amendments of 1983. The House and Senate conferees have been at work full time on this agreement since the Senate passed its version of this legislation, and I believe we have worked out a good agreement. For the benefit of the Members I would just like to outline some of the major features of this package.

to have proceeded have had an opportunity to make their views known and they have made a valuable contribution to the debate even when other views have prevailed. But now the time for debate is over, and the time to complete action on this legislation is here. The President is ready to sign the bill—we should not keep him waiting.

Mr. President, as my colleagues are aware, the Senate in its version of the social security financing bill agreed to make coverage of Federal workers contingent on the development of a supplemental civil service retirement system program. That decision was made when the Senate adopted the Long amendment by voice vote. As members also know, the Senate voted overwhelmingly to insure that Federal workers would be covered under social security.

Under the conference agreement, Federal workers will come under social security—that is, new hires—as of January 1, 1984. The requirement proposed by Senator Long that coverage be made contingent on a supplemental civil service program was rejected by the House conferees, and the Senate conferees voted to recede to the House because of that objection. I would like to assure my colleagues who supported the Long amendment, however, that every effort will be made to insure that Federal workers are provided an adequate supplemental retirement system in connection with the requirement that new hires be brought into the social security system. I am sure the Senator from Alaska, Senator STEVENS, joins me in this assurance. There is not, and never has been, an intention to leave Federal workers with less than adequate retirement coverage. We will insure that Federal workers are treated fairly and squarely as they come into the social security system.

Mr. LONG. Mr. President, I cannot support the conference committee report on the social security bill because it will permit the transfer of General Treasury funds to the social security system.

I stated in October 1982, more than 3 months prior to issuance of the Social Security Reform Commission's recommendations, that I could not support any legislation that financed social security by merely increasing the national debt.

The concept of social security, when it was established under the Franklin Roosevelt administration, was that it should be a system wholly supported by the contributions of employers and employees. That has been the case up until now.

This legislation calls for an infusion to social security of \$48 billion from the General Treasury over the next 7 years. I consider this highly irresponsible and dangerous to the financial stability of our Nation.

Most of social security's financial problems were caused by Congress eagerness to liberalize benefits, relying

on rosy assumptions to pay the cost, coupled with the subsequent lack of courage to either fund its commitment with taxes, or to reduce future unfunded benefits when the optimistic assumptions proved to be erroneous.

What Congress now has done is open the floodgates to future massive infusions of General Treasury funds to social security. The general fund will soon be \$2 trillion in the red, and it is running up deficits at the rate of \$200 billion each year.

Such a procedure can only lead to needlessly high interest rates and reckless inflation. In the long run it will not save social security to undermine the faith of the people in the money of their government.

We cannot long keep the social security system afloat by bankrupting the Federal Government which has the burden of funding it.

There are other features which make the remainder of the bill a further travesty, but to go further at this time would merely confuse the issue.

I voted to report this bill out of committee with reservations, hoping that it would be improved on the Senate floor. My vote to send the bill to conference was cast with the forlorn hope that by some miracle the bill might finally be drastically overhauled and reshaped. That has not happened and, therefore, Mr. President, I refuse to vote for fiscal irresponsibility.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I should like to ask my colleague from Louisiana to yield for a question. I listened with great intent to the remarks from my esteemed colleague from Louisiana. When I came to the floor a few moments ago, after essentially wasting my time all day, I had hoped that something would come out of the conference that I could vote for.

Let me phrase my question manifold. I voted for the social security measure that came out of the U.S. Senate not because I thought it was a perfect piece of legislation but because I felt that we had to do something constructive to make sure that those citizens of this Nation who rely on social security would be assured that their checks would keep coming.

Could the Senator from Louisiana please explain to this Senator, since he voted for the bill I assume that there must have been some rather significant change that took place during the conference that has caused the Senator from Louisiana to come back and make the statement that he just made. I would simply advise my colleagues that if my friend and colleague from Louisiana, who I consider most knowledgeable in these matters, finds it impossible to support this conference report, it is going to be most difficult for the Senator from Nebraska to go along with it.

Could the Senator from Louisiana kindly advise me in some more detail

than he did in his brief statement as to what happened in the conference report that evidently has caused the Senator from Louisiana to change his mind about support for the measure that passed out of this chamber with an overwhelming vote not very long ago?

Mr. LONG. Mr. President, to be absolutely honest with the Senator, it was not what happened in the conference that made the difference. One of the conference decisions that does go contrary to fiscal responsibility was dropping out the fail-safe amendment that we agreed to in the Senate. I am frank to say to the Senator that I told the Senate conferees that if to reach a conference agreement they needed to drop that provision, as far as I was concerned they could go ahead and drop it. I did not have any objection to their dropping the provision in order to get an agreement because I really did not think I was going to be able to vote for the conference report anyway. That was not said for the record, but I told that to the Senators in our own discussions.

The reason I did that was because I have had a chance to think about the bill. When I voted to pass this bill in the Senate and to send it to conference, I was hoping that I could yet find a way to vote for it, that we might shape it in such a fashion that I could. I had grave doubts about voting for it even though my colleague (Mr. JOHNSTON) voted against it when it passed the Senate. He consulted with me before he did that and told me his doubts about the bill, and I told him, frankly, he was probably right and that if I were him I would probably vote against it. Being one of the managers of the bill and a prospective conferee on the matter and hoping that somehow we might yet shape it up to something I could vote for, I voted for the bill to send it to conference just as I voted in the committee to report the bill, with reservations. It was announced in the committee I was voting with reservations.

Mr. President, here is what is wrong with the fail-safe provision in this bill. Once you establish a precedent, as this bill does, that you are going to make up the social security shortfall by just adding it to the Federal debt—once you start doing business that way, from that point forward suppose you did have a situation that my fail-safe amendment was aimed at, that you are not going to have quite enough money to pay the cost-of-living increase. Then, without fail, every time that would happen a Senator would rise on this floor and say:

Wait a minute, there is no need that these old people should have to settle for anything less than the full cost-of-living increase. All we have to do is to add the extra to the national debt and go ahead and pay it.

Furthermore, every time a Senator wanted to pay an additional benefit without a tax to pay for it—and in years gone by I have been one of those Senators, back in the times when they had a surplus in the fund—he could rise up on the floor and say, "Let's pay grandma an extra \$10 a month; she needs the money," and offer the amendment and sometimes have good luck with it without any additional tax paid into the fund.

Any time someone wants to do that in the future, all he has to do is follow the precedent set by the House and the Senate committees and by the Presidential Commission, to simply say that we pay for the amendment by adding its cost to the national debt.

Just look at how the money is being funded, appropriated for the short run.

Here is a proposal that is in the bill now, one that we voted for. We would take the money that will be paid on an annual basis out of appropriations to take care of the increased amount that servicemen would get because of their service in the World War II. Instead of handling that with an appropriation year by year of about \$300 million, we just calculate how much that is going to cost over the life of those soldiers and transfer that amount to the trust funds now. And so you see \$22 billion added to the fund in 1983. That money is not going to be spent on those servicemen over a period of 50 years. That is going to be spent right now to take care of the shortfall in the fund. That is the big item the first year, in 1983.

But then you go on to 1984 and you see these other items, for example providing general fund transfers in lieu of a portion of the self-employment payroll tax. They raise the self-employment tax, but do the people pay all the higher tax? Oh, no. They give them a credit against the General Treasury for most of that amount.

They do not even say on the tax return that they paid it and get it back when they file the tax return. That is all taken care of in the complexity in the language, so they pay somewhat more than they were paying before, but you put a much larger amount in the trust fund as though a higher amount were paid. How much is that good for? Well, in 1984 that is good for \$900 million out of the General Treasury.

All right, then you provide general fund transfers in lieu of a portion of the employee tax. Well, the first year, in 1984, that is good for \$3.2 billion. Then you provide an increase in general fund appropriation for Federal retirement benefits to replace the amounts that new Federal employees will now pay in the social security system. In other words, you tell the new Federal employee, "Pay your money into the social security system and we will appropriate an equal amount out of the General Treasury to make that up to the Federal employee retirement fund."

It starts out as \$100 million, but it rises eventually to \$1.8 billion a year.

Here is an item: Transfer amounts raised from taxing social security benefits at the beginning of each quarter, based on estimated accrued liability in the upcoming quarter, rather than when the money is actually received from the taxpayer. That is good for \$800 million in 1985.

Then there is a big item: Estimate social security payroll taxes for the upcoming month and transfer that amount to the trust fund at the beginning of the month, rather than when taxes are actually received. That is good for \$12.8 billion in 1984 and lesser amounts thereafter.

Once you start doing business that way, it is such an appealing way to do it that even the Finance Committee, which I believe to be the most conservative and fiscally responsible committee in the Senate, faced with a complaint on the part of the self-employed that their tax is being increased, said, "Wait a minute. There's no reason to raise the tax so much on the self-employed. Let's give them a tax credit."

Where is the money coming from for that? Out of the General Treasury.

So we added several billion dollars of general revenue funding in the Finance Committee. I did not vote for it. I was not there at the moment. The Finance Committee already engaged in increasing the use of general funds to do some goodies like relieving the taxes the would otherwise be levied on the self-employed—and that is in the bill already.

We had Senators on the floor offering amendments, during the consideration of the bill, to pay for something by providing a tax credit. Where was the tax credit going to come from? From the General Treasury. There is no real general fund from which to take this. The general fund is \$200 billion in debt for the year we are facing now. You are getting the money by adding it to the national debt.

In earlier days we would say, you are printing money, you are issuing printing-press money. But it is not a printing press any more. They have numbers in these computers, so all you have to do is add a numeral into a computer at the Federal Reserve; you just say, "Let's pay them another \$100 billion of benefits, and we'll pay for it by increasing the national debt by an equal amount." All you have done is put an electric impulse in a silicon chip in a computer. Then you say, "We have \$100 billion more in the Social Security Fund."

Once we start down that road, I believe we are in trouble, and that why I cannot vote for the conference report.

Mr. EXON. Mr. President—

The PRESIDING OFFICER. The Senator from Nebraska yielded to the Senator from Louisiana, so the Senator from Nebraska is recognized.

Mr. EXON. Let me ask a further question of the Senator from Louisiana.

Were the concerns just expressed on the floor of the Senate by the Senator from Louisiana discussed at any length in the Finance Committee before this bill was reported to the floor of the Senate?

Mr. LONG. Representative ARCHER appeared before the committee and discussed these concerns. Former Representative Joe Waggoner, of Louisiana, who was a Presidential appointee to the Social Security Commission, appeared before the committee and gave us the substance of his minority report. The Senator will find the same problem discussed in his minority report.

I must admit that the full impact of those comments did not dawn on me when they first said it. If the Senator will read the transcript of the record, he will see that I was very concerned about the matter, but the full impact did not dawn on me at that time. The more I thought about it, the more I found it necessary to inquire into it, and the more I became concerned about it.

Mr. EXON. Mr. President, I am very concerned about this, because what the Senator has just said is something we should zero in on.

One of the reasons the social security system is in the financial difficulties it is in today is the fact that over the years, I suggest, a whole series of ornaments have been hung on that tree, the way we hang ornaments on a Christmas tree. They were never financed or paid for, and now we find ourselves in a critical situation.

Let me ask a further question. I understood from the reply that my friend from Louisiana gave me that at least those objections were not raised or fully discussed when the Finance Committee reported this bill to the floor of the Senate. Is that generally true?

Mr. LONG. I did not dwell on that subject, as one who voted to report it out of the committee with reservations.

Mr. EXON. Were the matters that are now being brought to the attention of the Senate by the Senator from Louisiana brought up in open debate on the floor of the U.S. Senate? I say that because I notice that Senator Long's colleague, the junior Senator from Louisiana, voted the other way the other night. I thought that was a little strange, because I know of the relationship, and most Members of the Senate do, between the senior and junior Senators from Louisiana. Is it possible that this Senator from Nebraska was not privy to all the information that was available to the junior Senator from Louisiana from his senior colleague?

What I am asking is this: As one Member of the U.S. Senate, did I miss something in the debate on this bill, which the Senator from Louisiana is not bringing up, that I would have

been attuned to if I had been listening better, or is this something new?

Mr. President, if it is true, and I think it is, that the Senator from Louisiana is now saying that he has been very concerned about this and that he now is opposing this, at this very late hour, because of the reasons he has outlined, then that is of grave concern to the Senator from Nebraska; because one thing I think we should not do is to attempt to fool the people of the United States that we are correcting something without relying on the general fund to bail out the social security system from the difficulty it is presently in, if we are not doing that. That is why I am asking the questions I am asking, because I think I am about to cast a rather important vote; and I am not going to vote for this unless I can be convinced that we actually have done something other than the net result of relying on the general fund to bail out the social security system in the near future.

Mr. LONG. I say to the Senator that, to the best of my recollection, I have not voted against a social security bill in 34 years. But I will vote against this one.

As I say, my reasons do not have much to do with the items that were in conference, or that were dropped in conference. I have been troubled about the matter of general revenue financing throughout.

While the Senator might not have heard much of it in my remarks, I think if he were listening to the Senator from Colorado (Mr. ARMSTRONG) discuss the matter, he would have picked up some of that.

I discussed this matter with one of the more conservative conferees on the House side, and I told him—

Mr. EXON. Mr. President, there is not order in the Senate. May we have order, so that I can hear the Senator from Louisiana?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. LONG. I told that particular House Member I felt that perhaps I had been derelict in my duty to the Senate because I had not opposed the bill on that basis at an earlier point. He told me not to worry about it. He said he had been opposing it on that basis for months.

He had made the points until he was blue in the face, but he had achieved nothing on the House side, and I should not worry about the fact that I had not stressed the point prior to this in this Senate.

I do think if I had to do it over again I would have made this point to Senators when the matter was before the Senate, and having failed to do it perhaps I owe the Senator an apology. But at least I am explaining it now, because I do not feel that I can vote for the bill as much as I would like to vote for a bill to help solve the financing problems of social security. I do not think this is the way we should do it.

I am just one person who has his own conscience to live with. I cannot vote for this conference report. I explained to the Senator why I could not.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. EXON. I am going to yield the floor in a moment.

I thank my friend from Louisiana, and my line of questioning I think clearly indicated that the Senator from Nebraska was not particularly pleased, that he did not feel he had been properly advised by the ranking minority member on the Finance Committee. The Senator from Louisiana, though, has said it very well. He felt that this is the time to lay it out.

I have great respect for his judgment. I am very pleased that he laid out his concerns at this time which I think is helpful to all of us, and I thank him for his candor.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I wish to take just a few minutes to talk about what the Social Security Commission recommended and the conference agreement we have on the Senate floor right now.

We have in this agreement what the Social Security Commission recommended. Some are concerned about the use of general revenues. The bill is just the same tonight as it was last night on general revenues. We did not change a thing in conference pertaining to general revenues.

I do not quarrel with the Senator from Louisiana for indicating his concern about the use of general revenues. But I wish to assure the Senator from Nebraska and others that there is no change in the Senate's position on any of those provisions. The House bill is the same as the Senate bill on those provisions so they were never in conference.

What I wish to focus on is what we have before us. Everyone can find something wrong. But not everyone can be a conferee and not every conference can please everyone in the Senate.

We have what I believe is a good package. I did not want to raise the retirement age to 67. However, it is not going to happen for 40 years. I think we should look at it in that light.

I was satisfied with the fail-safe provision of the Senator from Louisiana. However, after 4 or 5 hours in the conference there was no way that the House of Representatives would buy that fail-safe provision. The Senator from Louisiana told us at that point in the meeting of our conferees, "If the fail-safe is a problem, put it out on the table," and we did that. In return for the loss of that fail-safe, we obtained a concession on the stabilizer. The stabilizer was not to take effect until 1988 and now it will take effect in 1984. To me that was a fair trade, not quite as good as the provision of the Senator

from Louisiana, but a fair trade. We traded a horse for a horse, not a horse for a rabbit.

There is not a single change in this bill on taxing benefits. That provision has not changed one bit since it left the Senate Chamber. There is not a single change on the acceleration of payroll taxes. It has not changed one bit since it left the Chamber. There is not a single change in the COLA delay. It has not changed one bit since it left the Chamber last night.

The one change that some Senators approved and some do not approve is bringing in Federal workers. I can tell my colleagues now that I visited yesterday morning with some of the union people who represent Federal unions. I asked them, "Why do you not work out something so that we can accept the Stevens amendment and fight for that in conference?" The union people said, "You know, we do not have any problem. We just want to take our chances on the Long amendment and see what happens." As Senators know, the Stevens amendment lost by five votes.

The House of Representatives was adamant about this coverage provision because it was the National Commission's recommendation that new Federal hires be brought into the system.

Tonight we have almost precisely, with some improvement, what was recommended by the National Commission. Yes, there are some general revenues in the package but they were there when the recommendations were made by the Social Security Commission. They were there in the Finance Committee amendment. They were in the Senate amendment last night, and they are in the bill before us tonight. They have not been changed. They have not been increased.

We have also done a great deal in the area of unemployment compensation. We have special provisions for West Virginia, special provisions for Michigan, special provisions for Illinois. And we provide a lot of coverage and benefits that are going to start coming due April 1. We have to pass the bill.

