Omnibus Reconciliation Act of 1981: Legislative History and Summary of OASDI and Medicare Provisions

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In this article, the Commissioner of Social Security traces the legislative development and summarizes the final form of changes in the Old-Age, Survivors, and Disability Insurance (OASDI) and Medicare programs incorporated in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). This legislation, signed into law by President Reagan on August 13, contains a major portion of his Program for Economic Recovery, announced to the Nation in February. The final section of the article shows that, although the Social Security and Medicare provisions in Public Law 97-35 will have a favorable effect on the overall financial status of the OASDI and Hospital Insurance Trust Funds, these changes will not be sufficient to restore the financial soundness of the programs in the near term or over the long range.

In his inaugural address on January 20, President Reagan spoke of the urgent need to return government to the people, to reform domestic spending programs, to reduce confiscatory taxes, and to bring Federal revenues and expenditures into alignment. The President stated, "We suffer from the longest and one of the worst sustained inflations in our National history. It distorts our economic decisions, penalizes thrift and crushes the struggling young and the fixed-income elderly alike. It threatens to shatter the lives of millions of our people. . . . In the days ahead I will propose removing the roadblocks that have slowed our economy and reduced productivity. Steps will be taken aimed at restoring the balance between the various levels of government. . . to get government back within its means and to lighten the tax burden. And these will be our first priorities, and on these principles there will be no compromise."

Less than 7 months later, on August 13, the President signed into law the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), which contains a major portion of his Program for Economic Recovery. The Act includes provisions for reforming spending programs—provisions designed to better reflect current national needs and the will of the voters. Many of these provisions deal with Social Security and related programs—Old-Age, Survivors, and Disability Insurance (OASDI), Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), Child Support Enforcement, Medicare and Medicaid, and food stamps.

The primary focus of this article is on the provisions of Public Law 97-35 that affect the Social Security cash benefits program of OASDI and the Medicare program.

The major changes in the OASDI program under the new law involve the trimming back of less essential benefits:

(1) Elimination of the minimum Social Security benefit for both current and future beneficiaries and payment instead of a wage-related benefit based on the worker's average earnings.

(2) Phasing out of student benefits for persons aged 19 or over or in postsecondary schools.

(3) Payment of the lump-sum death benefit only when there is a spouse who was living with the worker or a spouse or child eligible for immediate monthly survivor benefits.

(4) Offset of Social Security disability benefits when total public plan benefits based on disability exceed predisability earnings—a "Megacap" provision.

The major Medicare changes involve the repeal of certain provisions adopted last fall in the closing days of the 96th Congress, and better controls on expenditures,

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including higher deductible and coinsurance amounts and limits on reimbursement provisions that will strengthen the financial position of the program.

This article first describes the background of the new law and its legislative history. The second section sets forth, in considerable detail, the provisions of the law as it was finally enacted. The final section describes the cost effects and financing implications of the amendments.

I. Background and Legislative History

On January 20, when the Reagan Administration took office, a first order of business was to submit its revisions in the budget for fiscal year 1982. The highest priority was assigned to including in that budget a legislative program that would respond to the need to restore the strength of the Nation's economy and lay a foundation for a "New Beginning" for America, as the President outlined in announcing his Program for Economic Recovery.

Both OASDI and Medicare had been significantly affected by the adverse economic developments of prior years, and their financial status would be substantially strengthened by a general revitalization of the economy and by a trimming away of less essential or unnecessary expenditures. Years of low and negative real wage growth had left the OASDI program—particularly the Old-Age and Survivors Insurance part of the program—seriously underfunded in the short range. And, although the rate of increase in Medicare expenditures had been lower relative to wage increases than had been expected, nonetheless the increase had been significant in absolute terms. Thus, a successful Program for Economic Recovery for the Nation as a whole stood to have desirable impacts on the financial health of the OASDI and Medicare programs and equally on the well-being of the populations served by these programs.

The Omnibus Budget Reconciliation Act of 1981 reflects to a very large degree those aspects of the President's Economic Recovery Program that deal with issues of Federal expenditures. The changes affecting Federal revenues, also essential to the overall program, were considered separately in tax legislation. This reconciliation legislation is not comprehensive or complete as it relates to the OASDI and Medicare programs. The Administration has indicated that the initial proposals included only those upon which action could be taken rapidly and that were needed to set the Economic Recovery Program in motion. A set of broader OASDI proposals (described hereafter) was announced on May 12.

Thus, the President's initial recommendations as to OASDI dealt with issues such as benefits for college students, the minimum benefit, and disability benefits—areas that had long been criticized as ones in which there were benefit expenditures that were not meeting their original objectives or were not serving intended program purposes. With regard to Medicare, the proposals dealt with finding ways to control program expenditures better and with the repeal of certain liberalizations that had been adopted in the final weeks of the 96th Congress in 1980.

President's Recommendations to Congress

In an address to a joint session of Congress, on February 18, President Reagan formally announced his Program for Economic Recovery. The supporting document, released by the White House on the same date, stated:

> The uncontrolled growth of government spending has been a primary cause of the sustained high rate of inflation experienced by the American economy. . . . Thus, a central goal of the economic program is to reduce the rate at which government spending increases.

The report goes on to stress that "all members of our society except the truly needy will be asked to contribute to the program for spending control." Of the nine guidelines given for reducing the budget, the first two listed had particular relevance to Social Security: to "preserve 'the social safety net' " and "revise entitlements to eliminate unintended benefits."

The following day, February 19, in testimony before the Subcommittee on Social Security of the House Committee on Ways and Means, Richard S. Schweiker, Secretary of Health and Human Services (HHS), outlined the following OASDI proposals:

(1) Elimination of the minimum benefit for present and future beneficiaries.
(2) Phaseout of student benefits for those in postsecondary schools.
(3) The "Disability Megacap"—the extension of the existing workers' compensation offset provisions to reduce disability benefits in cases where total disability payments from Social Security and certain other public programs exceed (or nearly exceed) predisability net earnings after taxes.
(4) Provision for a recency-of-work test for eligibility for disability benefits (by restoration of the "currently insured" requirement).
(5) Stepped-up review of the continuing eligibility of those receiving disability benefits.

The last proposal did not require legislation; it was implemented as an administrative measure and so is not discussed further in this article. However, this action was expected to result in a reduction in benefit expenditures of some $200 million in fiscal year 1982. The emphasis given to it reflected the Administration's urgent concern that disability benefits not be paid to persons who were not really disabled.

The major Medicare proposals included the following:

(1) Elimination of cost differential for routine nursing services.

(2) Phaseout of Professional Standards Review Organizations (PSRO's) and elimination of utilization review committees.

(3) Authorization for competitive contracts with intermediaries and carriers.

(4) Repeal of certain coverage expansions enacted late in 1980.

(5) Authorization of civil monetary penalties for fraud.

On March 10, the Administration forwarded to the Congress additional detailed information on its proposals for changes in Social Security and Medicare. Draft legislation carrying out the proposals was transmitted to the Congress later in the spring. The draft OASDI legislation included additional proposals and also some technical amendments that had been included in the Carter Administration's budget for fiscal year 1982, as submitted January 19, 1981. The Reagan Administration's OASDI bill was sent to Congress on April 7 and was introduced on May 6 by Representatives Conable and Archer as H.R. 3457 and on June 1 by Senator Dole as S. 1292. The bill included the OASDI legislative proposals described previously and several others as well. It provided for:

(1) Eliminating the "regular" minimum Social Security benefit, effective in August, for current and future beneficiaries. The Administration noted that this benefit has, to a considerable extent, provided a windfall for individuals whose employment is primarily covered by other retirement and pension programs.

(2) Eliminating payments to students aged 18–21 pursuing higher education, effective for August, with a 3-year phaseout for current postsecondary student beneficiaries, and eliminating benefits for students in elementary or secondary school upon attainment of age 19, effective for August 1982. The Administration observed that such payments are unrelated to educational costs incurred and that other Federal student assistance programs are a more appropriate source of educational assistance.

(3) Establishing a "Megacap" for disability benefits. This would be an extension of the workers' compensation offset to apply to various types of other public disability benefits. This change is designed to help assure that the disability benefits a person receives from various public sources will not exceed his or her prior net earnings. The offset would also apply until age 65 is reached (rather than until age 62).

(4) Tying eligibility for disability benefits more closely to recent work under OASDI by reinstituting the "currently insured" test—6 quarters of coverage in the 13-calendar-quarter period ending with the quarter of disability.

(5) Eliminating the use of trust-fund moneys to pay for vocational rehabilitation services for disabled beneficiaries.

(6) Eliminating the lump-sum death payment unless there is a spouse who was living with the worker or a spouse or child eligible for immediate monthly survivor benefits.

(7) Rounding of benefits to the nearest multiple of ten cents, rather than the next higher dime.

(8) Providing for reimbursement to the trust funds for expenses incurred in providing earnings information required to enable an employee benefit plan to comply with the Employee Retirement Income Security Act (ERISA).

(9) Allowing retroactive payment of widow's or widower's benefits for 1 month (but not before the month of death of the worker)—an exception to the general bar to payment of retroactive reduced benefits.

(10) Continuing the benefits of a disabled widow or widower who marries a retired or disabled worker.

(11) Modifying the penalties for failure to make a timely report of excess earnings.

(12) Correcting a technical error in the maximum-family-benefit provisions to avoid possible benefit reductions when earnings rise more slowly than the Consumer Price Index (CPI).

On May 15, the Administration's draft legislation affecting the Medicare program was sent to Congress. It was introduced on May 28 by Representatives Madigan and Broyhill (H.R. 3725) and on June 1 by Senator Dole (S. 1291). The bill provided for:

(1) Elimination of the cost differential of 8½ percent for routine nursing services.

(2) Elimination of funding for renal disease network organizations.

(3) Repeal of the delay in the periodic interim payment method of hospital reimbursement.

(4) Authorization for Medicare contractors to process Railroad Retirement Board claims.

(5) Authorization for the Secretary of HHS to impose civil monetary penalties in cases of Medicare and Medicaid fraud.

(6) Phaseout of PSRO's.

(7) Elimination of requirements for utilization review committees.

(8) Authorization for agreements with skilled nursing facilities (SNF's) of more than 12 months duration.

(9) Authorization for competitive contracting with Medicare intermediaries and carriers.