On prospective reimbursement under medicare, I think we have a good package. The Senator from Minnesota, who was not a member of the conference, was there to help us on that.

We have an alien provision that was not in the House bill. It is not as strong as the one we had in the Senate amendment, but we worked today with Senator GRASSLEY, the Senator from Iowa, who in turn contacted the Senator from Indiana, Senator LUGAR, and the Senator from Maine, Senator MITCHELL, and now we have an alien provision. We have accommodated the Senator from Hawaii in that provision and he is no longer concerned with the provision in this bill.

We accommodated the Senator from Washington, both Senators from

Washington, on the paymaster provision that they thought was very important.

I believe if Senators look at the entire package that someone can find some fault. It is not the way they want it. It is not the way I want it either. But I defy anyone who has ever been to a conference to come back and say, "Oh, we got all we wanted."

I preferred raising the retirement age to 66. To get age 66, the Senate bill had to make some changes in the bend points, benefit reduction. I think changing the age to 67 is a benefit reduction. But the House of Representatives was convinced that since it had a vote on that age, they could not go back and say we are going to take 66. I even tried 66½. It seemed like a compromise—we had 66, they had 67. I assumed we split the difference in some of our conferences. So we tried 66½. But they would not buy it. That was without any benefit formula changes in the next century.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. LONG. Mr. President, permit me to say to the distinguished chairman of the committee and the chairman of the Senate conferees, I hope he understands that nothing I have said about this matter is intended to reflect upon him or any other member of the conference. As the chairman of the conferees, the Senator did his utmost to uphold the Senate position. And although some of us may be disappointed that the Senate did not prevail on more of its provisions, my objection and the reason that I shall vote against the conference report, as the Senator correctly stated, has to do with the initial bill and the general financing phases of it which I simply came to understand better and better as the matter proceeded through the legislative mill. I do not for a moment question the good intentions and the very fine way in which the chairman of the committee has conducted himself, and I think the Senate is indebted to the chairman because he did faithfully defend the Senate position and I think we all are indebted to him for that.

Mr. DOLE. No; I appreciate that very much, and coming from the Senator from Louisiana I doubly appreciate it. Certainly I appreciate the Senator's assistance in the conference. I do not suggest that the bill is perfect. The Senator from Louisiana said he has been focusing on the general revenue aspect of the financing package for some time and he is coming down on the side of saying, "Well, I cannot accept it." That is the principle the Senator from Louisiana has held for a long time.

I was not here at the beginning of his speech. I know when President Carter suggested general revenue funding the Senator from Louisiana said no. We had that battle in our committee, and I joined the Senator

from Louisiana in opposing such a solution, so I know a little about that.

Some are saying we did not get all we should have on the SECA tax. As the Senator from Louisiana and the Senator from Nebraska pointed out, that is taking money out of general revenue for tax credits for the self-employed.

The Senator from Missouri worked very hard on that, and he is going to speak on it. He is not perfectly satisfied with what happened. However, let me repeat that we insisted that the House Members vote on that provision because we were told that they had enough votes to come around to our position. But I could not detect that in the vote. It was a rather weak voice vote, and the chairman announced that he prevailed. The chairman can do that from time to time, and he is an outstanding chairman. The chairman of the Ways and Means Committee is a good man.

I believe that under the so-called SECA proposal, we did quite well in the conference agreement. Someone with \$15,000 in income would pay a SECA tax under present law of \$1,478. The Commission would have raised that to \$2,100. The House bill would have said \$1,785 and the Finance Committee said \$1,665. So the conference agreement results in a \$30 difference. I think we have come most of the way.

Mr. President, I ask unanimous consent that a table be included in the RECORD.

There being no objection, the table was ordered to be printed in the Record, as follows:

EXAMPLES OF 1984 TAX BURDENS OF SELF-EMPLOYED INDIVIDUALS UNDER VARIOUS PROPOSALS

(Assumes that individual is unmarried, has no itemized deductions and has no income other than self-employment income)

| | Income— | |
|--|----------|----------|
| | \$15,000 | \$30,000 |
| Present law with speedup: | | |
| SECA..... | \$1,487 | \$2,955 |
| Income tax..... | 1,801 | 5,773 |
| Total..... | 3,279 | 8,728 |
| Commission proposal with extension to HI: | | |
| SECA..... | 2,100 | 4,200 |
| Income tax..... | 1,591 | 5,136 |
| Total..... | 3,691 | 9,335 |
| (Increase over present law)..... | (412) | (607) |
| House bill (2.1 percent credit): | | |
| SECA..... | 1,785 | 3,570 |
| Income tax..... | 1,801 | 5,773 |
| Total..... | 3,586 | 9,343 |
| (Increase over present law)..... | (307) | (615) |
| Finance Committee bill (2.9 percent credit): | | |
| SECA..... | 1,665 | 3,330 |
| Income tax..... | 1,801 | 5,773 |
| Total..... | 3,466 | 9,103 |
| (Increase over present law)..... | (187) | (375) |
| Conference agreement (2.7 percent credit): | | |
| SECA..... | 1,695 | 3,390 |
| Income tax..... | 1,801 | 5,773 |
| Total..... | 3,496 | 9,163 |
| (Increase over present law)..... | (217) | (435) |

Mr. DOLE. So, Mr. President, I know some are disturbed because the new Federal hires are included in this bill. But again that was a Commission recommendation. Democrats and Republicans and others said, "OK, if the system is going to work, we are going

to bring in new hires." Maybe we should not have done that, but that was the position of the House, and they were adamant on that.

I happen to think it is a good provision. I visited again with some of the labor representatives following that decision and I can say that they are not too upset. They gave it a good shot and they lost. Now they are going to try to work out the supplemental plan with the committee of that jurisdiction, which happens not to be the Senate Finance Committee.

So, Mr. President, I believe that having participated in the conference and having been on the Commission, I can tell you honestly that I think everything the Commission recommended is in this bill. In fact, there is some improvement because when we gave up the fall-safe we tightened up the so-called stabilizer. I would like to convey to the Senator from Montana that I tried on his amendment. I could not find one House Member who would take up the battle. But that happens in a lot of conferences.

I hope that my colleagues will take a look at this and decide that this is an opportunity, not a perfect one, but an opportunity, to say to people "We believe in the system." I am not going to stand up and say, as some were saying, "We took care of it for 75 years," because I know what happened in 1977. We said we would take care of it for 40 years, and 4 or 5 years later we were back saying we did not do enough.

Mr. President, I hope we might adopt the conference report. It has just received an overwhelming vote in the House, 243 to 102. It passed with a greater than 2 to 1 margin and I think that is an indication that it has broad support.

Mr. HEINZ. Mr. President, I rise in support of the conference report on H.R. 1900. This bill will restore solvency to social security. It should insure, under our current economic forecasts, the financial integrity of the old-age, survivors, and disability insurance (OASDI) trust funds for both the rest of this decade and the foreseeable 75-year future. It is a bill which reaffirms the soundness of the basic structure of social security by making only minimal adjustments in the program to restore the program to a sound financial footing.

Mr. President, I am pleased that the Congress has been able to move quickly to enact this legislation and provide beneficiaries and workers, who have feared for the future of the social security system, the reassurance that the system will remain solvent in the future. The most serious problem for social security has not been the short-term financing problem or the long-term financing problem, but rather the loss of public confidence in the social security system itself. In the last few years, the proportion of the population between 18 and 49 with little or no confidence in the future of social

security has increased from just under half to over three-quarters. This massive loss in public confidence threatens the compact across generations that is the basis for the entire social security program. Growing doubts about the future of social security weaken the willingness of workers to support the payroll tax which finances the system.

The bill before us represents a dramatic step toward restoring public confidence in social security. For the first time in more than a decade, with the enactment of this legislation, there will be no projected long-run or short-run financing shortfall in social security. Just as importantly, despite several years of public debate and political stalemate which have preceded this legislation, the Congress has demonstrated this year that it can work responsibly and in a truly bipartisan fashion when necessary to maintain a vitally important public commitment to present and future generations of retired Americans.

This legislation provides adequate financing for social security without placing an undue burden on any single group of beneficiaries or taxpayers. Ultimately there is no painless solution to social security's financing problems, but this bill spreads the burden about as evenly as possible. About a third of the \$165 billion in new financing would affect employers and workers, a third would affect other accounts in the budget, and a third would affect beneficiaries. Because the financial burdens are broadly shared, they are minimal for any particular group of individuals.

In addition, it is worth noting that despite the urgent need for changes to improve social security financing, the Congress also has taken this opportunity to make some changes to improve the program as well. There are four provisions in this bill which improve benefits for divorced, widowed, and disabled spouses—improvements that have been long overdue. In addition, there are two provisions which will provide better incentives for older workers in the future who wish to continue working beyond the normal retirement age. The first liberalizes the earnings test somewhat, to improve social security benefits for those who continue earning some income after they begin receiving social security benefits. The second incentive is a gradual increase in the delayed retirement credit so that workers who delay their retirement after age 65 will no longer lose the full actuarial value of their social security benefits as a result.

Mr. President, I think this legislation will provide the necessary tonic for our ailing social security system. On balance, I believe it is a fair and reasonable compromise solution. As in any compromise, however, good proposals were lost in the interest of forging a package which would be acceptable to both Chambers. There were five areas in particular where I feel

the Senate was forced to recede with respect to worthy ideas, and I truly regret that we could not come to the floor tonight with legislation that included these provisions from the Senate bill.

Most importantly, the Senate had to recede on its solution to the long-run financing problem. In my judgment, the Senate version was much better than the House provision we accepted which raises the retirement age to 67 by 2027. The provision passed by the Senate involved raising the retirement age to only 66, gradually phasing in the increase between 200 and 2015. This increase in the retirement age was coupled with an across-the-board 5.3-percent reduction in the basic benefit amount, gradually phasing in the reduction between 2000 and 2008.

Our provision had several advantages over the House bill. First, it involved only a 1-year increase in the retirement age in recognition of the fact that, though many may choose 20 years from now to work longer, there will continue to be workers with poor health, low skill levels, and inconsistent work histories who will be physically unable to work or will be unable to find employment when they are older. The 1-year increase in retirement age would have avoided unfairly penalizing these workers. Second, the combination of these two provisions would have spread the burden of the additional financing across a broader group of individuals, with a less severe effect on any particular group. While the retirement age increase would be a reduction in benefits for retirees only, and a reduction concentrated most heavily on those who take early retirement; the 5.3-percent reduction in the basic benefit would have affected all beneficiaries—retirees, survivors, and the disabled—equally. The combination of the two would have protected survivor and disability beneficiaries without placing an unfair or undue burden on retirees of the future. Third, the combined effect of these provisions would have resulted in a less severe reduction in benefits for any particular beneficiary in the future. While raising the retirement age by 2 years will eventually reduce monthly benefits by 13.3 percent for someone retiring at 65, the combination in the Senate bill would have reduced benefits by only 11.6 percent for someone retiring at age 65.

Mr. President, I ask unanimous consent to insert a table in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF THE EFFECTS ON MONTHLY SOCIAL SECURITY BENEFITS OF THE LONG-TERM FINANCING PROVISIONS IN THE HOUSE AND SENATE VERSIONS OF H.R. 1900

| Year | Percent reduction in monthly benefit amounts | | | |
|---------------------|--|---------------------|----------------------|---------------------|
| | Retirement at age 62 | | Retirement at age 65 | |
| | House ¹ | Senate ² | House ¹ | Senate ² |
| 2005..... | 6.25 | 7.00 | 3.33 | 3.50 |
| 2015..... | 6.25 | 11.20 | 6.67 | 11.60 |
| 2025 and after..... | 12.50 | 11.20 | 13.33 | 11.60 |

¹ House version: increases the normal retirement age from 65 to 67 between 2000 and 2027 in 2 steps.

² Senate version: increases the normal retirement age from 65 to 66 between 2000 and 2015; reduces basic benefit amounts by 5.3 percent, gradually phasing in the reduction between 2000 and 2008.

Source: Social Security Administration, Office of the Actuary.

Mr. HEINZ. In short, Mr. President, I believe the Senate had a better long-run financing proposal—one that would have been fairer and more equitable. But unfortunately the House proposal to raise the retirement age to 67 prevailed.

Mr. President, I also regret that the House conferees were not willing to accept the Senate provision which would have completely eliminated the earnings limit in social security by 1995. Fortunately, the rate at which social security benefits are reduced for earnings was lowered somewhat in the conference agreement, so that those with earnings just over the \$6,600 limit will not face such a large marginal tax rate. But I am concerned that we have not done enough.

The earnings limit, or retirement test, is a powerful factor in forcing older persons who want to work out of the labor force. Many people, in fact, believe that they will lose their entire social security benefit if they earn more than the limit. Continuing to discourage older people from working is neither good national policy, nor does it conform with the interests and wishes of older persons themselves. We need to change these disincentives if we are going to encourage productive older persons to stay in the work force, to contribute to our economy, and to continue to meet their own economic needs in independence and dignity. By failing to raise the earnings limit I fear that we have missed an excellent opportunity to provide encouragement to older workers.

I am also disappointed that the House conferees refused to agree to the Senate tax credit for the self-employed. In my judgment, the Senate provision would have reduced the amount of net tax increase for the self-employed resulting from the increase in self-employment social security tax rates. Although I have supported the notion that the self-employed should contribute for their social security benefits at the same rate as the employer-employee, I have also felt very strongly that this adjustment should not significantly raise the tax burden for the self-employed. I am particularly concerned that the net in-

crease in taxes not be too large in the first few years. Unfortunately, the House provision which was adopted provides a smaller tax credit in the initial years than the Senate provision. I can only hope that this smaller credit will not result in an excessive and unfair added tax burden for the self-employed.

Mr. President, I must say I also regret that the House conferees were unwilling to accept the very limited exemption from social security for employers and employees who are conscientiously opposed to accepting insurance. My amendment, incorporated in the Senate bill, would have permitted mostly Amish employees who worked for an Amish employer to avoid paying contributions to social security. While I believe coverage under social security should be universal, I also believe that we should respect the religious convictions of our citizens, and where these convictions conflict with the law, make an effort to exempt them if possible. In this case, the Amish would have waived their right to all future social security benefits. Their convictions would have placed no burden on their non-Amish neighbors. I think it is shameful that we were unable to make this adjustment in the law, which to the Congress is so minor, and to the Amish is so important.

Finally, Mr. President, although I am pleased that the conference agreement would remove the social security trust funds from the unified budget in 1992, I regret that the House conferees insisted upon removing the two medicare trust funds—HI and SMI—along with the OASDI trust funds. The medicare program is really quite different from the cash benefit programs. First, there is not the inherent relationship between the workers earnings and the benefits received under medicare that there is in OASDI. More importantly, the medicare program faces extremely serious financing problems beginning in the next 2 or 3 years—problems which have not yet been addressed in legislation. It is quite possible that the entire system of financing medicare will need to be restructured in the near future to assure its financial health. Since this effort will in all likelihood involve spending and revenue decisions quite different than those which might be made for a stable, well-financed retirement system, I believe it was inappropriate for the House to decide to move this program outside the unified budget at this time.

Despite my concerns about these specific elements of the conference agreement, Mr. President, I believe this legislation is, all things considered, a reasonable solution to our pressing social security financial problems. It will meet the financing needs of this program in this decade as long as the economy performs as well as or better than our purposely conservative projections for it. And in the long run, this legislation will resolve the fore-

casted 75-year deficit in the program. I commend all of my colleagues who have worked so hard to complete this legislation. With its passage tonight we can demonstrate once again to today's younger workers our commitment to preserving the social security system.

Mr. President, I will just say very briefly that when the Senator from Kansas says that this conference report is better than the original provision agreed to by the President, by the majority leader, by the Speaker of the House, and the majority of the members of the National Commission on Social Security Reform, he is right. This is better, and it is better for one reason principally which he has referred to and that is it has a better stabilizer. It is more likely to do the job even than that which the Commission, with the President's concurrence, recommended to this and the other body.

Yes, I know there are probably some things in the bill we would all like a little bit differently. I was the principal architect of the long-term provisions where we had a balance between raising retirement age 1 year, reducing the replacement rate by about 5 percent, and then bringing in much faster the delayed retirement credit and phasing out much faster the retirement test, and I would be dishonest with you if I did not say our provision was better than the House provision, going from 65 to 67. I think we have a better provision in terms of incentive for people to work because of the delay in retirement credit phasing because of the phaseout of the retirement test.

I think we spread the burden around in terms of slowing the growth of benefits a good deal more evenly, not a great dramatic difference perhaps, but more evenly.

I would have liked to have seen that prevail. We lost most of the speedup from S. 1, the delayed retirement credit, but what we have in this bill is exactly what was in S. 1, the delayed retirement credit.

We have a better provision of the retirement test that was in S. 1 but not as good as what we sent to the House.

I regret we lost that but on a balance this bill is a reasonable bill and it complies with about everything the National Commission recommended.

So, Mr. President, I hope my colleagues will join us in supporting this. It is a good start and it is going to do the job, and I guess that is the best we could really ask.

Finally, one last observation: I think the Senator from Kansas did a superb job, as did the Senator from Louisiana and the other conferees, Senator DANKFORTH, Senator CHAFEE, Senator MOYNIHAN, to name just a few. The Senate conferees rigorously upheld at every opportunity the Senate position. I have never seen a more faithful group of conferees, and we did not lose

every battle. We got about halfway in most of these cases.