(10) Repeal of the following benefit provisions, which were enacted in late 1980:

(a) Removal of maximum limits on the number of covered home health visits.

(b) Provider status for freestanding outpatient rehabilitation facilities.

(c) Provider status for freestanding alcohol detoxification facilities.

(d) Inclusion of occupational therapy as a qualifying criterion for home health benefits.

(e) Increase annual limit on reimbursable outpatient physical therapy expenses under Supplementary Medical Insurance (Part B of Medicare) from $100 to $500.

(f) Coverage for hospital stays necessary to carry out dental procedures where warranted by the severity of the dental procedure.

(g) Modification in enrollment and State buy-in provisions under Supplementary Medical Insurance.

(h) Coverage of pneumococcal vaccine.

The Administration's proposals (including the stepped-up review of the disability insurance rolls) were expected to have significant short-range cost effects. The estimated savings in OASDI were $0.1 billion in fiscal year 1981, $2.9 billion in 1982, and $25.6 billion over the 5-year period 1982-86. The comparable figures for Medicare were a cost of $0.4 billion in fiscal year 1981, and a savings of $1.1 billion in 1982 and $4.6 billion for 1982-86. (These estimates were based on the Administration's economic assumptions used for general budget purposes in March 1981; more pessimistic assumptions are considered appropriate in making short-range cost estimates for the Social Security program, in order to provide for sound and adequate financing in the event of unexpected economic adversities.)

On May 12, Secretary Schweiker announced a wide-ranging package of OASDI reform proposals designed to encourage work at later ages, reduce "windfall" benefits, relate Disability Insurance more closely to work history and medical condition, reduce welfare elements, and adjust financing provisions. The specific proposals may be summarized briefly as follows: [1]

[1] The Administration indicated in subsequent public statements that, while its objectives—to solve both the long-term and the short-term financing crises—remain firm, specific aspects of these proposals are subject to negotiation and modification.

(1) Tax and credit all sick pay during the first 6 months of illness.

(2) Change the closing point for calculating Average Indexed Monthly Earnings for benefit-computation purposes from age 62 to age 65.

(3) Increase the dollar bend-points in the Primary Insurance Amount (PIA) benefit formula for each year during the period 1982-87 by 50 percent of the increase in the average annual wage, instead of by 100 percent.

(4) Reduce the benefit rate for early-retirement benefits at age 62 from the present 80 percent of the PIA to 55 percent (with proportionate changes for other ages at retirement between 62 and 65), effective for persons attaining age 62 after 1981.

(5) Eliminate benefits for children of retired workers while the workers are aged 62-64.

(6) Provide that the maximum-family-benefit provision currently applicable to disability beneficiaries (as a result of the 1980 amendments) would also be applicable to retirement and survivor beneficiaries.

(7) Eliminate the windfall portion of benefits for persons with pensions from noncovered employment by using a more proportionate PIA benefit formula, instead of the present heavily weighted one in such cases (specifically, by changing the first benefit factor from 90 percent to 32 percent, the same as the second benefit factor).

(8) Consider only medical factors in making determinations of disability for Social Security benefits (that is, do not consider nonmedical, vocational factors), which was the original concept.

(9) Require that a person's disability be expected to last for at least 24 months, instead of only 12 months as under present law (which would be roughly equivalent to the original concept), for the person to qualify for Social Security disability benefits.

(10) Increase the waiting period for disability benefits from 5 months to 6 months (which was the original requirement until 1972).

(11) Increase the insured status requirements for Social Security disability benefits from 20 to 30 quarters of coverage in the last 40-quarter period preceding disability (with a proportionate change for those disabled before age 31).

(12) Change the automatic cost-of-living benefit adjustments to a fiscal-year basis by moving the date for the adjustment from June to September, beginning in 1982.

(13) Increase the annual exempt amount under the retirement earnings test for persons aged 65 and over to $10,000 in 1983, $15,000 in 1984, and $20,000 in 1985; then, in 1986, eliminate this test for those aged 65 and over.

As to financing provisions, the proposal would institute interfund borrowing between the OASI and DI Trust Funds and from the HI Trust Fund and would lower the scheduled OASDI employer and employee tax rates by 0.1 percent each in 1985–89, by 1.2 percent each in 1990–2019, and by 0.1 percent each in 2020 and after (with corresponding proportionate reductions for the self-employed rates). Also, automatic tax-reduction procedures would be provided when the ratio of trust fund assets to annual expenditures exceeded 55 percent. After such a ratio had been achieved, tax increases would occur when the fund ratio dropped below 50 percent, so that the ratio would stay at a relatively constant level.

The Congressional Budget Process and Reconciliation Procedures

Although, as in the past, the President's legislative proposals for changes in Social Security and Medicare were considered by the committees with substantive jurisdiction in the House of Representatives and in the Senate, the context in which the changes were considered was quite unusual. The current legislation was handled under the budget and reconciliation processes established under the Congressional Budget Act of 1974. The reconciliation process established by that Act was to be used only in connection with the Second Concurrent Budget Resolution for a fiscal year. For fiscal year 1982, however, reconciliation procedures were followed in connection with the First Concurrent Budget Resolution (H. Con. Res. 115, agreed to in late May).[2] That resolution set spending reduction targets that each legislating committee was required to meet. The resolution required the committees to submit legislation to meet these targets to the Budget Committees of the House and Senate by June 12. The Committee recommendations were combined into the omnibus reconciliation bills by the House and Senate Budget Committees. The House bill, H.R. 3982, was introduced on June 19, and the Senate bill, S. 1377, was introduced on June 17.

Under the First Concurrent Budget Resolution for Fiscal Year 1982, the Committees with jurisdiction over most Social Security legislation were required to report changes in laws within their jurisdiction as follows: The House Committee on Ways and Means was required to reduce direct spending for fiscal year 1982 by some $8.2 billion and to report changes sufficient to reduce appropriations by almost $1 billion. The Senate Committee on Finance was required to reduce fiscal year 1982 direct spending by about $9.2 billion and to report changes sufficient to reduce appropriations by some $100 million. The House Committee on Energy and Commerce, which shares jurisdiction with the Committee on Ways and Means on some Medicare provisions, was required to reduce fiscal year 1982 direct spending by $1.1 billion and to report changes sufficient to reduce appropriations by $4 billion. These totals anticipated legislative changes not only in OASDI and Medicare but also in other areas within the jurisdictions of the Committees. With respect to OASDI, the fiscal year 1982 targets generally contemplated changes of roughly the same order of magnitude as recommended by the Administration.

Consideration of the OASDI and Medicare legislation in this context resulted in the virtually simultaneous consideration of the proposals by both the House and the Senate, with the actions in one body influencing events in the other. For example, with the Ways and Means Committee and the Finance Committee acting simultaneously, each was in a position to consider its current actions in light of possible developments when the bills reached the point of conference to resolve differences between provisions that might be passed by the two bodies. Similarly, with virtually simultaneous floor consideration, provisions that were about to be passed by the Senate were included in the House bill. And, after final adoption (May 21) of the First Concurrent Budget Resolution, both bodies were acting within similar reconciliation guidelines. Also, in this context, the whole of the legislative package was viewed as being of greater significance than any individual proposal considered alone. As noted previously, the legislation included in the reconciliation package was central to the Administration's Program for Economic Recovery.

Action in the House of Representatives

Secretary Schweiker testified on the OASDI proposals on February 19 before the Subcommittee on Social Security of the House Committee on Ways and Means. On February 25, he testified before the full Ways and Means Committee on all of the HHS proposals within its jurisdiction. The Secretary stated, "Let me again urge you to take prompt action on all of the proposals that President Reagan outlined last week. These proposals are meritorious in and of themselves; they preserve the basic social safety net upon which needy Americans must rely; and they are necessary first steps toward strengthening the Nation's economy."

On March 26, Secretary Schweiker testified on Medicare and Medicaid before the House Subcommittee on Health and the Environment of the Committee on Energy and Commerce. On March 30, the Administrator of the Health Care Financing Administration, Dr. Carolyne K. Davis, testified on the Medicare proposals before the Subcommittee on Health of the House Ways and Means Committee.

[2] The conference report, filed on May 15, was adopted by the House on May 20 and by the Senate on May 21.

Subcommittee on Social Security. One concern that members of the Subcommittee on Social Security raised during formal hearings was that the Administration's OASDI proposals presented on February 19 did not solve the near-term financial problems facing the Social Security program and did not fully address the major long-range issues. The Administration stressed the advantages that would accrue generally to the program, the contributors, and the beneficiaries as a result of prompt action on the Program for Economic Recovery, of which the current proposals were one part. It also stated that a high-level working group, headed by Under Secretary David B. Swoap, was conducting a broad review of the Social Security program with a view to recommending a more comprehensive package of Social Security reforms.[3]

As the Subcommittee began markup sessions in March, the House Budget Committee met, and—in consultation with the Committees with substantive jurisdiction—began establishing various budget "targets" (that is, broad spending ceilings in various program areas). On March 19, the Ways and Means Committee sent a letter to the Chairman of the House Budget Committee, Representative James R. Jones, recommending outlay reductions for fiscal year 1982 of $6.5 billion in the income security area (including about $2.45 billion in OASDI) and $1.1 billion in Medicare. The total reductions to be made by the Ways and Means Committee for fiscal year 1982, including reductions in tax expenditures, was $8.8 billion in both OASDI and Medicare. The Committee recommended reductions similar to those proposed by the Administration, although it indicated it was not committed to achieving those savings in precisely the ways that the Administration had proposed.

Subsequently, as the First Concurrent Budget Resolution, H. Con. Res. 115, moved through the House (and the Senate), several changes were made. The final outlay reduction figure for the Ways and Means Committee for fiscal year 1982 was $9.2 billion, and it was decided that revenue-producing provisions could not be substituted for outlay reductions in meeting the required totals. However, as the markup sessions began, the initial "working" target for spending reductions for fiscal year 1982 for which the Subcommittee on Social Security was responsible amounted to about $2.45 billion—roughly the reduction in Social Security outlays that the Administration had recommended.

The markup sessions of the Subcommittee on Social Security proceeded along two basic tracks. The Subcommittee considered both a broad range of proposals affecting the OASDI program and a limited package that would meet the reconciliation expenditure reduction target assigned to it. In the latter part of March, the Subcommittee staff prepared a draft bill that included, in modified form, a number of proposals that the Administration had advanced, along with a number of other proposals. Most of these provisions, with some modifications and deletions, were, after preliminary markup sessions, incorporated in a bill (H.R. 3207) introduced by Chairman Pickle on April 9.[4] This bill included the following provisions:

(1) Prospective elimination of the minimum benefit (future beneficiaries only).