I think you can always ask to do better but when you go through negotiation you are not going to win them all and we did not.

Well, Mr. President, I thank the Senator from Kansas for yielding and I commend him on his good work.

Mr. DOLE. I will yield for a question.

Mr. EXON. I thank my friend. One brief question: Please clarify for me one of the other parts of this which seems to have a great deal of confusion. The House, as I understand it, would not put language in the bill that deleted the payments of social security to illegal aliens. We included that on this side. During the explanation by the chairman of the committee he said something about illegal aliens. As I understand it, we basically came out of conference with the House position that we essentially would continue to make social security payments to illegal aliens. Am I misinformed or is that accurate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. I will just say to my distinguished colleague there was no House provision on illegal aliens. We did not get everything we wanted in illegal aliens, but they had no provision.

Mr. EXON. I would simply inform my friend from Kansas that one of the Congressmen from my State introduced such a proposal and was turned down in that committee so you would not know about that. But is it not true that we did address that matter on this side and we went to conference with the provision that would have provided for not paying social security to illegal aliens, and was not that basically eliminated in the conference?

Mr. DOLE. It was modified.

Mr. EXON. That is what I want. Was it just watered down or did we sink the ship.

Mr. DOLE. No, it was modified. The ship did not sink. I must say that even on the Senate side there were different views on illegal aliens. The Senator from Kansas was a strong supporter of the Senate position and we indicated to the House conferees we could not come back to the Senate without a substantial provision on illegal aliens. So I contacted the Senator from Iowa, Senator GRASSLEY, who has a dominant interest in this, and I understand he contacted some other Senators. He came to the conference. He discussed it with staff. He discussed it with Mr. Svahn of HHS, the former Social Security Commissioner, and advised us that he was satisfied with the provision.

Mr. EXON. The Senator does not have to satisfy him, he has to satisfy me.

Mr. DOLE. I understand.

Mr. EXON. That is the reason for the question.

Mr. DOLE. Let me find the committee report language and I will come back to that question.

I yield to the Senator from West Virginia. I will yield the floor.

Mr. RANDOLPH. Mr. President, I ask for the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized. Before the Senator begins, the Senate will be in order.

Mr. RANDOLPH. Mr. President, no comment that the Senator from West Virginia now speaking is to make will change a single vote in the Senate. I make, however, this very, very brief statement. My colleagues, I will reaffirm my vote of 1935 for social security. That legislation passed in the House of Representatives by a vote of 372 to 33 on April 19, 1935. The Senate, on June 19, passed the measure by an impressive vote of 77 to 6.

We have all, I believe, studied the subject matter very, very carefully. I think that I have given even more personal attention away from the floor to reading the remarks of my colleagues, to talking with many constituents on this matter, than almost any measure that has been before us in recent months, perhaps in recent years.

I will, Mr. President, vote for the conference report. I believe that we must be realistic in this crucial hour. I believe that, on balance, the Senate will do well—not all of us satisfied, of course—to act as the House of Representatives has acted, act, yes, in the affirmative, forward the bill to the President, which he will sign into law. We have then acted in both bodies in the best tradition of this historic bill. We know that not all the provisions suit us. I trust I do call for a unified vote, although there will be votes against the report here as in the House. I respect differing conclusions of my colleagues.

I thank my colleagues for their attention.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, as I reflected on what I might say to the Senate on this occasion, I could not help recall what Samuel Goldwyn was supposed to have said on a similar moment. He said, "I am sick and tired of these old cliches. Get me some new ones."

Well, I have not been able to come up with any new cliches and I am not really eager to try to persuade anybody to my point of view. But I do want to explain my point of view because 2 or 3 years from now, if we should happen to be back in this Chamber doing another once in a lifetime shoring up of the social security system, I would like to have a record of the fact that at least some Members knew that was likely or at least possible to happen.

Last night, I voted for the passage of this bill. I made no effort to make any

public explanation of it. Afterward, a number of the Members of the Senate expressed some surprise that I had voted for it because I had rigorously criticized certain provisions of it.

I criticized general fund financing that was included in this bill. I associate myself completely with the observations of the Senator from Louisiana. That is a threshold I never wanted to cross. I think it is a mistake to cross that threshold. I think it is bad public policy. Yet, last night I was prepared to do so in voting for this bill, even though I have been against it right from the start.

I criticized the tax provisions in the bill. And there is, and was last night when I voted for it, an enormous increase in taxes. A payroll tax increase which comes on top of a quadrupling of payroll taxes in the 1970's and another tripling that is already in the law, a twelvefold increase in two decades of the payroll taxes. And last night I was prepared to vote reluctantly for a further increase that is proposed in this bill.

I voted last night to tax the benefits of people after I had voted, along with I guess every other Member of the Senate less than a year ago, not to tax benefits. I was prepared to give a lot of ground, to swallow all of those things for two reasons.

First, I thought it was critically important that we get a bill and, second, because I could honestly say at home or in this Chamber or in the press or anywhere that this is a bill that we can depend upon to put social security on a sound fiscal basis, a sound basis. I could even remember what happened in 1977 to Jimmy Carter and all the others who said that was a once-in-a-lifetime reform and we would never revisit that issue and I thought a lot about it before I made the statement.

But, based on what was before us last night, I could say, any Senator could say, the actuaries could say, that this bill is solid, and under any reasonable foreseeable circumstances we are going to put social security on a sound basis. And that means the retirees are never going to have to be uncertain again under any reasonably foreseeable economic circumstances.

And it means that the taxpayers, particularly the younger generation of working men and women, who are really restless about the rising burden of taxes that has been imposed upon them, that we could say to them, "Look, social security is solid. It is solvent. It is going to be there when you retire. Be of good spirit as you pay the taxes. It is a fair deal."

That is why I voted for this last night.

Well, they went to conference today and they did a lot of things I did not approve of. I heard, for one thing, they did away with the amendment which I thought was not controversial—I had hoped it would not be controversial—as to the phaseout of the retirement earnings test. That really

disappointed me because getting rid of the retirement earnings test has been one of the most important objectives that I had in consideration of this social security bill and I judge that the retirement earnings test is one of the most unpopular and unfair provisions of social security. And they did away with it. Well, I was prepared to swallow that, because the fund was still on a sound basis.

Now, then I heard they did away with the dropout year provision which we put in. This is not going to mean anything to some people, but to a few million mothers who have to take a couple of years off to care for children in the 1990's and the years after the turn of the century, that is going to be important. And there are several million of them. I hated to hear that they had taken that out of the bill. That is an important liberalization of the benefits. But I could swallow that.

I was sorry when I had heard they did away with a little modest element of relief we had granted to small businesses, just letting them deposit their withholding a little later to give them a chance at least to get their feet under them and to have 15 days or so after the close of the month to deposit their taxes. But I could swallow that.

But, my friends, when I heard that they had taken the fail-safe out, I cannot swallow that. That gets to the stomach turning point as far as I am concerned. Because with the fail-safe out, we cannot be sure we are not going to be back here in 1985 or 1986 patching up this system.

Again, I do not mind making sacrifices and I am prepared to go home and say to my taxpayers:

Look, I fought to keep the tax increase out of this, but you have got to go for it. We had to do it because we have to put social security on a solvent basis. We have to shore up the system and we have to restore the public faith and credibility in the system. It has not only got to be prudently safe, it has to appear to be safe.

But I cannot say that once the fail-safe has gone.

Now, the Senator from Louisiana who put the fail-safe in the bill in the first place is modest about the impact of that. But the fact of the matter is for many of us that was the final centerpiece of this bill, because that said that if the trust fund got in trouble, if our economic projections are a little too rosy and if things did not go as we thought, that the checks would still go out on time and there would just be a little restraint in the cost-of-living benefit adjustment increase.

And, significantly, in proposing this, the Senator from Louisiana held harmless the beneficiaries who receive the smallest monthly amount because the way he structured it we pay 100 percent of the cost-of-living adjustment for the first \$250 of basic benefit levels. So we did not hold harmless the people who might be getting \$800, \$900, \$1,000, \$1,200, even \$1,400 a month for a couple on social security

benefits. They give a little restraint on their COLA if the trust fund got into trouble, but not the person down to \$250 or \$300 a month. We took care of them.

The effect of dropping that out of the package is simply to leave in doubt whether or not we can make it through 1985 and 1986.

Now, that is my opinion, but it is not just my opinion. That is the opinion of the experts, because before I came to the floor to advise my colleagues that they run the risk as they adopt this of not having the fund on a sound basis, I consulted not one but two experts, and not just two experts but the two foremost experts I personally know on this subject, the two men who are in the position of professional expertise to know the most about it.

I asked them this question: I said:

Last night I told some of my colleagues who sought my advice that with that fail-safe in the bill, it was a virtual certainty that social security would be on a sound basis and we would not have to come back and patch it up at any time in the decade, that with any reasonable circumstances we would make it through. Is that true?

They both agreed, "Yes, that is true."

I said, "Can I make the same statement after they take the fail-safe out?"

They said, "No, you cannot."

I said, "What statement shall I make? What shall I tell them if anybody wants to know about this?"

What I was told was this: "There is no certainty that the thing is going to default. There is no certainty that we are going to go off the cliff in 1985 or 1986. But there is," and I quote exactly, "a significant possibility that precisely that will happen."

Therefore, after 2 years of fiddling around with this thing and debating and jockeying for position and terrorizing 36 million people around this country who are wondering is their social security benefit going to be safe or is it going to be held hostage at some point of deadline in the future as it has been so often in the past, we are right back where we started.

I am not going to vote for all of the things in this bill, most of which I do not approve of, when the bottom line is that we are really not sure we are solving the problem, that we might be back here—

Mr. DANFORTH. Will my colleague yield?

Mr. ARMSTRONG. I will yield in a moment—that we might be back here in 1985 or 1986. That is why I will vote against it.

My closing remark is, Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ARMSTRONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I would like to point out that the bill that passed last night was not as solid as the bill before us today.

The bill that passed last night was \$9.3 billion short in the short run and in long-run deficit 1.2 percent of payroll (almost \$3 billion per year for the next 75 years).

The actuaries tell us that these short falls have been eliminated in the conference bill in both the short and long range.

The Senator from Colorado expressed displeasure with the fact that the retirement earnings test is not phased out in the conference report. In fact, the conference report liberalizes the retirement test in 1990—the same date as in the Senate bill. Rather than phasing out the test, the conference report liberalizes the test so that instead of penalizing an elderly worker by \$1 in benefits for each \$2 they earn, they will have benefits reduced by \$1 for each \$3 of earnings. This substantially reduced the penalty for working—while admittedly not going as far as we would have liked.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, my distinguished colleague from Louisiana has referred to the fail-safe. That is the deficit problem. As long as you have deficits, which we will have for many years to come, then the social security payments will be made. There is a difference between the funds being sound and the recipients being soundly paid. We are going to do the latter.

Two years ago, when we raised this question in the Budget Committee, many of the blue ribbon commission and others questioned that the social security trust fund was even in trouble, and we cautioned at that time, Mr. President, that before long we were going to be using general revenues to pay social security benefits. They said, "Do not worry. That will never occur."

Now the distinguished Senator from Louisiana has shown us that this fear has come true.

He put my statement into the RECORD on last evening. I am grateful to him.

I want to associate myself with his remarks. We have now not only taxed the benefits but now we have gone into the general revenues to pay benefits. We are on a means tested program and, in reality, then, instead of this evening crossing a historic milestone and solving the social security problem, and reestablishing the people's confidence in the solvency of the social security system, on the contrary we are really now starting to create the problem.

They will learn that it is not only means tested by taxes, but they really are going to the deficit each time benefits are paid.

If we do get in trouble, I say to the Senator from Colorado, in 1985 or 1986, we will just come back to the

general fund because the precedent has been set to finance benefits from the deficit.

The only thing we have to fear is the lack of fear of deficits in this national Congress. We are going on willy-nilly. This social security bill adds \$48 billion over a 7-year period of general revenues, about a \$7 billion a year in a new spending program, unable to be financed out of the trust fund. Therefore, I will oppose the conference report. I thank the Chair.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I will vote for the conference report. I have supported this bill from the outset. I was one of the original co-sponsors of S. 1. I believe this is the only responsible alternative we have. But I would like to point out the fact that while we have made the effort and have succeeded in holding harmless employed individuals from the effect of tax increases on them, we have far from held harmless those who are self-employed. We have provided some credit on income taxes for social security taxes paid. But the net effect of the conference report that is now before us is that for a self-employed, unmarried person with an income of \$15,000, we are increasing the total tax liability of that individual by \$217.

For a self-employed, single individual with a \$30,000 income, we are increasing that individual's net tax liability by \$435.

Mr. President, the effect of this will be that when, for these individuals, the social security tax and the income tax liabilities are added up, the individual with a \$15,000 income will pay a total of \$3,496 in taxes, and the person with a \$30,000 income will pay a total of \$9,163 in taxes.

We are landing a haymaker punch at the self-employed people of this country, and the low- or middle-income self-employed people of this country.

Mr. President, who are these individuals? These people constitute the backbone of our country. Most farmers are self-employed individuals. Most farmers are hit by this tremendous increase in tax liability.

We know that the real estate sales people have been particularly interested in the self-employment tax. They are certainly not doing too well in their business these days. Aside from them, the small contractor, the home repair person, the person who owns the corner grocery store, some of the most tenuous people in our society, economically, are going to be hit by a very significant increase in their tax liability.

We in the Senate recognized this problem and did our best to expand the credit that was recommended by the Commission and the credit that

was in the House bill. We still would have hit these individuals with a very substantial tax increase. It was my view that we should have held the line in the conference, that we should have insisted on the Senate provision.

We did not do so. We came out with a pretty fair compromise in that we were closer to the Senate position than the House position in the conference. But the effect of this is very substantial on self-employed individuals. I point this out to the Senate because it is my judgment that in the very near future we are going to have to face up to this fact or we are going to be driving even more people who are now on the brink of bankruptcy over that brink.

Mr. BOSCHWITZ. Will the Senator yield for a question?

Mr. DANFORTH. I yield.

Mr. BOSCHWITZ. I believe the Senator has well expressed this provision in terms of dollars now. I believe the figure in the Senate bill was 3 percent for 1984.

Mr. DANFORTH. The Finance Committee bill was 2.9 percent in 1984 and the conference was 2.70.

Mr. BOSCHWITZ. And for 1985 and 1986?

Mr. DANFORTH. I will have to call on the committee staff for that: 2.3 in 1985 and 2.0 in 1986. That is the conference report.

Mr. BOSCHWITZ. What was it before?

Mr. DANFORTH. We went down to 2.1 in the Senate.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the hour is late and I shall be brief. With the indulgence of my friends on the other side of the aisle, I should like to speak to my fellow Democrats on this side.

I wish to point out first of all that this bill passed the U.S. House of Representatives by a margin of 2½ to 1. Among the Democratic majority in that body, it passed 3 to 1. A Democratic leadership has been willing to cooperate in this singular bipartisan effort to save the single most important domestic program our party has ever brought this Nation. None other than JENNINGS RANDOLPH, if he will forgive the personal statement of his name, who spoke on this floor, was on that floor 50 years ago when this legislation passed. None the like has ever passed either body and none is more singularly our heritage to preserve and pass on. By 3 to 1, our fellow Democrats voted for this.

Second, I say to you that this is not one subject matter. This is medicare, this is unemployment insurance. For the first time in history, we add a fourth tier of unemployment benefits for those who have exhausted their final Federal supplemental compensation benefits. The new programs begins when this bill is enacted; the

third tier, Federal supplemental benefits, expires March 31. Today is March 24. In 7 days, if we do not pass this, 738,000 working men and the families behind them will have their benefits cut off. We provide not only that they continue, but there is a reach back for those whose supplemental benefits have already expired.

I say to you, the fail-safe provision which my distinguished friend and my beloved chairman put into this provision was not accepted. But had we had the stabilizer, which during the long month at Blair House was replicated for the years 1977-82 the funds would never have been in any difficulty.

The stabilizer says that when the funds drop to a certain proportion of expected outgo during the year, you switch to the lower of price or wage increases for the adjustment in the benefit. That stabilizer, reduced to 15 percent, is moved up to 1985. We have been given the 1984 budget and now we have a stabilizer at 15 percent from 1985 through 1988, then its flips up to 20 percent and stays that way indefinitely.

I last say that, yes, we have put general revenues into this fund. We have done so for a period of, at a very diminishing rate, 7 years. The men who devised this arrangement in the 1930's expected it to be a one-third-one-third-one-third arrangement by now. We have had a very gentle infusion. And in a very short order, this particular set of funds goes into a major surplus.

This last Sunday, in the Washington Post, a respected journalist, Mr. John M. Berry, had a front-page article that went on at some length and which asked what the Federal Government was going to do with the surpluses this legislation would generate beginning in 1990? It is a problem to which the Senator from New Mexico could usefully address himself with more pleasure than with which he deals with the problems of this very moment.

We have a short-term problem we have resolved, a long-term problem we have dealt with with a high order of bipartisan competence. It passed the House of Representatives 2½ to 1—243 to 102. A Democratic measure—if Jennings Randolph were on that floor tonight as he was 48 years ago, he would have voted for this bill, would he not, sir?