(2) Phaseout of postsecondary student benefits.

(3) Rounding benefits to the next lower dollar, with interim calculations carried to the penny.

(4) Reimbursement to SSA for costs of providing earnings information for ERISA and other nonprogram purposes.

(5) The Megacap proposal.

(6) Trust fund financing for vocational rehabilitation services for disabled beneficiaries only if the beneficiaries performed Substantial Gainful Activity for 9 consecutive months.

(7) Proposals primarily affecting women—(a) earnings sharing at divorce after age 50 and 25 years of marriage; (b) wage-indexing deferred aged widow's benefits; and (c) termination of young parent's benefits when last eligible child reaches age 16.

(8) Other major OASDI changes—(a) providing cost-of-living adjustments on a fiscal-year basis; (b) beginning in 1990, increasing gradually the age of eligibility for unreduced retirement benefits from 65 to 68; and (c) eliminating the retirement earnings test for persons aged 68 or over.

(9) Proposals relating to coverage issues—(a) elimination of the windfall portion of certain benefits for those with pensions based on work in noncovered employment; (b) extension of exception clause in present spouse's government-pension offset provision, which is due to expire after November 1982; (c) barring termination of State and local government and nonprofit organizations' coverage agreements; and (d) requiring State deposit of Social Security taxes on a timetable similar to that applicable to private employers.

[3] These proposals, described in a previous section, were formally announced by Secretary Schweiker on May 12. They include major provisions to encourage later retirement, restrain growth in benefit levels, strengthen the disability program and restore it to its original role, and revise financing (including lower tax rates) to assure the long-range financial soundness of the system.

[4] In general, only those provisions on which there had been some tentative agreement were included in H.R. 3207. Thus, mandatory coverage of Members of Congress and the provision for basing cost-of-living increases on the lesser of wage or price increases were dropped. One exception was the provision for financing half of the cost of the Hospital Insurance program from general revenues; this provision was retained in H.R. 3207 despite its having been controversial in the previous considerations of the Subcommittee.

(10) Modifications in aspects of the Disability Insurance program that are now handled administratively, including a provision for writing into the law the amounts of earnings used to measure Substantial Gainful Activity and trial work months and adjusting these amounts automatically as wages rise in the future.

(11) Financing changes—(a) provide for interfund borrowing; (b) finance half of the cost of the Hospital Insurance program from general revenues; and (c) provide a revised tax schedule.

As markup sessions on H.R. 3207 progressed, several of the provisions of that bill were included in the Subcommittee's recommendations to the full Ways and Means Committee for inclusion in the reconciliation package. (The Subcommittee continued holding markup sessions on the remaining provisions, with a view to reporting a bill that would deal with both short-run and longer-range issues, including the overall financial soundness of the system.)

The OASDI proposals that the Subcommittee initially recommended for inclusion in the Ways and Means Committee reconciliation package and which the Committee tentatively approved on May 19 included the following:[5]

(1) Prospective elimination of the minimum benefit (for future beneficiaries only).

(2) Phaseout of postsecondary student benefits.

(3) Round benefits to next lower dollar (rounding to next lower dime at interim stages).

(4) Provide full reimbursement to the trust funds for the cost of providing earnings information for ERISA and other nonprogram purposes.

(5) Reimbursement from the OASDI Trust Funds for vocational rehabilitation services for disabled beneficiaries only if they performed Substantial Gainful Activity in 9 consecutive months.

(6) Shift cost-of-living increases to a fiscal-year basis (that is, effective for the September checks, payable in early October), and provide for an interim increase in 1982.

(7) Terminate young parent's benefits when the last eligible nondisabled child reaches age 16.

(8) Reduce the age at which the earnings test no longer applies to 71 in 1982 (instead of 70, as provided under existing law, as a result of the 1977 amendments) and then to 70 in 1983.

[5] At this time, the Subcommittee was operating with a fiscal year 1982 expenditure reduction target of about $2.6 billion and had discontinued consideration of coverage proposals in this context, because added revenues could not be used in lieu of outlay reductions. The total fiscal year 1982 reduction under these proposals was estimated at $2.7 billion. But even with these reductions (plus reductions of about $1.7 billion in Medicare), the Ways and Means Committee was still below its overall target for OASDI, Medicare, and other programs, then $9.2 billion.

However, by early June, when the bill was ready for final consideration by the full Ways and Means Committee, there had been some readjustment in the fiscal year 1982 expenditure reduction targets. Also, there had been changes in the estimated cost effects of the foregoing proposals. Accordingly, additional changes were needed. (There had been misunderstandings and shifts in Subcommittee targets within the Ways and Means Committee, and new estimates by the Congressional Budget Office showed that some of the proposals would result in lower savings than had been anticipated.) The following OASDI proposals were added on June 2 to the Ways and Means reconciliation package:

(1) Pay the lump-sum death benefit only to spouses living with the worker or to spouses and children eligible for monthly survivor benefits for the month of death of the worker.

(2) Provide benefits beginning with the first month *throughout* all of which the eligibility requirements are met. (In particular, for persons claiming benefits in the month of attainment of age 62, this would generally mean that benefits would be first payable for the next month.)

(3) Retain, through 1982, age 72 as the age up to which the retirement earnings test applies. (The age was scheduled to drop to 70, beginning in 1982, under the 1977 Social Security Amendments.)

With these three OASDI changes in addition to those agreed upon earlier, the Ways and Means Committee was ready to recommend reductions of nearly $3.2 billion for OASDI for inclusion in the reconciliation bill. (H.R. 3850, the Ways and Means Committee bill reported on June 12, included some $9.3 billion in fiscal year 1982 savings from both these proposals and those from other programs under its jurisdiction, which met the reconciliation targets.) These proposals were incorporated by the Budget Committee in its version of the "Omnibus Budget Reconciliation Act of 1981," H.R. 3982, which was reported on June 19.

Subcommittee on Health. The Subcommittee on Health of the Ways and Means Committee held markup sessions on the Administration's Medicare recommendations in April and May. The Medicare proposals of the Subcommittee differed significantly from those of the Administration. The proposals were as follows:

A—Changes in Medicare Benefits

(1) Eliminate coverage of alcohol detoxification facility services under Hospital Insurance (HI), as proposed by the Administration. This would repeal a provision adopted late in 1980.

(2) Cover nutritional therapy under the end-stage renal disease program when it is used as a means of delaying, or substituting for, the provision of kidney

dialysis, for those beneficiaries who would otherwise qualify for Medicare benefits.

B—Changes in Coinsurance, Deductibles, and Premium Rate

(1) Require a $1 copayment for each of the first 60 days of hospital care.

(2) Base the HI coinsurance amounts on the deductible amount for the year in which services are furnished, rather than the year in which the spell of illness began.

(3) Make the HI deductible and coinsurance amounts more current in terms of daily hospital care costs by increasing the base figure in the calculation from $40 to $45.

(4) Eliminate the deductible carryover under Supplementary Medical Insurance (SMI) by which expenses incurred in the last 3 months of the previous year may be counted in meeting the deductible for the current year.

(5) Increase the SMI annual deductible from $60 to $70; beginning in 1983, index the deductible so that it is increased for each year by the same percentage as the annual cost-of-living increase in monthly Social Security benefits that occurred in the preceding year.

(6) Technical changes to conform the SMI premium to changes in dates for OASDI cost-of-living increases.

C—Changes in Reimbursement

(1) Permit offset of interest and other income on funded depreciation.

(2) Eliminate occupancy test for hospital long-term care in nonpublic hospitals.

(3) Provide for incentive reimbursement rate for renal dialysis services. The Secretary of HHS would be required to prescribe in regulations methods for determining prospective payment rates for renal dialysis.

(4) Reduce the Medicare reimbursement limits currently applied to home health agency costs from the 80th to the 75th percentile.

(5) Reduce the Medicare reimbursement limits applied to hospital inpatient general routine operating costs from 112 percent to 108 percent of the mean costs.

D—Miscellaneous Changes

(1) Authorize the Secretary to impose civil monetary penalties for fraud, as recommended by the Administration.

(2) Require the Secretary to establish utilization guidelines and issue instructions to Medicare intermediaries for a program of postpayment coverage review of home health claims.

(3) Repeal of the statutory 1-year time limitation on agreements with skilled nursing facilities, as recommended by the Administration.

(4) Repeal of the one-time deferral of periodic interim payments, as recommended by the Administration. The delay enacted in late 1980 would be repealed.

(5) Provide statutory deadlines for implementing the 1980 provision for demonstration projects using AFDC recipients as home health aides.

(6) Technical corrections of errors made by the Medicare and Medicaid Amendments of 1980.

E—Amendments Relating to PSRO's and Utilization Review

Require the Secretary to develop and apply specific criteria for the evaluation of the performance of PSRO's. On the basis of such evaluations, the Secretary would be permitted to terminate up to one-half of all PSRO's before October 1, 1982. States would have the option of contracting with PSRO's for Medicaid review at a 75-percent Federal matching rate. The PSRO program would be repealed, effective September 30, 1983.

F—Medicare as Secondary Payor to FEHB Program

For those Federal employees and annuitants who are entitled to coverage under both SMI and Federal Employees Health Benefits (FEHB), Medicare would become the secondary payor. HI would become the secondary payor to the FEHB program only with respect to persons reaching age 65 after 1981.

Subcommittee on Health and the Environment. As noted earlier, the Subcommittee on Health and the Environment of the House Energy and Commerce Committee had held public hearings on the Administration's Medicare and Medicaid proposals. The Subcommittee held markup sessions in April and May and developed recommendations for changes in the Medicare program that were included in the House Budget Committee's Reconciliation bill (H.R. 3982).

In many instances this Subcommittee's recommendations were similar to those of the Subcommittee on Health of the House Ways and Means Committee. However, it also recommended a number of additional Medicare provisions, as follows:

(1) Medicare hospital reimbursement: Repeal the provision limiting to six the number of statewide Medicare hospital reimbursement demonstration projects.