Mr. RANDOLPH. My friend, I voted for the initial bill 48 years ago. It was a monumental document.

Mr. MOYNIHAN. Would you not have voted for it tonight, sir?

Mr. RANDOLPH. I will vote aye! I do so with the inner knowledge that I do right. It is a vote for people, our citizens of this great and good land!

Mr. MOYNIHAN. You never fail us. Let us not fail them. They happen to be the American people.

Mr. LEVIN. Mr. President, I have just one brief question for my friend from Kansas. One small important part of this bill added as set aside. By a small bipartisan effort, we added a

provision to finally, years later, assist widows who find themselves, after 20 or 30 years of raising kids and keeping house suddenly widowed. Because they are not yet 60 and they are not working, they have no social security benefits. We provided a very modest transition benefit of 6 months for those widows 55 years or older. It costs only \$25 million. I have two questions for my friend from Kansas.

One is, Did the House conferees refuse to accept our provision in this matter?

Mr. DOLE. I say to the Senator from Michigan that the House conferees did refuse to accept that provision. I can also say that the record will reflect that on two occasions the Senator from Kansas raised that specific provision and indicated that it was important to the Senator from Michigan. On the last occasion, the chairman of the conference and the chairman of the Social Security Subcommittee, Representative PICKLE, promised the conference and everyone there that they could not accept this provision or the dropout year provision which was added by the distinguished Senator from Colorado. However, they promised that, along with other issues dealing with discrimination against women, they would soon be having hearings on the broader issue of the treatment of women under social security.

Mr. LEVIN. The second question is, Can I count on the chairman's support on future efforts in this?

Mr. DOLE. The answer is unequivocally yes.

Mr. LEVIN. I thank the Chair and commend him on his efforts. The problem here is so tragic and so stark, we must step up our efforts to correct it.

Mr. DOLE. Mr. President, I would like to point out to the Senators from Michigan and Colorado, who are concerned about the absence of certain provisions for women, each of the four equity provisions recommended by the National Commission were adopted. In addition, the conference report included a modification that will provide great relief for older women on social security survivors or dependents benefits who also receive a public pension. Next July, they would have suffered a \$1 for \$1 reduction in their benefits on account of their other public pension. The conference report will provide for a one-third disregard of the public pension—elderly spouses and widows and widowers will only have two-thirds of their pensions offset.

Mr. DOMENICI. Mr. President, I wish to ask the Senator from New York a question and I do not ask this question to in any way prejudice the conference report before us. There is a significant difference between the fail-safe and the stabilizer, as I see it, in that the fail-safe is measured in terms of going below the reserve. The stabilizer—I do not know where the word

came from—but it is not measured against the reserve. As I read the bill, either CPI or wages, whichever is lower, you get but you could still go below the reserve. So it is not a fail-safe, it is merely saying if CPI is lower than wages, you get the lower if the reserve is too low. But it is not attached to keeping the reserve. You could go below the reserve, accepting the lower of the two, as I understand it. Is that not correct?

Mr. MOYNIHAN. The Senator is correct in that very technical sense. The stabilizer—the word came from the distinguished Chairman of the President's Commission, Mr. Greenspan. It is triggered by the reserve and the language added by the House Members is that when it goes below 15 percent for this 4-year period, then 20, the trustees are to automatically go to the lesser of the two indices and report in writing to the Congress as to what other, if any, measures are required.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me briefly?

Mr. DOMENICI. I am pleased to yield.

Mr. ARMSTRONG. I want to point out that while I favor the stabilizer provision, it will have absolutely no effect whatsoever on the stability of the fund or the ability of the fund to meet its projected payments during the balance of this decade under either of the two economic scenarios, that is, 2(b) and 3, which were under consideration by the Finance Committee and by the National Commission. It is a worthy provision, it is a useful provision, but it is irrelevant to the question of whether or not we are going to make it through 1985, 1986, and 1987, according to the staff director of the National Commission on Social Security Reform with whom I have discussed this matter tonight.

Mr. DOMENICI. I say to the Senator, I understood that very clearly and I think that is why I asked the question, not because that should be the conclusive issue but "stabilizer" somehow sounds like—

Mr. ARMSTRONG. It sounds better than it is.

Mr. DOMENICI [continuing]. Fail-safe.

Mr. ARMSTRONG. Exactly.

Mr. DOMENICI. The point I was making is they are not the same because as the Senator has indicated, even if you go with the lower of the two, it is not triggered up against preserving a reserve but, rather, triggered up against making a report that you are in trouble, as I understand the bill.

Mr. ARMSTRONG. That is right.

Mr. DOLE. Will the Senator yield briefly?

Mr. DOMENICI. I am pleased to yield.

Mr. DOLE. I do not think the fail-safe is fail-safe either. We can argue semantics all night long, but if you reduce the COLA to zero with the fail-safe and the fund still does not have

enough money to pay the checks, it is obviously not fail-safe. This is all sort of a semantic game.

I must also say that the same actuaries being cited tonight for forecasts were the same ones who told us in 1977 that we did not have a thing to worry about for 40 years. Now, if they are the same actuaries the Senator from Colorado is relying on tonight, I think one is the same one I relied on this afternoon. I hope he gave me accurate information when he told me this afternoon that the stabilizer as modified was a good trade. That was his statement to me.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, it is not my purpose for a second to dispute the value of the stabilizer provision but only to underscore, as the Senator from New Mexico said, that it has a different function.

I had not intended to get into a detailed explanation of this. But under both economic scenarios which were within the contemplation of the Commission and the Finance Committee and the Ways and Means Committee and the House and the Senate, it is anticipated that wages will rise more rapidly than prices and since that is the case the so-called stabilizer would have no effect.

Now, if some different set of economic conditions prevail than any than were considered, it is conceivable it would have some effect but under the conditions which we deemed as the outer parameters of what we would think about in preparing this bill it would not have any effect. It is, nonetheless, a worthwhile provision.

Let me also emphasize to the Senator—I said it earlier but I want to say it again—that I am not predicting the trust fund will go broke in 1985 or on any other particular date. My bottom line for support of the bill was a reasonable assurance, not an absolute, ironclad guarantee, but the assurance that a trustee would expect a prudential assurance, a coverage of all reasonably foreseeable circumstances—not every manageable circumstance but just what can be reasonably foreseen by people who see themselves as the trustees of a system that we have got the job done. Last night's bill did that. In my opinion and in the opinion of experts, there is a significant possibility—I quote, "a significant possibility"—that the bill in its present form will not fulfill that requirement.

I am not willing to take that risk but I do not predict that we are going bankrupt in 1985 or 1986, just that there is a significant possibility that we will not be able to make ends meet, and that is not good enough after all we have been through.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, having distinguished between the stabilizer and the fail-safe, I think it is only fair to say that from the standpoint of possibilities, I agree with the

distinguished Senator from Kansas with reference to the fail-safe provisions. They are fail-safe with respect to getting down to no COLA at all, and then if you have to go below it, obviously you would be in a state of reserve bankruptcy. The fail-safe only provided for adjusting the cost of living. It did not provide for going below it. So in that respect I did not mean to imply to the contrary, and I indicate in my opinion he is correct in that observation also.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, if the managers of the bill are prepared to do so, I am prepared to suggest that time has arrived when we should go ahead and put the question to the Senate. Mr. President, I make only these general observations and do so briefly at 1:25 in the morning.

I do not recall in my years in the Senate ever seeing the Congress of the United States pass a bill that we agreed was perfect. I do not recall one that I have ever seen that I was wholly pleased with. Some I like better than others. But I really do not think it is in the nature of representative government that we often achieve perfection.

It is the genius of this system perhaps, though the Republican concept in general, that the very pluralism that puts us here in the place of trust guarantees that there will be an exquisite diversity of opinions and ideas that will result in something that is essentially unsatisfactory in some respect to virtually every Member of Congress.

I acknowledge the reservations, I respect the concerns that Members have about this conference report.

Mr. President, I believe there is a broader and deeper perspective at hand. In the course of our history, there are times when the country demands that we do something—in civil rights, in national defense, in environmental legislation. Whatever it may be, in its own inimitable, unmistakable way, the people of this country gather up and demand that we do something to correct, to innovate or to change the status quo. I believe this is such a decisive moment.

I think the country is telling us to get on with the business of fixing the social security system. I do not think the country is telling us we have to do all of it tonight. I think they understand that we understand we are going to do the best we can but we will come back for another bite. There will be other bills. There will be the inevitable cleanup hitter. There will be the corrections that have to be attended to next month or the month after that or in the next session because, Mr. President, we learn from our experience. But there is a fundamental responsibility to deal with the demand of the Nation to deal with this issue.

Mr. President, if the Congress of the United States fails to do so, I believe we will incur the wrath of the Republic. If the bipartisan Commission appointed by the President and the collective leadership of the Congress can subordinate their differences and produce a virtually unanimous report, then surely the country has the right to expect that we will implement it. If the House of Representatives on both sides of the aisle can adopt this imperfect vessel as the best effort of this Congress at this time, then surely we should take account of the responsiveness of this body in attending to the needs of the Nation.

This is not a perfect bill, Mr. President. But we are not a perfect body. This is not the last word to be spoken, Mr. President, but is the first best effort that we can make at this time.

Mr. President, I urge that the wrath of the people of this country will not come down upon the head and shoulders of this Senate for failing to attend to the clear responsibility that the Nation is asking of it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank the distinguished majority leader, and I will just take 1 minute to say as sincerely as I can that every major provision recommended by the Social Security Commission is in this bill, every major provision unchanged, every major provision.

The bill that left the Senate last night was \$9.3 billion short in the short run and 0.2 percent of payroll, almost \$3 billion a year, in the long run—the next 75 years. The actuaries tell us that the bill we brought back is actuarially sound in the short term and long term.

I say, as just one member of the Commission, that we have done a lot of work on this proposal. As the majority leader said, it is not perfect. We have 7 years to address the earnings test, for example, if the Congress desires to go further in this area. It does not take effect until 1990. We have a bit of the alien piece too, and that is enough to sustain it. We will be happy to have additional hearings and work in that area. If anything is not quite satisfactory, we have time to make changes.

My point is that every major provision—the taxing of benefits, the COLA adjustment, the acceleration of payroll taxes, the expansion of coverage—in this case, to Federal workers—is almost identical to the recommendations of the bipartisan Commission. These recommendations were endorsed by the President of the United States, endorsed by the Speaker of the House of Representatives, endorsed by the majority leader of the Senate, and endorsed by liberals, conservatives, Republicans, and Democrats all across this country.

I say to my colleagues that I think it would be a tragedy if—just because ev-

erything was not perfect and did not suit every Member of this body—we say that we cannot take this package. There is nothing wrong with this package. If you supported the Social Security Commission recommendations, they are in this package, plus a lot of other things, as pointed out by the Senator from New York.

We have a massive medicare prospective payment program that I think is a good one. We have an unemployment compensation program in this package. It is essential that it start on April 1 of this year, with special provisions for a number of States because they deserve special consideration.

I say to my colleagues that if we failed to do our duty in the conference, then the Senator from Kansas will accept the responsibility, but let us not punish the American people for a shortcoming that may have occurred in the conference. I do not think it occurred. I am certain many could have done better.

I suggest, as the majority leader has, that we adopt the conference report. We are going to meet again on social security. I have never stood on the floor or in public or privately and said this package is going to last for 75 years, but I am convinced that it can last until 1990; and that we can have surpluses in the retirement fund in the 1990's. Let us give it a chance.

Again, I thank my colleagues for tolerating this debate at this late hour, but I think it is essential that we get on with this tonight.

The PRESIDING OFFICER (Mr. STEVENS). The question is on agreeing to the conference report.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, although I intend to vote for final passage of this conference report, I do so with great reluctance. In my opinion, this package is unfair: many of its provisions are absurd. There is however, no other available alternative.

To vote against this package, therefore, would be irresponsible. The social security system must be saved. I will vote "aye," but I feel that I must first express my strong reservations.

As Chief Justice John Marshall said in the 1819 case of *McCulloch* against Maryland, "[T]he power to tax involves the power to destroy[.]" Well, we have certainly demonstrated this fact with this bill. This Congress has used its power to tax to destroy the economic well-being of millions of Americans. This Congress may have saved the social security system, but it has done so at tremendous, unnecessary costs which will be borne not by the rich, not by the well-to-do, but by the hard-working middle-class American taxpayer.

Allow me to detail just a few of the more ridiculous provisions of this bill, a few of the more onerous requirements imposed by this legislation.

First is the cruel burden this bill imposes upon our Nation's philanthropic organizations, the nonprofit charitable organizations which are the very backbone of America's private sector. These organizations exist on shoestring budgets. The employees—when they are paid—are generally low-income workers. These institutions are barely making ends meet now. Yet here we come, imposing new economic burdens that may force many to close their doors, to cease the good work they now do. Employees may be laid off and those who are not will have their take-home pay substantially reduced. Why is this happening? Because this Congress has ruled that employees of not-for-profit organizations must be included in the social security system now. No phase-in period will be allowed. No exception will be granted. No transition period will be provided. We will reduce the ability of America's philanthropies to continue their full efforts to help this Nation's poor and needy.

A second example of an unwarranted provision in this legislation is even more ridiculous. In fact, it is just plain stupid. In order to save the social security system, we need to raise tens of billions of dollars. Yet, in an effort to raise a measly \$5 million over the next 7 years, we have imposed additional costs on State and local governments that will run anywhere from \$240 million to \$1 billion each and every year. A letter I received from the Municipal Finance Officers Association estimates the annual cost to States and municipalities at \$725 million, nearly 1,000 times more than the annual revenue which will be raised as a result of this just plain silly provision.

You may ask me, to what section of the bill am I referring? I am talking about the requirement that interest on tax-exempt municipal bonds will be included in an individual's gross income when determining whether he or she exceeds the income level at which one-half of the received social security benefits become subject to Federal income taxation. By including tax-exempt interest in this calculation we may push a few individuals over the limit and thus recover a few dollars for the trust fund by taxing their benefits, but the very fear that this provision will place in the hearts and minds of those investors who purchase municipal bonds will drive up the interest rates that our municipalities must pay to market their securities. The municipal finance officers with whom I have spoken have estimated this increased interest cost at anywhere from 25 to 250 basis points, in other words, at anywhere from one-quarter of 1 percent to 2½ percent in additional interest.

Simply speaking, this is lots of money. And you know as well as I do who will ultimately pay these increased municipal financing costs: None other than the middle-class

property owner. The ultimate source funding for most municipal interest payments is the property tax. Thus, to raise an additional \$5 million in revenue for the social security trust fund over the next 7 years, we have increased the property taxes of homeowners across this Nation by \$240 million to \$1 billion each and every year.

And who, you may ask, will receive these increased interest payments? Who will reap this windfall? Not the Federal Government. Not social security recipients. Remember, we only raise \$5 million from this provision. This windfall will accrue to none other but the wealthy investor in municipal bonds! This windfall will go to those very individuals who some in this Chamber feared might escape without paying a few measly dollars in income tax on their social security benefits! Sometimes the workings of the legislative process boggle the mind. This is one of those times, for this provision can be described as nothing less than incredible.

A third flaw in this legislation is the limits at which social security benefits become taxable: \$25,000 for an individual and \$32,000 for a couple. We have provided no phase in. We have built in no progressivity. We have simply specified a cutoff. If you are below, even by one dollar, you pay no tax on your benefits. If you are above, whether by one dollar or \$1 million, you have half of your benefits taxes. Thus the marginal rate of taxation is highest on the middle class, those with incomes only slightly over the limits. The more you earn, the lower your marginal rate of taxation on social security benefits becomes. I, for one, can simply not fathom the logic in this provision.

Another problem with this bill is the way that new civil service employees have been thrust into the social security system. This may be a quick fix for social security, but what does it do to our civil service retirement system? Again, we have provided no transition. Again, we have no plan on how we will deal with the future. Social security must be saved. Does this mean that we must destroy the civil service retirement system to do it?

The self-employed are also treated cavalierly by this bill. "Raise their taxes, they can afford it" seems to be the prevailing opinion around here. But this is not true. Not all of the self-employed are doctors, lawyers, or heads of thriving businesses. Most, in fact the vast majority, are hard-working, middle-class American taxpayers barely making ends meet. We have here imposed a vast new burden on the shopkeepers of America, on the skilled artisans of America, and on those individuals who would rather be their own boss than work for another, even if it meant they would have to get by on less money. These are the people whose taxes we have increased with this legislation.

In this bill we have overused our power to tax. We have misused our

power to tax. In many cases we have imposed the tax burden inequitably and on the wrong people. We may have saved social security, but at a tremendous and misplaced cost.

At the beginning of my remarks I stated that I would vote for this conference report, and I will do so despite all of its faults. To do otherwise would be irresponsible. There is no other alternative. No one here believes that if we defeated this legislation that Congress would bring forth a better bill. In fact if this conference report is defeated, there might very well be no bill at all, and this alternative is totally unacceptable.

Thus, Mr. President, with great reluctance, I will vote in favor of this conference report.