(2) Limitation on Medicare and Medicaid payments for certain drugs: Prohibit payments under SMI and Medicaid for prescription drugs approved prior to the 1962 Federal Food, Drug, and Cosmetic Act Amendments and which were subsequently determined by the Food and Drug Administration to be less than ef-

fective in use. Reimbursement under HI would not be affected.

(3) Withholding of payments for certain Medicare providers: As recommended by the Administration, authorize the Secretary to offset, from reimbursements due to Medicare providers, overpayments made to them under Medicaid in cases where the provider has terminated or substantially reduced its participation in Medicaid. State Medicaid agencies would be reimbursed from the amounts recovered.

House floor action. Owing to the high degree of controversy associated with some of the proposals included in the "Omnibus Budget Reconciliation Act" (particularly those within the jurisdiction of the House Education and Labor Committee), it was agreed by the House Committee on Rules that H.R. 3982 should be considered on the House floor under a limited open rule that would allow for separate consideration of the major areas dealt with. On June 24, the Rules Committee voted 11 to 5 to recommend that the bill be considered on the floor under six separate categories rather than as a complete package. One of the categories included the Social Security proposals to phaseout student benefits, eliminate the minimum benefit prospectively, restrict the lump-sum death payment, round benefits in a different manner, and other changes.

The adoption of the rule for floor consideration of the reconciliation bill became, in itself, a highly controversial issue. The Democratic leadership argued for allowing the six separate votes on the grounds that this would allow for greater accountability for individual members and avoid criticisms of "rubber stamping" the Administration's proposals. A bipartisan group of Members (generally supported by the Administration) argued instead for a substitute rule that would allow first for consideration of a major substitute for the Budget Committee bill and then only for an up-or-down vote on the entire reconciliation package as modified by the bipartisan substitute—the "Gramm-Latta" amendment.[6] The arguments against the rule and for the substitute were based largely on the necessity for maintaining the President's proposals as an intact package and for facilitating future conference committee agreements by bringing the House bill (H.R. 3982) more closely into line with the President's original proposals and with the reconciliation bill (S. 1377) pending in the Senate.

On June 25, the original rule for floor consideration of the Omnibus Reconciliation Act was defeated, 217 to 210. Then, the substitute rule, including the Gramm-Latta package of proposals, was adopted, 214 to 208. On June 26, the House passed the Omnibus Budget Reconciliation bill, H.R. 3982, with the OASDI changes described hereafter, by a vote of 232 to 193.

[6] The amendment was sponsored by Representative Phil Gramm (D., Tex.) and Representative Delbert L. Latta (R., Ohio).

The proposals in the House-passed reconciliation bill differed from the provisions agreed to by the Ways and Means Committee (and included in the House Budget Committee's bill) in that they included the Senate provisions on the phaseout of student benefits and on the elimination of the minimum benefit (for both current and future beneficiaries, but with effective dates of December 1981 for new beneficiaries and March 1982 for those on the rolls). Also, the provision for shifting cost-of-living benefit increases to a fiscal-year basis was dropped. The Medicare provisions were not changed.

Action in the Senate

Finance Committee action. On March 17, Secretary Schweiker testified before the Senate Finance Committee on the Administration's proposals affecting HHS programs in the Committee's jurisdiction. A major concern in the Finance Committee (and in the Senate Special Committee on Aging, which held hearings on the Administration's proposals on March 20, at which Under Secretary Swoap testified) related to "safety net" protection for persons already receiving benefits who would be affected by the Administration's proposal to eliminate the minimum benefit. There was recognition that, while many of those potentially affected had higher benefits as the spouses or survivors of workers, or had pensions based on noncovered earnings or other sources of income, or were receiving or were eligible for SSI, there was no basic Federal safety net program for persons aged 60–64 who were needy, but were neither blind nor disabled.

Another concern related to assuring a measure of "advance notice" to beneficiaries who would be affected by the provision for phasing out benefits for students in postsecondary schools. Also, there was concern about the effective dates of the changes in the disability benefits program. The Administration's proposals would have applied to persons becoming entitled or reentitled to disability benefits in the future. There was a question whether application of these provisions in the case of reentitlements might serve as a work disincentive to those currently getting disability benefits.

In April, the Finance Committee began holding executive sessions on spending-reduction proposals and started marking up the proposals the Administration had submitted. The Finance Committee's consideration of the proposals followed Senate passage, on April 2, of Senate Con. Res. 9, which contained fiscal year 1981 budget reconciliations,[7] and which instructed the Finance Committee to report changes in law within its

[7] Although S. Con. Res. 9 was in the form of a revised second concurrent resolution on the budget for fiscal year 1981, it included reconciliation instructions and subsequent year targets from which S. Con. Res. 19, the Senate version of the first concurrent resolution for fiscal year 1982, subsequently developed.

jurisdiction that would amount to reductions in outlays of about $300 million in fiscal year 1981, $9.5 billion in 1982, and $11.0 billion in 1983. On May 5, the Committee reached tentative agreement on OASDI and Medicare proposals to meet the targets. These outlay reduction targets were subsequently adjusted slightly downward under the First Concurrent Budget Resolution for Fiscal Year 1982 (H. Con. Res. 115) as agreed to by both the House and the Senate.

On June 10, the Finance Committee submitted its recommendations for spending reductions. These were included by the Senate Budget Committee in S. 1377, the "Omnibus Budget Reconciliation Act of 1981," which was reported by the Budget Committee on June 17, and was passed by the Senate on June 25, without significant modification.