Mr. LEAHY. Mr. President, every day this Congress debates legislation of significance to some element of our economy, some segment of our society. The legislation before us today—to preserve the integrity and insure the solvency of social security now and in the future—affects our entire economy and three-quarters of this Nation's population, 110 million workers and 36 million retirees. This is one of the most important measures which this Congress or any Congress will ever consider.

The National Commission on Social Security Reform in late 1982 took a great step toward restoring public confidence in social security by achieving a bipartisan consensus on the dimensions of the financing problems facing the system. Since that time, both the Senate and the House have acted swiftly, and in a bipartisan fashion, to achieve legislative compromise.

The Congress goal has been to guarantee the ultimate stability of social security and the ability of retired workers to maintain a decent standard of living. The Congress goal has been to insure that no single segment of our population—the elderly and disabled, today's employers and workers, tomorrow's retirees, solely bear the burden of resolving the system's financial condition. The Senate, in adopting all of the recommendations of the National Commission on Social Security Reform, and acting to eliminate both the short- and long-term deficits projected for social security, has achieved these goals.

But these are not goals which are achieved without pain. I oppose, as do many other Members of Congress, many of this legislation's individual provision. And I have voted in favor of amendments to make further improvements in it. This legislation contains elements which are abhorrent to advocates for the elderly. It would delay until January 1, 1984, the cost-of-living increase due in July of this year. The legislation contains elements which are abhorrent to advocates for the Nation's small business men and women. It would increase the tax on the self-employed for both social security and medicare health insurance. It

increases taxes to employers and employees in a time of economic recession. And it would include new Federal employees under the social security system beginning in 1984, a change which I voted against.

Why, then, could I vote in favor of final passage of this legislation? For several reasons. First, without it, there could be no social security system. If no action is taken, in just a few months, benefits could no longer be paid out to the Nation's retirees. Every minute of every day, the system goes \$17,000 further in the hole. One hour from now, it will be \$1 million more in debt. The National Commission on Social Security Reform has reported that between \$150 and \$200 billion is necessary to meet our obligations to retirees between now and the end of the decade. To insure payments to future generations of retirees, a long-term deficit of \$6 trillion must be closed. This legislation closes both deficits.

The second reason I could support the overall package approved by the Senate Finance Committee is that it asks for a shared sacrifice. It is not a perfect balance, but, overall, it calls for a just division of responsibility to guarantee the viability of social security. The bill before us asks current and future retirees to contribute. It asks the self-employed, current and future workers to contribute. Federal workers, for the first time, will be asked to contribute to social security. One-third of the revenue needed to shore up social security would come from coverage of new employees, another third from tax increases, another third from a change in benefits for retirees.

Third, the only alternative methods of improving the condition of social security are far worse than those recommended by the Commission and adopted by the Senate Finance Committee.

Some Members of Congress favored resolving social security's problems primarily by cutting benefits to the Nation's retirees. I vehemently opposed those efforts. An amendment was offered to delay until 1985 any cost-of-living adjustments to retirees. An amendment was offered to eliminate any social security tax increase whatsoever, and to require beneficiaries to make up the \$40 billion loss in benefit cuts. Amendments were offered to immediately advance the age of full retirement under social security from 65 to 68, with a reduction in benefits for those forced to leave the work force before the age of full retirement. I voted against each of those amendments and am pleased that the Senate overwhelmingly disapproved them.

Other Members of Congress favored resolving social security's problems through even higher taxes than those approved by the National Commission on Social Security Reform. If taxes alone were used to meet the long-term

deficit, by the year 2035, the combined social security and medicare tax rate would be 28 percent of income. I am pleased that the Congress rejected any effort to increase taxes beyond the increases already approved by the Commission.

Still others have suggested allowing the social security system to continue to borrow from the trust funds for the medicare health insurance program and disability insurance. To do so would bankrupt all three funds by the middle of next year. That is dissolution, not resolution. The Congress could have required coverage under social security of all current Federal employees. Fortunately, it did not. The committee could have also taxed all social security benefits, as most private pensions are taxed. It did not. Any other means of addressing social security's problems would have forced one segment of our society to suffer disproportionately.

The fourth reason I could support this package is that it contains several very beneficial provisions to assist the low-income elderly, to somewhat alleviate the tax burden on employees, and to eliminate disincentives to the employment of elderly individuals who want to work.

The legislation before us would allow an additional payment of \$20 to individuals and \$30 to couples who, because of their low income, qualify for supplemental security income. For the poorest of the elderly, the additional funds will compensate fully for the delay in social security cost-of-living adjustments.

Elderly women who are widows account for two-thirds of all the elderly living below the level of poverty. They are assisted by several provisions in this legislation. Greater benefits are proposed for divorced or disabled widows and widowers who remarry. Divorced spouses for the first time will be able to claim benefits based on their former spouse's retirement record, even if the former spouse has not yet claimed those benefits.

As I have mentioned, there are many provisions in the social security package which I strongly oppose. During the Senate's debate, some of these provisions were taken out, some were not. The legislation approved by the Conference Committee would require the inclusion of new Federal employees under social security beginning in 1984. I voted against this change. Senator Long offered an amendment in the Senate which would have required the Congress to enact a supplemental civil service retirement program before including Federal employees under social security. Senator Long's amendment, I would point out, would have required the immediate inclusion of Members of Congress under social security even if a supplemental plan was not enacted. The amendment was a reasonable one. The amendment would have allowed the Congress to determine how the solvency of the

civil service retirement program could be affected by this change before mandating coverage of Federal employees. I am deeply disappointed that the Conference Committee rejected this compromise.

Other provisions in the Senate bill would have assisted elderly Americans who work and who are receiving social security benefits. The legislation approved by the Senate would between 1990 and 1994 have eliminated the so-called earnings limitation. Under current law social security benefits are reduced by \$1 for every \$2 earned in excess of approximately \$6,600. Many elderly Americans who have chosen to continue working or who are forced to work because of the inadequacy of their benefits have been needlessly penalized by this earnings limitation. The committee acted wisely in eliminating the earnings test. But this provision, regrettably, was not adopted by the Conference Committee. The conference agrees only to slightly increase the overall amount which could be earned before reducing benefits. Retirees would lose \$1 in benefits for every \$3 earned above approximately \$6,600. This is inadequate.

Despite the conference committee's decision in this matter, despite all the concerns which I have about individual elements of the social security package, it is my duty, it is the duty of the entire Congress to adopt this legislation to insure the solvency of the social security system now and in the future.

Mr. President, in 1940, an elderly Vermont woman, Mrs. Ida Mae Fuller, received the first social security check ever issued. Social security, the greatest social program devised by this or any other nation, has endured for more than four decades. It was there for Mrs. Fuller. It was there for her descendants. It shall endure for decades to come. That is what this legislation insures.

I applaud the members of the National Commission on Social Security Reform for working in a bipartisan fashion to recommend solutions to the problems facing the social security system. And I applaud Members of both parties in the Congress for agreeing to the Commission's recommendations. This landmark legislation reaffirms and strengthens this Nation's commitment to those who are elderly today, those who will be elderly tomorrow.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, will the chairman of the Finance Committee please respond to my earlier question, which he indicated he would respond to, about the provisions that I understand were knocked out on the payment of social security to aliens? I am sure he wanted to give me an answer.

Mr. DOLE. I have given the material to the distinguished Senator from Iowa.

Mr. President, I will state what the conference agreement does, and then I will ask that we hear from the Senator from Iowa, who participated in those discussions. At this point, however, I want to satisfy the Senator from Nebraska.

The conference agreement would suspend the payment of benefits to any alien receiving benefits as a dependent or survivor of an insured worker, whether or not the worker is a U.S. citizen, when that alien beneficiary has been outside the United States for 6 consecutive calendar months. Alien auxiliary beneficiaries who could prove that they had lived in the United States for a total of at least 5 years during which their relationship with the worker was the same as the relationship upon which eligibility for benefits is based—for example, spouse, child, parent—would be exempt from the suspension of benefits. Children would be deemed to meet the 5-year residence requirement if the residence requirement could be met by the child's parents.

That deals primarily with dependents.

Now I will yield to the Senator from Iowa, who, in addition to the Senator from Nebraska and the Senator from Oklahoma (Mr. NICKLES), had an interest in this matter. Although we did not get all we wanted, I thought we had satisfied some of their concerns. I regret that I had not called the Senator from Nebraska personally.

Mr. GRASSLEY. Mr. President, the Senator is correct. We had raised three areas of concern in this bill dealing with aliens, and one of the three was taken care of—and even more adequately taken care of than in the bill that passed the Senate.

The one area of illegal aliens suggested by the Senator from Oklahoma (Mr. NICKLES) was dropped by the conferees. I hated to have it dropped, but it was dropped because of not having enough support on the House side, because the Representative from Texas (Mr. PICKLE) had promised hearings on that point of view. The Republicans and the Democrats on the House side were willing to go along with that promise to have that problem taken care of later.

Then we had the problem of the worker nonresident alien, who we took care of on the Senate side by denying him any income from social security beyond the amount of money he paid in, plus interest. On that point, I, too, am disappointed that it was not included by the conferees.

However, I will say this: Of all three problems, probably the one dealing with dependents and survivors is the one that is most costly, and that one has been dealt with, and even dealt with more adequately in the conference report than was dealt with by the provision as it passed the Senate.

So I am one of those—like many others here—who are not totally satis-

fied with the way the conference committee dealt with my contribution to the package. But here, again, it is something. We have never dealt with these issues before. It is a start, and we hope there will be greater accomplishments down the road.

With or without provisions on aliens, I am going to support the provisions, because I am not going to let down the 36 million Americans who depend upon social security. Consequently, I am going to support the compromise.

Mr. President, we have finally reached that point when we must make a decision on the fate of the social security system. We are all aware of the hard work and bargaining that shaped this package. Once again, I want to compliment all the individuals who served on the Commission and their staff for their tremendous efforts. Without the foundation laid by the Commission report, I fear we would not now be within the grasp of final passage.

As I have indicated previously, I was dissatisfied with the original plan recommended by the National Commission. It left a third of the long-term problem unresolved, and placed far too heavy an emphasis on tax increases. We in the Senate Finance Committee were able to modify and supplement that plan until it was acceptable not only to myself, but to 17 of my colleagues. With further modifications, the bill passed the Senate by an overwhelming 88-to-9 vote.

With the arrival of the conference report we are at the end of that amending and fine-tuning process. We now have one last vote to cast. From the time the plan left the Commissioners' hands to the present, it has been shaped and amended to achieve the broadest possible support.

By way of the conferees' decision, we have moved up the effective date of the so-called COLA stabilizer, and have therefore provided a reasonable fall-safe plan. The Senate Finance Committee had adopted a prudent and fair fall-safe measure with Senator Long's committee amendment, but I can also lend my support to this alternative. Although the Senate had opted for a combination of measures to solve the long-term funding gap, I find the House's version of the retirement age increase to be acceptable.

I am able to support this ultimate plan for several reasons. While it still contains many provisions I could not support in isolation, it is obvious careful and precise negotiations went into the construction of such a compromise. I have outlined on numerous occasions those provisions I endorsed, and those which I found difficult to accept. I will not further elaborate on every provision and the merits of each. Suffice it to say that I am willing to vote for this plan in order to signal to every American that we are committed to social security and its preservation.

We have been playing politics with this issue for far too long. We have

caused a great deal of fear and uncertainty in the minds of a great many citizens and workers. We have let a good many Americans down with our past efforts in resolving problem areas in social security.

With the passage of this bill we can say to this Nation's elderly: "You will get your benefit checks." To the current workers, we can assure them that a plan will be there when it is their turn to collect.

No one is claiming this bill is a perfect plan, but it does meet both the short- and long-term needs in funding, and does so in a manner which causes every individual touched by social security to share in the sacrifices requisite to return the system to solvency. Those goals have guided my deliberations throughout this long process, and I am therefore able to lend my support to this social security package.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I came here tonight truly undecided. I spent a few hours looking at the matter, and I think the majority leader is right. We should adopt the conference report. If it does not have everything we want in it, I think we have an ample opportunity to fix it.

I think those who are undecided ought to decide whether or not their precise and specific objection is worth as much as the social security system. That is the balance—a system that has served us well, and it is serving millions of Americans. If you look at it that way, I think you cannot come out any other way than to say that, with all our faults, we have come up with something relatively good in terms of trying to save the basic system on which so many people depend. I hope we will adopt the conference report.

Mr. BRADLEY. Mr. President, I know it is late, and I shall be brief.

I ask my colleagues before they cast this vote to think of the senior citizens that they have talked with in the last 2 years. Think of the faces that they have seen, the fear and confusion. Think of the looks that they have given you as a Senator in their belief that indeed you might make it right. Think of the workers that you have talked to in the last couple years, who have seen their taxes go up 363 percent since 1972 and heading higher, who do not believe you when you say indeed you think you can get a solution and might actually convince them that social security will be there when they are ready to retire.

Mr. President, social security is the best expression of community that we have in this country today.

This has been a long and painful battle. I hope the Senate tonight, though, will reaffirm the bonds of

that community and support this conference report.

Mr. STENNIS. Mr. President, I shall not detain the Senate.

Mr. President, let me comment that we had first-class debate here tonight. This is like old times. Both sides splendidly presented these major points of great concern and far-reaching consequences.

I sum up my position by just saying that I wish some of these provisions were better, but we have to have a plan that is sound and dependable, and I think the time has come, as the majority leader said, when we have to have it now.

The faults of this bill are human faults because we had some of the finest talent collected in modern times on this far-reaching problem.

I am glad to support the bill.

Mr. ABDNOR. Mr. President, today marks another historic moment in the history of the social security program. I commend my colleagues for reaching a consensus on this important issue. The task was not easy because widely varying views exist on the purpose and objectives of social security. I also extend my heartfelt thanks and gratitude to the members of the National Commission on Social Security Reform, whose leadership and courage forged the foundation of the legislation now before us.

In addition, many organizations have made substantive contributions to this legislative effort. Among them were the Employee Benefit Research Institute, American Enterprise Institute, American Association for Retired Persons, Heritage Foundation, Chamber of Commerce, and National Federation of Independent Business. I was impressed with the sound, sensible, and practical suggestions of these groups. Their involvement was constructive and provided valuable ideas.

Besides receiving information from these organizations representing people throughout the Nation, I also received suggestions and comments from hundreds of South Dakota citizens during the past year. Their input was very helpful and revealed to me the concerns and expectations of people of all ages and incomes.

The social security system has been in existence for almost 50 years. The program has survived many social and economic changes, and today resembles only partially the original plan. Our Nation places the elderly in prominence and high regard and has a strong social commitment to assisting disabled, and social security properly addresses those priorities. In the 1960's the need for health care assistance was recognized and Medicare was created to attend to providing elderly and certain disabled citizens with medical services at reasonable rates. When our economy was subjected to inflation, the Congress benevolently protected social security beneficiaries with cost-of-living adjustments.

None of these major changes is bad; on the contrary, providing income and health security to these citizens strengthens the economic and social framework of the Nation. It speaks well of the integrity of our society. What concerns me, however, is whether we as a nation can afford to extend further such generosity and charity. We Members of Congress must seek to answer important and arduous question about what our economy can provide in benefits.

Twice in the past 6 years the social security system has been brought to its knees. Benefit payments have far exceeded contributions for years, the undisputed outcome being trust fund depletion. Before the 1977 corrections were adopted, a wave of insecurity swept over the elderly of America; the same disturbing occurrence is taking place today. I find it ironic that the Congress cannot quell the fears felt by the American public. What have we done to cause this, and what can be done to restore the confidence of the people?

We must be realistic. We must be truthful. We must restore this prominent social institution to accommodate our desires within our means. Economic and demographic forces are dynamic influences on the financial condition of the social security system, and we owe it to all Americans—both contributors and beneficiaries—to implement policies which are fair to everyone. We cannot escape the fact that a dollar more in benefits is a dollar more burden to the taxpayer. We must admit there is no "free lunch."

We cannot ignore the fact that the number of persons over the age of 65 is growing twice as fast as the population as a whole. We must accept the fact that in the future fewer workers will be supporting each retiree. Adjusted for inflation, a person retiring in 1960 can expect to receive \$7 in benefits for every dollar contributed. Even the 1980 retiree can expect to receive more than twice the amount in benefits than was paid into the system. No private pension plan gives retirees such an excellent return on investment. Where will the money for benefits come from then?

The answer is easy enough: today's taxpayer; it is just hard to admit. No longer is social security a "pay as you go" system. The initial employee payroll tax was a maximum of \$30 per year and stayed that way until 1950. Adjusted for inflation, that figure would be about \$180 today. But the average worker today is paying over five times that amount—\$1,000—in annual payroll taxes. Is it fair for today's workers to endure an ever-increasing burden to support our Nation's elderly? Social security taxes were increased dramatically in 1977. In fact, one-fourth of American taxpayers now pay more into social security than they pay in income taxes. Despite these awesome taxes, the trust fund is still going broke. Tragically,

young persons sense the futility of their contributions. In 1981, a study indicated 70 percent of persons aged 18 to 29 doubted that their full benefits would be paid.

And, let us remember, the young of today are the elderly of tomorrow. Our obligation is no less to the elderly of tomorrow than to the elderly of today. After social security is put back on a sounder footing by our action today, I recommend that this body continue to pay attention to the issue of retirement income security. We have a strong nation comprised of strong people. Let us reevaluate the Government's role in retirement planning.

We are off to a good start already. In 1981 we provided a new incentive to save for retirement. What a great idea it was to allow all Americans to start individual retirement accounts. Millions of workers are also involved in pensions, Keogh plans, annuities and other saving and investment opportunities. In 1950 about 25 percent of all private sector workers participated in private pension plans. That figure is almost double today, and after the turn of the century, over 85 percent of all workers will be eligible for pension benefits. It is encouraging that more and more workers are wisely planning for the future.

The asset and equity base of retired people is solid and growing. Over 70 percent of all retired persons live in owner-occupied houses. In fact, 75 percent of retired home owners reported no mortgage on their residence. Savings, other financial assets, land and business ownership comprise other major assets owned by retirees. Over half of all social security beneficiaries have other sources of income; one-third have income sources which exceed their social security payments. The fact is most elderly persons have a secure financial future. Not surprisingly, 80 percent of all eligible workers opt for early retirement.

I mention this to stress the importance of regarding social security as a program to augment other retirement planning. The Government cannot provide everything for everyone retiring. For those who have not had the fortune of adequate preparation for retirement, this program offers additional assistance. Not by accident does social security extend a greater share of benefits to lower income households; it does so by design and with the support of the American people.

Nothing would do more to insure a bright outlook for social security than a healthy, growing economy. As our Nation's ability to produce increases, our standard of living increases as well, and as does our capacity to provide more to all facets of our society. As personal income grows, the payroll tax base grows. Since present taxes are paying for current benefits, our ability to provide those benefits is enhanced.

I am encouraged by the recent trend of Congress to devote more attention

to economic matters. We owe it to the American public to adopt Federal laws and fiscal and monetary policies which foster economic incentives and promote ample saving and investment. Through those actions future growth can be sustained.

The historical annual real growth rate of our economy since World War II is around 3 percent, but in the last 5 years our performance has fallen far short of that average. If our economy would grow by just 2 percent a year in real terms for 10 years, our wage and salary base would expand by more than \$300 billion. Most of the increase would be subject to social security payroll taxes, thereby improving the trust fund substantially.

As our economy recovers from the current recession, let us not forget the harm caused by the unfortunate side effects of inflation. All saving and investment pools—including the social security trust funds—cannot withstand another bout of inflation. Price increases depreciate the value of our savings and take away purchasing power from those on fixed incomes. Each one percentage point of inflation costs the trust funds an additional \$1.5 billion every year. Inflation can also erode the asset base of people saving for retirement. In 1980, elderly people possessed some \$4 billion in financial assets. Because inflation was 13.5 percent, most assets earned a negative rate of return; the net result was a deterioration in their financial picture. The uncertainty caused by inflation should not be tolerated in the future.

To insure the long-term solvency of social security, let us strive to maintain fairness to all. If our standard of living rises, let all share in the prosperity; but if economic problems befall America, let no segment of society bear a disproportionate share of the burden.

To protect the financial foundation of social security from economic uncertainties of the future, we must keep the program flexible. The so-called fail safe provision to modify cost-of-living adjustments during periods of trust fund shortfalls is a fair approach to protect both beneficiary and taxpayer. This type of built-in flexibility can only strengthen the system.

I am not only optimistic about the future of America and social security; I am excited. We are rebuilding our economic base today and creating opportunities for tomorrow. Cooperation is the key to a successful future. We can keep our country strong by uniting people of all ages and incomes. Let us keep social security—a cornerstone of income protection—an institution we can believe in and depend on. The best way to accomplish this is to promote fairness and equity.

Again, Mr. President, I join my colleagues in supporting the legislation before us. On behalf of all citizens, we are sustaining one of the most worth-

while programs of the U.S. Government.

LEGISLATIVE HISTORY FOR SOCIAL SECURITY
COMMON PAYMASTER PROVISION

● Mr. GORTON. Mr. President, I want to commend the conferees for their fine work on this vital legislation, and to comment on one of the Senate amendments which corrects an unintended double payment of the unreimbursable employers' share of FICA by the regionalized medical school for the States of Washington, Alaska, Montana, and Idaho.

The House and Senate bills and the conference report extend social security coverage on a mandatory basis to all employees of nonprofit organizations. As a result, employees of such organizations who are also employed by a State university of a State which has agreed to provide social security coverage to its employees under section 218 of the Social Security Act would have been, without this amendment, subject to unreimbursable double payment of social security taxes. Although present law prevents such double taxation where the employers of the same individual are related corporations—section 3121(s) of the Code—or are instruments of political subdivisions of the same State—section 218(e)(2) of the Social Security Act, there is no provision which would prevent double taxation where one employer is a nonprofit organization and another employer is an instrument of a State. Indeed, since exempt organizations up to now could voluntarily decide whether or not to participate in social security, such a provision was not needed.

By mandating participation in social security, the bill has eliminated the only mechanism to avoid double taxation and created the need to allow exempt organizations to have equivalent relief to that available through a "single paymaster" system.

The amendment is specifically designed to prevent double taxation where one employer is a State university medical school and the other employer is a related nonprofit organization which also employs faculty members of such medical school. At least 30 percent or more of the organization's employees must also be employed by such medical school.

Under the amendment adopted in the conference report, a State university and nonprofit organization which meet the stated requirements are considered to be related corporations under section 3121(s) of the Code. Furthermore, solely for purposes of section 3102, 3111, and 3121(a)(1) of the Code, a portion of the remuneration actually paid by the nonprofit organization from its own funds and on its own paychecks will be deemed to have been paid by the university. Such remuneration will not be subject to the section 3102 deduction from the employee's wages or to the section 3111 employer tax since employment by a State is not subject to social security

taxation under sections 3101, 3102 and 3111 of the Code. Such employment is subject to social security coverage only pursuant to section 218 of the Social Security Act and for the purpose of that section, a university meeting the requirements of this amendment will not be deemed to have paid any amounts actually paid by the nonprofit organization. Therefore, there is no question that the amendment does not affect the duty of a State university to report wages subject to social security or to pay or make a return of social security contributions.

The portion of remuneration paid by the related nonprofit organization, which is deemed paid by the university is that portion which, when added to the total amount of remuneration actually paid by the university during the entire calendar year, exceeds the social security wage and contribution base. If the employee by the end of the calendar year has been paid less than the wage and contribution base by the university, that part of the employee's remuneration from the nonprofit organization needed to bring his entire compensation up to the wage and benefit base will retain its character as wages paid by the nonprofit organization and therefore will be subject to the social security tax. If the employee by the end of the year has been paid an amount equal to or greater than the wage and contribution base by the university, then the entire amount paid by the nonprofit organization will be considered as paid by the university. Thus, where the employee's total wages from both the university and the nonprofit organization exceed the wage and contribution base, it is intended that social security contributions will be made in full on the base amount but will not be paid more than once. Similarly, where the employee's total wages from both sources do not exceed the base, social security contributions will be made on the full amount paid to the employee.

The determination of whether remuneration paid by the nonprofit organization, when added to remuneration paid by the university during the calendar year, exceeds the wage and contribution base will be made throughout the year as wages are paid to the employee. Any excess amounts deducted from an employee's wages by the nonprofit organization would be recovered by the employee under sections 31 and 6413(c) of the Code. Any excess amounts paid as an employer tax by the organization will be treated as amounts paid in error. Of course, the organization will be deemed to have sufficient knowledge of the error to be able to correct it with respect to each employee only when the organization has sufficient knowledge to be able to determine the total amount of the excess paid for the entire taxable year. Usually, the organization will have such knowledge in whichever of the following social security reporting periods occurs first during the year: The

period in which remuneration to date paid by the university to the employee reaches the wage and contribution base, the period in which the employee permanently terminates employment, or the last reporting period for the calendar year. Any overpayments of the employer tax will be the subject of a claim for refund or credit by the nonprofit organization in the social security reporting period in which the organization first has sufficient knowledge of the error to correct it or in the next subsequent reporting period.●

● Mrs. HAWKINS. Mr. President, I want to join my colleagues in praising the 15 members of the National Commission on Social Security Reform, who contributed a great deal of their energy and valuable expertise to solving a very grave crisis in our country. In December 1981, President Reagan gathered together these experts to review the current and long-term financial condition of the social security trust funds, to identify the problems that may threaten long-term solvency of the funds, to analyze solutions to such problems, and to make recommendations to Congress. Such a major undertaking requires great skill, determination, and, above all, patience. While I do not concur with all their recommendations, I believe they should be commended for successfully accomplishing a mission once thought to be impossible.

I have always been a strong supporter of the social security program because of its spirit and intent. While Florida is the seventh largest State in terms of population, Florida ranks third in the total number of Social Security beneficiaries. In 1981, the total amount paid from retirement, survivors, and disability insurance trust funds was \$140 billion. Florida received \$8 billion of that amount, making Florida the fourth largest State in terms of social security receipts. I have consistently fought to insure that all elderly Americans are afforded the retirement they have earned. My record, during my first 2 years as a U.S. Senator, on this issue speaks for itself. I have never voted to cut or reduce benefits. I voted five times to restore the minimum benefit. I voted 12 times against any attempt to reduce, modify, or delay cost-of-living adjustment of social security, Federal, and military retirees. I voted to authorize interfund borrowing to insure that all social security benefits are paid in a timely manner. Last year during consideration of the first concurrent budget resolution, I sponsored an amendment to insure Federal and military retirees a 4-percent COLA in 1983, instead of no COLA at all, as proposed in the budget resolution. Although my amendment was defeated on the Senate floor, the House and Senate conferees agreed to give these retirees a 4 percent COLA in 1983.

Thursday, after 6 days of debate on the social security reform legislation, I

voted for H.R. 1900 as amended, reluctantly. This legislation, based on the Commission's recommendations, is a very fragile compromise. While there are some provisions with which I disagree, it does make many worthwhile reforms. But what really prompted me to vote for this bill was sheer necessity. If Congress did not act immediately to make some changes in the social security program, benefit checks would be delayed indefinitely. This legislation is not perfect but I voted for this legislation because it will preserve and protect the social security system for the time being. Some provisions are absurd but I cannot make the perfect the enemy of the good. ●

● Mr. LEVIN. Mr. President, I am going to support the conference report on the social security package because it represents the best available hope of insuring the solvency of the system, both in the short and long run, and it contains critically needed provisions for the unemployed.

But as a compromise, it includes elements which, standing alone, I could never support. Raising the retirement age to 67 by the year 2027 risks imposing significant burdens on those workers who are engaged in strenuous activities. During Senate consideration of this bill, I supported the Bradley amendment which would have taken steps to soften the impact of increasing the retirement age on these workers. Unfortunately, it was not adopted. However, between now and the year 2000 when the phase-in will begin over a 6-year period to age 66, the Congress must monitor closely whether the improvements in health care are likely to be reflected in the increased stamina of workers in order to determine if increasing the retirement age is a realistic and humane goal.

Further, the tax increases which have been imposed on self-employed individuals, even after taking into account the tax credit designed to ease that burden, stretch to the limit what this segment of our work force can be expected to absorb. These tax increases, along with those affecting all other workers, only merit consideration when they are part of a package which have as its goal something as important as guaranteeing the solvency of the social security system.

In addition, the coverage of new Federal employees in social security without having first set up a supplementary pension system for them is a precipitous action. Fortunately, this coverage will not begin until 1984, leaving the Congress some time to address this situation in an equitable fashion.

These are just some of the concerns I have about this package. They are troubling. But there is for all of us one overriding concern—saving the social security system. It is primarily for this

reason that I am voting for the package.

Some further points. I am pleased to see that this legislation includes an extension of the Federal supplemental compensation program, which provides unemployment benefits on top of both the regular State benefits of 26 weeks and the extended benefits of 13 weeks for which some States are eligible. This program has been set to expire on March 31 and is now extended to September 30. In the first week of this session of the Congress I introduced legislation to extend the program until September 30, and I am pleased to see this proposal included as part of the package. Also, this bill contains up to an additional 10 weeks of unemployment benefits for those workers in Michigan who will have exhausted their Federal unemployment benefits by the end of this month. The people of Michigan, who are now enduring the 39th consecutive month of double digit unemployment need this extra assistance.

In addition, I was pleased to see that the conference report retains the amendment that I offered which will do away with the requirement that Michigan pay interest on the interest it owes for loans it has taken out from the Federal unemployment trust fund and on which it has deferred payment. This amendment will save Michigan \$11 million over the next 3 years. At a time of fiscal crisis on the State level, every little bit helps. For the same reason, I was also pleased to see that the package includes a reduction in the rate of interest charged on these loans for those States, like Michigan, which are willing to take extraordinary steps to improve the solvency of their State unemployment compensation programs.

I regret, however, that the conferees did not retain two other amendments which I offered and which were passed by the Senate. The first amendment which I offered with strong bipartisan support, would have given widows between the ages of 55 and 60 a transition social security benefit for 6 months so that they could have a chance to adjust to the death of their spouse and to the requirements of the work force, which they may be entering for the first time in 29 or 30 years after a lifetime of service to their husbands and families. I have been seeking action on the issue of the "widow's gap" since October of 1981, and I am indebted to Eva Baclawski, president of the Widows' Organization of Dearborn, Mich., for bringing this issue to my attention. The cost of this amendment was modest and well within the capacity of a solvent social security trust fund. I will be pursuing this issue again during the hearings before the Finance Committee which have been promised on this issue and am pleased that the chairman will be supporting my effort in this regard.

The second amendment which I offered but which did not survive the

conference pledged the full faith and credit of the United States in support of the payment of accrued benefits under the civil service retirement system to past and present Federal employees. Although my specific language was dropped in the conference, I am pleased to see that it gave the Senate conferees' leverage so that they could successfully insist on the language in the original Senate bill which contained some assurances to current and retired Federal employees that the House version lacked.

The conference report on the social security package has many flaws. If I had been able to, I would have done some things differently. But the social security system must be saved, and Federal unemployment benefits must be continued and improved. This package will help to do these things. ●

● Mr. MOYNIHAN. Mr. President, tonight the Senate concludes its work on legislation that is, I believe, of truly historic significance. It is significant, I would suggest, not only because it was difficult to pass—though it was—and not only because the social security system's solvency is maintained—and it is—but because this Congress has demonstrated that it possesses the ability to govern.

Of late it seems to have become somewhat fashionable to denigrate our system of government—to suggest that Government, and not this or that program or policy, is, at bottom, the problem. I fear that some have forgotten just how precious a free and democratic government is. Tonight we have preserved one of Franklin D. Roosevelt's crowning achievements. But even more, we have come to grips with a politically explosive issue of great importance to tens of millions of Americans—and we have fashioned a successful compromise acceptable to the majority of both Houses. In so doing, we have demonstrated that our system of government deserves the respect and trust of the people it represents.

Mr. President, it is my conviction that the bill before us today is a fair and just compromise. It is very much like the set of recommendations approved by the National Commission on Social Security Reform, on which I have the honor to serve.

No one of the Commissioners was satisfied with every recommendation. No one of my colleagues here today is completely satisfied with every part of this legislation. But the final bill retains the basic elements of a package which the Washington Post has generously described as being "as close to absolute fairness as any social security revision can ever be."

The Commission report did not include a recommendation for solving all of the long-term social security financing problems. That was left to the Congress. The bill that we agreed to in conference raises the retirement age to 67 without cutting benefits as much

as under the Senate version. In fact, whereas under the Senate version benefits would have been reduced by an amount equal to 0.8 percent of payroll, the final bill limits the benefit reduction to 0.68 percent. This, I would suggest, is a considerable improvement.

I would like to conclude by extending my heartfelt appreciation for the efforts of my colleagues who served with me on the Commission, and especially to the Senator from Kansas for his tireless work on the Commission, in the Finance Committee, and most recently in the House-Senate conference. A great many other people have devoted long hours and hard work toward an end that is finally in sight, and while I cannot thank each by name, permit me to extend my sincere gratitude. And to all my colleagues here with me today, I share with you in the pride of a truly historic achievement. ●

● **Mr. LAUTENBERG.** Mr. President, I am pleased to vote for passage of the social security financing bill to implement the consensus recommendations of the National Commission on Social Security Reform. The recent financial problems of the social security system have placed benefit payments in jeopardy. I find it unthinkable that elderly and retired citizens should have to be concerned that their monthly social security checks will not arrive on time. The legislation which the Senate has approved assures that benefits will continue to flow for the rest of this decade and for a long time beyond that. It should lay to rest the fears and uncertainties of the people who depend on social security for their livelihood.

The recommendations of the National Commission on Social Security Reform were developed after a year of study and debate. They represent a compromise between conflicting points of view on the proper balance between the level of payroll taxes, the level of benefits, and the role of general revenues. Maintaining the integrity of the package of recommendations, keeping all the essential elements intact, has been crucial to the success of this effort to safeguard social security benefits. In general, my own views on the individual elements of the package have been guided by the need to keep the compromise from falling apart. I was not pleased with every provision in the bill, but I thought the package as a whole achieved the very important goal of stabilizing the social security system. Workers and beneficiaries alike have some unpleasant medicine to take; however the cure should be lasting. The system will continue to function and fulfill its unique mission of providing vital benefits to retired workers, widows, orphans, and disabled people.

From a program providing old age benefits to workers in a limited number of job categories, social security has grown to include workers in

virtually all jobs, and their spouses, children, and survivors. Benefits have also been provided for people who are unable to work because of a disability, and their families. These benefits are protected from inflation through annual cost-of-living adjustments. With 36 million beneficiaries and over 120 million workers paying taxes to support the program and build their own eligibility for benefits, no other Government program, except the mail, affects the lives of so many citizens. Social security has been a success; it must not be allowed to falter. The legislation approved by Congress today will continue to serve the needs of the elderly and the disabled today and tomorrow.

The major provisions of the bill include: Delaying the 1983 cost-of-living adjustment for 6 months, from July to January, with future annual adjustments coming every January; moving up payroll tax increases already scheduled for 1985 and 1990; taxing one-half the benefits of high-income beneficiaries; bringing new Federal employees, and the President, Vice President, current Members of Congress, and congressional staff—into the social security system beginning January 1, 1984; and increasing the tax rate on self-employed individuals to equal the combined rate of employees and employers. To offset the tax increase in 1984, a one-time tax credit equal to the increased payroll tax will be given to employees. The bill also includes several provisions which will not have an effect for a decade or more, including phasing out the retirement earning test for people 65 and older beginning in 1990, gradually increasing the credit for delaying retirement beyond the normal retirement age from 3 percent to 8 percent between 1990 and 2010, and gradually increasing the age for full retirement benefits to 67, beginning in the next century.

Mr. President, several features in the legislation provide safety valves if the economy does not do as well as projected and the system again needs some short-term assistance to meet its benefit obligations. An immediate lump-sum cash payment will also be made from the general fund of the Treasury to finance benefits provided for military service before 1957, instead of the annual payments that have been made in the past.

During the Senate debate on this bill a number of amendments were offered. One of the most controversial and difficult issues involved the question of including new Federal employees under the social security system and the related question of a supplementary retirement system for them. The bill before the Senate would have covered new Federal employees under social security, but made no changes in the existing civil service retirement system. As a result, new employees would be paying into both systems and receiving unnecessary duplicate coverage. Of strong and additional concern

to me is the future soundness of the civil service retirement system for current employees. Federal employees certainly have as much right to assurances that their retirement benefits will be paid in the future as do social security beneficiaries. The important considerations in my thinking about the Federal employees issue were the need to keep the social security package from falling apart and an absolute commitment to protect the current retirement system for Federal and Postal employees. With these thoughts in mind, I voted for the Stevens amendment which would have allowed the new employees to defer payments into the civil service retirement system until a supplemental system could be developed. When this proposal failed, I supported the Long amendment to delay putting new Federal employees into social security until a supplemental plan is put into law.

Unfortunately the House version of the social security bill did not include protection similar to the Long amendment and the conference report resolving the differences between the House and Senate bills failed to include it either. I regret this inaction. Although the social security legislation does not address the concerns of current and future Federal employees about their retirement system in the years to come, Congress must not ignore this vital issue. I will do what I can to see that the concerns of these employees are given all due attention as soon as possible.

Another amendment considered by the Senate dealt with the age for full retirement benefits. The amendment, which was defeated, would have raised the retirement age to 68. I prefer that the age remain as it is in existing law, but I reluctantly accept the age 67 provision in the final bill. In return for raising the age to 67, the conference agreement has deleted a provision which would have slightly reduced benefits in the future.

Because of the increase in the retirement age, during the Senate debate, I supported the Bradley amendment to establish a special disability program to ease the effect of the increased retirement age on workers who are not healthy enough to continue working but are not ill enough to qualify for the regular social security disability program. This proposal was defeated.

Current workers will have to pay slightly higher taxes sooner than previously planned and beneficiaries will have to wait a few months for their benefits to catch up with inflation. The prospect of these changes will not be welcomed by workers whose taxes will go up or by those beneficiaries missing their benefit increase in July. However, these sacrifices are not nearly as undesirable as the alternative—which would be the failure of social security to pay its benefits on time. In addition, these changes are accompanied by some improvements in

benefits and relief for taxpayers. All in all, I was pleased to support the bill which assures the continuation of the social security system.●

Mr. PROXMIRE. Mr. President, there is one aspect of the prospective reimbursement system that I would like to discuss briefly with the manager of the bill and that is the matter of separate urban and rural reimbursement rates.

As I understand the bill, it provides a separate reimbursement rate for hospitals located in urban areas—referred to as SMSA's (Standard Metropolitan Statistical Areas) and hospitals located in rural areas often referred to as non-SMSA's.

The logic underlying that distinction is that the market basket of goods and labor purchased by hospitals in urban areas will be higher than those located in rural areas. Those assumptions have been challenged in some quarters and the conferees wisely requested the Secretary of Health and Human Services to study that question and report back to the Congress on the possibility of a single nationwide reimbursement rate in the future.

My concern is that, in the interim, there may be some extraordinary cases which would result from a rigid adherence to the SMSA/non-SMSA distinction, and would require remedy before we receive the Secretary's report.

For example, in my own State, Watertown Memorial Hospital faces a problem based upon a fluke of geography. Watertown Memorial is one of two hospitals, located just 12 miles apart, which draw their employees from the Oconomowoc labor market. Under the committee's bill, the one hospital, which is located just inside the SMSA line, would be reimbursed at the higher urban rate; Watertown Memorial which is located just outside the SMSA line, would be reimbursed at the lower rural rate. Needless to say, both hospitals face the same labor costs.

Thus, instead of properly recognizing and reimbursing higher labor costs as the SMSA/non-SMSA distinctions were meant to do, the system in this case inadvertently hurts one hospital while treating the other hospital properly.

I fully recognize that the merits of this case must ultimately be evaluated by the Department of Health and Human Services, Mr. President. That is only proper. But my question to the manager of the bill is this: Would the Secretary have sufficient flexibility under this bill to consider appeals such as this one?

Mr. DOLE. Mr. President, the answer to the Senator's question is the conferees recognized the fact that it was impossible to fully anticipate every exceptional or extraordinary case. That is why we adopted a House provision, enabling the Secretary, by regulation, to make such adjustments

or exceptions that the Secretary deems necessary.

While the Senator recognizes that I am not in a position to judge the merits of the case he has outlined, the Secretary would be given the opportunity to identify different types of adjustments and exceptions.

I would hope that the Department would use that authority very, very sparingly. Exceptions criteria should be carefully crafted to assure that hardship cases are given careful consideration without encouraging frivolous appeals by other hospitals.

Mr. PROXMIRE. Mr. President, if the Senator would yield on that point, I agree completely. This Senator would be the last one to support special interest exemptions to this new reimbursement system. The burden of proof must remain on hospitals to prove their case—clearly, forcefully, convincingly.

My sole concern is that during the transition to this new system that the Secretary have the flexibility to grant hardship exemptions if they are warranted by the facts. I am reassured by the Senator's comments that this is the case.

I thank the Senator.

Mr. CHAFEE. Mr. President, this social security measure does not please me totally just as it apparently does not please many others. I was opposed to increasing the age of retirement above 65 and voted against it in the Finance Committee. I likewise voiced my disapproval of increasing the retirement age in the conference committee this afternoon.

Nonetheless, this was the best bill we could get and we must pass this legislation in order to insure the solvency of the social security fund so it will be there to pay benefits for millions of current retirees and millions of future retirees.

The House was adamant on many provisions, including the retirement age of 67.

It is my fervent hope that what we have done in this measure will insure the social security fund's solvency for as long as we can foresee into the next century.

Mr. STENNIS. Mr. President, this bill makes a fair start and a step forward toward necessary reform of our social security system, but it is by no means a complete answer to the demands of our present industrial economy and the needs of our people generally.

In the course of this debate, I hope that all of us have obtained a far clearer view of our needs and the requirements of a fair system that can be properly maintained over the years. The debate has shown us that we must continue to have active congressional attention to the problem of the social security system each year.

We must continue to provide careful scrutiny to the operation of the system so that in the future we do not allow it to come as close to the point

of collapse as it has now. We cannot just leave it alone now that we have put together this reform package. We must continue to watch it and supervise it closely. Setting social security aside as a special function of the Federal budget will help us in this effort.

The Federal Government has an obligation to effectively police the entire social security operation. Effective management, sound administration, and careful surveillance of the entire system are essential. Just as we must detect and eliminate waste, fraud and abuse, so also must we insist on the best business management of the social security trust funds.

During the course of the debate we have heard differing projections about how much particular provisions of this legislation will cost. In part these figures will depend upon how well the system is managed, as well as upon how our economy performs. This merely points up the need for Congress to continue its oversight over social security in order to insure that the system remains solvent, that it stands on a sound financial basis, and that it is operated in a responsible manner.

Like most broad, sweeping departments or activities of Government, there are some elements of this measure that I do not favor. However, after a deep study during several months concerning the present shortcomings and conditions of our system, it is clear to me that some drastic changes must be made promptly. We must build the system on a more sound foundation and with adequate financing.

I accept and support the present bill in spite of its objectionable features because it is a new and sounder base for an improved social security system as a whole, and it can be further improved with proper attention and diligence by our present and future Congresses.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Indiana (Mr. QUAYLE), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER), is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Connecticut (Mr. WEICKER), would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HART), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 58, nays 14, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—58

| | | |
|-----------|-------------|----------|
| Abdnor | Dole | Melcher |
| Andrews | Domenici | Mitcheli |
| Baker | Durenberger | Moynihan |
| Baucus | Ford | Proxmire |
| Biden | Gleason | Randolph |
| Bingaman | Gorton | Riegle |
| Boschwitz | Grassley | Rudman |
| Bradley | Hawkins | Sasser |
| Bumpers | Hecht | Simpson |
| Burdick | Heinz | Specter |
| Byrd | Humphrey | Stennis |
| Chafee | Jackson | Stevens |
| Cochran | Jepsen | Thurmond |
| Cohen | Kassebaum | Trible |
| Cranston | Kasten | Tsongas |
| D'Amato | Lautenberg | Wallop |
| Danforth | Leahy | Warner |
| Denton | Levin | Wilson |
| Dixon | Lugar | |
| Dudd | Matsunaga | |

NAYS—14

| | | |
|-----------|-----------|----------|
| Armstrong | Hatch | Nickles |
| Boren | Hollings | Nunn |
| East | Long | Symms |
| Exon | Mattingly | Zorinsky |
| Garn | McClure | |

NOT VOTING—28

| | | |
|------------|------------|----------|
| Bentsen | Inouye | Pressler |
| Chiles | Johnston | Pryor |
| DeConcini | Kennedy | Quayle |
| Eagleton | Laxalt | Roih |
| Goldwater | Mathias | Sarbanes |
| Hart | Metzenbaum | Stafford |
| Hatfield | Murkowski | Tower |
| Heflin | Packwood | Weicker |
| Helms | Pell | |
| Huddleston | Percy | |

So the conference report was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, if I were not afraid that someone might laugh

at me, I would announce that there will be no record votes.

[Laughter.]

Mr. BAKER. Mr. President, there are certain other matters that need to be taken care of, but before I do that, I promised earlier today that we would keep the RECORD open so that Senators could insert statements.

Mr. President, I ask unanimous consent that Senators may submit statements relating to the social security conference report for the RECORD upon the reconvening of the Senate on April 5, until April 8, and that such statements be printed in the permanent RECORD prior to the vote on the adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

98TH CONGRESS
1ST SESSION

H. CON. RES. 102

Directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1900.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 1983

Mr. PICKLE submitted the following concurrent resolution; which was considered and agreed to

CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1900.

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That in the enrollment of the bill (H.R. 1900) to
3 assure the solvency of the Social Security Trust Funds, to
4 reform the medicare reimbursement of hospitals, to extend
5 the Federal supplemental compensation program, and for
6 other purposes, the Clerk of the House of Representatives
7 shall make the corrections specified in the succeeding sec-
8 tions of this concurrent resolution.

9 SEC. 2. In title I of the bill, make the following correc-
10 tions:

1 (1) In section 101 of the bill—

2 (A) in subsection (a)(1)—

3 (i) in the proposed subparagraph (B) of
4 section 210(a)(5) of the Social Security Act,
5 strike out “before or after” and insert in lieu
6 thereof “before, on, or after”, and

7 (ii) in the proposed clause (iii) of such
8 section 210(a)(5), strike out “United States
9 District Court” and insert in lieu thereof
10 “United States district court”; and

11 (B) in subsection (b)(1), in the proposed sub-
12 subparagraph (B) of section 3121(b)(5) of the Internal
13 Revenue Code of 1954, strike out “before or
14 after” and insert in lieu thereof “before, on, or
15 after”.

16 (2) In section 102 of the bill, strike out “after
17 January 1, 1984” in subsection (e)(1)(B) and insert in
18 lieu thereof “after December 31, 1983”.

19 (3) In section 112 of the bill—

20 (A) in subsection (a)(4)—

21 (i) in the proposed subparagraph (C)(i)
22 of section 215(i)(1) of the Social Security
23 Act, strike out “1985” and “1984” and
24 insert in lieu thereof “1984” and “1983”,
25 respectively,

1 (ii) in the proposed subparagraph (C)(ii)
2 of such section 215(i)(1), strike out “1984”
3 and insert in lieu thereof “1983”,

4 (iii) in the proposed subparagraph (F)(i)
5 of such section 215(i)(1), strike out “as of the
6 beginning of such year,” the second place it
7 appears, and

8 (iv) in the proposed subparagraph (G) of
9 such section 215(i)(1), strike out “for the
10 preceding calendar year”;

11 (B) in subsection (d)(1), in the proposed
12 clause (iii) of section 215(i)(2)(C) of the Social Se-
13 curity Act—

14 (i) insert “for the current calendar
15 year” after “OASDI fund ratio”,

16 (ii) strike out “each calendar year” and
17 insert in lieu thereof “the preceding calendar
18 year”, and

19 (iii) strike out “that year” and insert in
20 lieu thereof “the current calendar years”;

21 (C) in subsection (d)(2), strike out “section
22 111(b)(1)”, “section 111(b)(2)”, and “sections
23 111(b)(2)” and insert in lieu thereof “section
24 111(c)”, “section 111(a)(6) and (b)(2)”, and “sec-
25 tions 111(a)(6), 111(b)(2)”, respectively;

1 (D) in subsection (e), strike out “1984” and
2 insert in lieu thereof “1983”; and

3 (E) in subsection (f), strike out “1985” and
4 insert in lieu thereof “1984”.

5 (4) In section 113 of the bill—

6 (A) in the proposed subparagraph (B)(i) of
7 section 215(a)(7) of the Social Security Act (con-
8 tained in subsection (a) of such section 113),
9 strike out “the preceding paragraphs of this sub-
10 section” in both the first and second sentences
11 and insert in lieu thereof “paragraph (1) of this
12 subsection”;

13 (B) in the proposed subparagraph (D) of such
14 section 215(a)(7), strike out “24 years” and insert
15 in lieu thereof “25 years”;

16 (C) add quotation marks at the end of the
17 proposed paragraph (5) of section 215(d) of the
18 Social Security Act (contained in subsection (b) of
19 such section 113); and

20 (D) in the proposed paragraph (9)(A) of sec-
21 tion 215(f) of the Social Security Act (contained
22 in subsection (c) of such section 113), insert “(not-
23 withstanding paragraph (4) of this subsection)”
24 after “shall be recomputed”.

1 (5) In section 114 of the bill, after subsection (b),
2 add the following new subsection:

3 (c)(1) Paragraphs (2)(A) and (3) of section 202(w) of
4 such Act are each amended by striking out “age 72” and
5 inserting in lieu thereof “age 70”.

6 (2) The amendments made by paragraph (1) shall apply
7 with respect to increment months in calendar years after
8 1983.

9 (6) In section 121 of the bill, in the proposed
10 paragraph (1) of section 86(b) of the Internal Revenue
11 Code of 1954 (contained in subsection (a) of such sec-
12 tion 121), add a period at the end of subparagraph (B).

13 (7) In section 122 of the bill—

14 (A) in subsection (a), in the proposed para-
15 graph (3) of section 37(c) of the Internal Revenue
16 Code of 1954, indent the last (flush) sentence of
17 subparagraph (A) 4 ems so as to align with sub-
18 paragraph (B); and

19 (B) in subsection (c)(7), reset the quoted ma-
20 terial in 10-point light-face type for table of con-
21 tents.

22 (8)(A) In the first section 125 of the bill (treat-
23 ment of certain faculty practice plans), strike out
24 “medical schools” in subsection (a)(1)(B)(ii) and insert
25 in lieu thereof “medical school”.

1 (B) Redesignate the second section 125 of the bill
2 (allocations to disability insurance trust fund) as section
3 126.

4 (9) In section 132 of the bill, in subsection
5 (b)(1)(B)(i)(I), strike out “excluding surviving spouses”
6 and insert in lieu thereof “excluding divorced spouses”.

7 (10) In section 142 of the bill—

8 (A) in subsection (a)(2)(A), strike out clause
9 (iii) and insert in lieu thereof the following:

10 (iii) by inserting before the period at the end
11 thereof the following: “(even if such an investment
12 would earn interest at a rate different than the rate
13 earned by investments redeemed by the lending fund in
14 order to make the loan)”;

15 (B) in the proposed subparagraph (B)(iii)(I) of
16 section 201(l)(3) of the Social Security Act (con-
17 tained in subsection (a)(3)(B) of such section 142),
18 strike out “reduced” and all that follows down
19 through “Hospital Insurance Trust Fund.”;

20 (C) in subsection (b)(2)(A), strike out clause
21 (iii) and insert in lieu thereof the following:

22 (iii) by inserting before the period at the end
23 thereof the following: “(even if such an investment
24 would earn interest at a rate different than the rate

1 earned by investments redeemed by the lending fund in
2 order to make the loan)”;

3 and

4 (D) in the proposed subparagraph (B)(iii)(I) of
5 section 1817(j)(3) of the Social Security Act (con-
6 tained in subsection (b)(3)(B) of such section 142),
7 strike out “reduced” and all that follows down
8 through “Disability Insurance Trust Fund,”.

9 (11) In section 143 of the bill—

10 (A) in the proposed subsection (a) of section
11 709 of the Social Security Act—

12 (i) strike out “Fund,” where it first ap-
13 pears and insert in lieu thereof “Fund and”,
14 and

15 (ii) insert “in the balance ratio” after
16 “such inadequacy” where it first appears;
17 and

18 (B) in the proposed subsection (b) of such
19 section 709, strike out “section 201(1)” where it
20 appears in paragraphs (1) and (2) and insert in
21 lieu thereof “section 201(l) or 1817(j)”.

22 (12) In section 151 of the bill—

23 (A) in the proposed paragraph (1) of section
24 217(g) of the Social Security Act (contained in
25 subsection (a) of such section 151), strike out

1 “Social Security Act Amendments” each place it
2 appears (three places) and insert in lieu thereof
3 “Social Security Amendments”; and

4 (B) in the last sentence of the proposed para-
5 graph (2) of such section 217(g) (contained in sub-
6 section (a) of such section 151), strike out “com-
7 pensate for” and insert in lieu thereof “take into
8 account”.

9 (13) Redesignate section 153 of the bill as section
10 152, and amend such section to read as follows:

11 ACCOUNTING FOR CERTAIN UNNEGOTIATED CHECKS FOR
12 BENEFITS UNDER THE SOCIAL SECURITY PROGRAM

13 SEC. 152. (a) Section 201 of the Social Security Act is
14 amended by adding at the end thereof the following new sub-
15 section:

16 “(m)(1) The Secretary of the Treasury shall implement
17 procedures to permit the identification of each check issued
18 for benefits under this title that has not been presented for
19 payment by the close of the sixth month following the month
20 of its issuance.

21 “(2) The Secretary of the Treasury shall, on a monthly
22 basis, credit each of the Trust Funds for the amount of all
23 benefit checks (including interest thereon) drawn on such
24 Trust Fund more than 6 months previously but not presented

1 for payment and not previously credited to such Trust Fund,
2 to the extent provided in advance in appropriation Acts.

3 “(3) If a benefit check is presented for payment to the
4 Treasury and the amount thereof has been previously cred-
5 ited pursuant to paragraph (2) to one of the Trust Funds, the
6 Secretary of the Treasury shall nevertheless pay such check,
7 if otherwise proper, recharge such Trust Fund, and notify the
8 Secretary of Health and Human Services.

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

14 (b) The amendment made by subsection (a) shall apply
15 with respect to all checks for benefits under title II of the
16 Social Security Act which are issued on or after the first day
17 of the twenty-fourth month following the month in which this
18 Act is enacted.

19 (c)(1) The Secretary of the Treasury shall transfer from
20 the general fund of the Treasury to the Federal Old-Age and
21 Survivors Insurance Trust Fund and to the Federal Disabili-
22 ty Insurance Trust Fund, in the month following the month
23 in which this Act is enacted and in each of the succeeding 30
24 months, such sums as may be necessary to reimburse such
25 Trust Funds in the total amount of all checks (including in-

1 terest thereon) which he and the Secretary of Health and
2 Human Services jointly determine to be unnegotiated benefit
3 checks, to the extent provided in advance in appropriation
4 Acts. After any amounts authorized by this subsection have
5 been transferred to a Trust Fund with respect to any benefit
6 check, the provisions of paragraphs (3) and (4) of section
7 201(m) of the Social Security Act (as added by subsection (a)
8 of this section) shall be applicable to such check.

9 (2) As used in paragraph (1), the term “unnegotiated
10 benefit checks” means checks for benefits under title II of the
11 Social Security Act which are issued prior to the twenty-
12 fourth month following the month in which this Act is en-
13 acted, which remain unnegotiated after the sixth month fol-
14 lowing the date on which they were issued, and with respect
15 to which no transfers have previously been made in accord-
16 ance with the first sentence of such paragraph.

17 (14) Redesignate section 154 of the bill as section
18 153.

19 On page 10, strike out lines 14 and 15 and insert in lieu
20 thereof the following:

21 (15) Redesignate section 155 of the bill as section
22 154; and, in the matter proposed to be inserted in the
23 matter proposed to be inserted by subsections (a), (b),
24 and (c) of such section, insert after “reasonable” the
25 following: “: *Provided*, That the certification shall not

1 refer to economic assumptions underlying the Trustee's
2 report".

3 SEC. 3. In title II of the bill, make the following correc-
4 tions: in paragraphs (1)(B) and (2) of section 201(c), insert
5 "(as amended by section 309(g) of this Act)" after "(c)".

6 SEC. 4. In title III of the bill, make the following cor-
7 rections:

8 (1) In section 306 of the bill, strike out "section
9 301(b)(7)" in subsection (a)(9) and insert in lieu thereof
10 "section 301(b)(6)".

11 (2) In section 309 of the bill, strike out "section
12 301(a)(6)" in subsection (a) and insert in lieu thereof
13 "section 301(a)(7)".

14 (3) In section 321 of the bill, in the proposed
15 clause (B) of section 210(a) of the Social Security Act
16 (contained in subsection (b) of such section 321), strike
17 out the final semicolon and insert in lieu thereof a
18 comma.

19 (4) In section 322 of the bill, strike out "is
20 amended" in subsection (a)(1) and insert in lieu thereof
21 "(as amended by sections 321(b) and 323(a)(2) of this
22 Act) is further amended".

23 (5) In section 323 of the bill—

24 (A) in subsection (b)(2)(A)—

1 (i) strike out “is amended” and insert in
2 lieu thereof “(as amended by section
3 124(c)(3) of this Act) is further amended”,
4 and

5 (ii) in the proposed paragraph (10) of
6 section 211(a) of the Social Security Act,
7 strike out “the exclusion” and insert in lieu
8 thereof “The exclusion”, and strike out
9 “and” immediately after the semicolon; and
10 (B) in subsection (b)(2)(B), in the proposed
11 paragraph (10) of such section 211(a)—

12 (i) strike out “in the case” and insert in
13 lieu thereof “In the case”, and

14 (ii) strike out “and” immediately after
15 the semicolon.

16 (6) In section 324(c)(1) of the bill—

17 (A) in subsection (c)(1) strike out “is amend-
18 ed” and insert in lieu thereof “(as amended by
19 section 101(c)(1) of this Act) is further amended”;
20 and

21 (B) in such subsection (c)(1), strike out “(as
22 amended by this Act)”.

23 (7) Redesignate sections 326 and 327 of the bill
24 as sections 325 and 326, respectively.

1 (8) Redesignate section 328 of the bill as section
2 327; and—

3 (A) in subsection (a)(2) of such section, strike
4 out “subsection (p)” and insert in lieu thereof
5 “the subsection (p) which was added by Public
6 Law 95-472”; and

7 (B) in both paragraph (1) and paragraph (2)
8 of subsection (b) of such section—

9 (i) strike out “after” and insert in lieu
10 thereof “after and below”, and

11 (ii) reset the proposed new sentence to
12 begin full measure flush.

13 (9) Redesignate section 329 of the bill as section
14 328; and in subsection (b) of such section strike out “,
15 as amended by this Act, is” and insert in lieu thereof
16 “(as amended by section 324(c)(2) of this Act) is fur-
17 ther”.

18 (10) In section 335 of the bill, after “existing
19 under” in subsection (c), insert “the Social Security
20 Act on or after the date of the enactment of this Act.”.

21 (11) In section 336 of the bill (use of death certifi-
22 cates to prevent erroneous benefit payments to de-
23 ceased individuals), in the proposed subsection (r) of
24 section 205 of the Social Security Act—

1 (A) add “and” after the semicolon at the end
2 of paragraph (1)(A); and

3 (B) strike out “(1)”, “(2)”, and “(3)” in
4 paragraph (1)(B) and insert in lieu thereof “(i)”,
5 “(ii)”, and “(iii)”, respectively.

6 (12) In section 338(d) of the bill, strike out
7 “filing” in the last sentence and insert in lieu thereof
8 “submission”.

9 (13) In section 339 of the bill, in the proposed
10 subsection (x) of section 202 of the Social Security Act
11 (contained in subsection (a) of such section 339)—

12 (A) strike out the comma after “under this
13 section” in paragraph (1) of such subsection (x);
14 and

15 (B) strike out “under this section” in para-
16 graph (2) of such subsection (x) and insert in lieu
17 thereof “under this section or section 223”.

18 (14) In section 341 of the bill—

19 (A) in subsection (a)(1), strike out “by insert-
20 ing before the period at the end of the first sen-
21 tence the following: ‘, and” and insert in lieu
22 thereof the following: “in the first sentence, by
23 striking out ‘Secretary of Health, Education, and
24 Welfare, all ex officio’ and inserting in lieu there-

1 of 'Secretary of Health and Human Services, all
2 ex officio, and';

3 (B) in subsection (b)(1), strike out "by insert-
4 ing before the period at the end of the first sen-
5 tence the following: ', and'" and insert in lieu
6 thereof the following: "in the first sentence, by
7 striking out 'Secretary of Health, Education, and
8 Welfare, all ex officio' and inserting in lieu there-
9 of 'Secretary of Health and Human Services, all
10 ex officio, and'; and

11 (C) in subsection (c)(1), strike out "by insert-
12 ing before the period at the end of the first sen-
13 tence the following: ', and'" and insert in lieu
14 thereof the following: "in the first sentence, by
15 striking out 'Secretary of Health, Education, and
16 Welfare, all ex officio' and inserting in lieu there-
17 of 'Secretary of Health and Human Services, all
18 ex officio, and'".

19 (15) Redesignate section 344 of the bill as section
20 343; and—

21 (A) reset the center heading of such section
22 in small caps (striking out the subheading
23 "report"); and

24 (B) in subsection (a) of such section, strike
25 out "this Part" and "Senate Committee on Fi-

1 nance” and insert in lieu thereof “this section”
2 and “Committee on Finance of the Senate”, re-
3 spectively.

4 (16) Redesignate section 345 of the bill as section
5 344, and reset the center heading of such section in
6 small caps (striking out the subheading “reorganiza-
7 tion”).

8 (17) Redesignate section 346 of the bill as section
9 345.

10 (18) Redesignate section 347 of the bill as section
11 346; and in paragraph (2) of the proposed section 710
12 of the Social Security Act (as contained in such sec-
13 tion), strike out “(A)”.

14 (19) Redesignate section 348 of the bill as section
15 347; and in subsection (b) of such section strike out all
16 that follows “shall apply” and insert in lieu thereof
17 “only with respect to taxable years beginning after De-
18 cember 1989, and only in the case of individuals who
19 have attained retirement age (as defined in section
20 216(l) of the Social Security Act).”.

21 SEC. 5. In title V of the bill, make the following correc-
22 tion: in section 522(a), in clause (ii) of paragraph (3)(A) of
23 section 202(a) of the Federal-State Extended Unemployment
24 Compensation Act of 1970 (as contained in such section
25 522(a)), strike out “; or” and insert in lieu thereof a period.

1 SEC. 6. In title VI of the bill, make the following cor-
2 rections:

3 (1) In section 601(b)(9) of the bill—

4 (A) strike out “amending” and insert in lieu
5 thereof “repealing”, and

6 (B) strike out “to read as follows” and insert
7 in lieu thereof “and by inserting after paragraph
8 (5), effective with respect to cost reporting periods
9 beginning on or after October 1, 1983, the follow-
10 ing new paragraph (6)”.

11 (2)(A) In section 601(c)(3) of the bill, in the pro-
12 posed paragraph (4)(B) of section 1886(c) of the Social
13 Security Act, strike out “Social Security Act Amend-
14 ments” and insert in lieu thereof “Social Security
15 Amendments”.

16 (B) In section 601(e) of the bill, in subparagraphs
17 (A)(ii) and (B)(ii) of the proposed subsection (e)(1) of
18 section 1886 of the Social Security Act, strike out
19 “Social Security Act Amendments” and insert in lieu
20 thereof “Social Security Amendments” each place it
21 appears.

22 (3) In section 601(e) of the bill, in proposed clause
23 (ii) of subsection (d)(2)(C) of section 1886 of the Social
24 Security Act, strike out “and region”.

1 (4) In section 601(e) of the bill, in proposed sub-
2 paragraph (H) of subsection (d)(2) of section 1886 of
3 the Social Security Act, insert a comma after “propor-
4 tion”.

5 (5) In section 601(e) of the bill, in proposed sub-
6 paragraph (c) of subsection (d)(4) of section 1886 of the
7 Social Security Act, insert a comma after “thereafter”.

8 (6) In section 601(e) of the bill, in proposed clause
9 (ii) of subsection (d)(5)(C) of section 1886 of the Social
10 Security Act, insert “with the target and DRG per-
11 centages determined under paragraph (1)(C)(i)” after
12 “clause (i) of that paragraph”.

13 (7) In section 601(e) of the bill, in proposed sub-
14 section (e) of section 1886 of the Social Security Act—

15 (A) strike out “hereafter” and insert in lieu
16 thereof “hereinafter” both places it appears in
17 paragraph (2);

18 (B) strike out “selected” in paragraph (2)
19 and insert in lieu thereof “appointed”; and

20 (C) strike out “but not limited to” each place
21 it appears in paragraph (6)(B).

22 (8) In section 602(e)(3) of the bill, in proposed
23 paragraph (14) of section 1862(a) of the Social Secu-
24 rity Act, insert “promulgated” before “specifically”.

1 (9) In section 602(f)(1)(C) of the bill, in proposed
2 subparagraph (F) of section 1866(a)(1) of the Social
3 Security Act—

4 (A) insert “Federal Hospital Insurance”
5 before “Trust Fund”, and

6 (B) insert “of such reviews” before the
7 comma at the end.

8 (10) In section 602(f)(2) of the bill, strike out
9 “services)” and insert in lieu thereof “services”.

10 (11) In section 602(g) of the bill, in proposed
11 paragraph (4) of section 1876(g) of the Social Security
12 Act, insert “, if applicable,” after “section 1886, or”
13 and strike out “or as applicable”.

14 (12) In subparagraph (A) and (C) of section
15 602(h)(1) of the bill, in the matters proposed to be in-
16 serted in section 1878(a) of the Social Security Act,
17 strike out “section 1886(d)” and insert in lieu thereof
18 “subsection (b) or (d) of section 1886” each place it
19 appears.

20 (13) In section 602(h)(2)(A) of the bill, insert clos-
21 ing quotation marks after “located”.

22 (14) In section 602(k) of the bill, strike out
23 “(other than physician services)” and insert in lieu
24 thereof “(other than physicians’ services)”.

1 (15) In section 602(l)(2) of the bill, in the sen-
2 tence proposed to be added at the end of section
3 1866(a)(1) of the Social Security Act, strike out “ter-
4 minates” and insert in lieu thereof “is terminated”.

5 (16) In section 603(a)(2)(A) of the bill, insert “on”
6 before “classes of hospitals”.

7 (17) In section 603(a)(3)(B) of the bill, strike out
8 the comma after “title”.

9 (18) In section 603(b)(2) of the bill, strike out “(or
10 upon the request of a party to demonstration project
11 agreement)” and insert “(or upon the request of an-
12 other party to the demonstration project agreement)”
13 after “August 1982”.

14 (19) In section 605 of the bill, strike out “102” in
15 subsection (a) and insert in lieu thereof “102(b)”.

16 (20) In section 606(a) of the bill—

17 (A) insert “(1)” after “SEC. 606. (a)”,

18 (B) in proposed subsection (a)(1) and subsec-
19 tion (a)(3) of section 1839 of the Social Security
20 Act, strike out “who have attained retirement
21 age” and insert in lieu thereof “age 65 and over”;
22 and

23 (C) amend subparagraph (C) of paragraph (3)
24 of such section of the bill to read as follows:

1 (C) Section 1839(e) of such Act (as so redesignated) is
2 amended—

3 (i) by striking out “(c)”, “(c)(1)”, and “(c)(3)” and
4 inserting in lieu thereof “(a)”, “(a)(1)”, and “(a)(3)”,
5 respectively,

6 (ii) by striking out “June 1983” in paragraph (1)
7 and inserting in lieu thereof “December 1983”, and

8 (iii) by striking out “July 1985” and inserting in
9 lieu thereof “January 1986” each place it appears.

10 (21) In section 607(d) of the bill, strike out “(z)”
11 and insert in lieu thereof “(2)”.

12 SEC. 7. Conform the table of contents in section 101 of
13 the bill to reflect the changes made pursuant to the preceding
14 provisions of this concurrent resolution.

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