A—OASDI Changes

With a few modifications (noted hereafter), the Finance Committee's OASDI proposals, as passed by the Senate, were identical to those of the Administration:

(1) The minimum benefit would be eliminated for present and future beneficiaries. However, the Finance Committee included a provision for paying special SSI-like benefits to those aged 60–64 who were affected by the minimum-benefit change and who met the eligibility requirements—other than age—for SSI.

(2) Student benefits for current beneficiaries who are postsecondary students would be phased out, but with greater advance notice than the Administration had proposed. Effective beginning with the benefits received for September 1982, and repeating for September 1983 and September 1984, the amount of the benefit would be reduced by 25 percent of the benefit amount for August 1981 (and annual cost-of-living increases would not apply to these benefits). Also, during the phaseout period, benefits for postsecondary students would be available for only 8 months in a year (no benefits would be paid for May, June, July, and August), rather than all 12 months. Benefits for students in primary or secondary education would terminate upon attainment of age 19, effective August 1982.

(3) The lump-sum death payment would be paid only to the spouse living with the worker at the time of death or to a surviving spouse or child eligible for immediate monthly benefits.

(4) A recency-of-work test would be required in order to qualify for disability benefits. A person would have to be "currently insured" (6 quarters of coverage in the 13-calendar-quarter period ending with the quarter of disability). The Senate bill applied to initial entitlements, but not to reentitlements.

(5) Social Security disability benefits would be reduced when total public disability benefits based on noncovered employment exceed the worker's prior earnings, and such reductions would be made at ages 62–64 (Megacap). The Senate bill applied to initial entitlements, but not to reentitlements.

(6) Trust-fund financing for vocational rehabilitation services for disabled beneficiaries would be eliminated.

(7) The OASDI Trust Funds would be reimbursed for expenses incurred in providing earnings information required to enable an employee benefit plan to comply with ERISA.

(8) Benefits would be rounded to the next lower dollar, with interim calculations carried out to the penny. (The Administration had proposed rounding to the nearest dime.)

During consideration of the Social Security outlay reduction proposals, the Finance Committee also considered, and unanimously adopted, a resolution, S. Res. 87, expressing the sense of the Senate that, during the 97th Congress, the Senate would take no action that could result in the taxation of OASDI benefits. On July 14, this resolution was adopted by the Senate by a vote of 98 to 0.

Several other resolutions relating to Social Security were also considered by the Senate during the budget reconciliation process. On March 30 and April 1, during Senate floor consideration of the budget resolution, the Senate rejected proposals (a) to retain the minimum benefit and (b) to provide that future automatic increases in OASDI and other Federal benefits should be based on the lesser of wage or price increases.

B—Medicare Changes

The Finance Committee (and, subsequently, the Senate Budget Committee) adopted a number of the Administration's recommendations, with some modifications, as follows:

(1) Reduce (rather than eliminate) the routine nursing-salary cost differential from 8.5 percent to 4.5 percent. Also, the General Accounting Office would be instructed to conduct a study on the appropriateness of the differential, to be completed within 6 months of the enactment of the provision.

(2) Repeal the following provisions that had been enacted as part of the Omnibus Reconciliation Act of 1980:

(a) Inclusion of the need for occupational therapy as a qualifying criterion for home health benefits.

(b) Authority to pay freestanding alcohol detoxification facilities under Medicare.

(c) Coverage for hospital stays necessary to carry out dental procedures where they are warranted by the severity of the dental procedure.

(d) Continuous open enrollment in SMI.

(e) Establishment of a 1-year period beginning January 1, 1981, during which any State that has not already done so could enter into an agreement to buy in to SMI for its eligible Medicaid recipients.

(f) A one-time delay of 3 weeks in reimbursement to hospitals under the periodic interim payment procedure.

(3) Repeal the 1980 provision for Medicare coverage for the injection of pneumococcal vaccine; a separate provision would authorize Medicaid coverage for this service.

(4) Authorize the Secretary to assess a civil monetary penalty against any person who he determines, after notice and opportunity for a hearing, has filed a fraudulent claim under the Medicare or Medicaid program.

(5) Permit the Secretary to enter into agreements with skilled nursing facilities (SNF's) for more than 12 months.

In addition, a number of Medicare provisions were included in the recommendations of the Finance Committee that had not been included in the Administration's recommendations, as follows:

(1) Provide for including in short-term hospital reimbursement payments for increased operating costs and, in the case of nonprofit institutions, for increased capital costs associated with the closing down or conversion to approved use of underutilized bed capacity or services.

(2) Modify existing Medicare criteria for determining reasonable charges for physician services. This provision would require calculations of statewide median charges in addition to local prevailing charges.

(3) Require the Secretary to issue regulations establishing limitations on costs or charges for outpatient services provided by hospitals, community health centers, or clinics and by physicians utilizing these facilities. Limits would be based on the reasonableness of these costs in relation to charges in the same area for similar services provided in physicians' offices.

(4) Eliminate the 80-percent occupancy rate exception, so that a hospital's payment would be subject to reduction if there is an excess of beds in the institution in which the patient is hospitalized or an excess of hospital beds in the area. The reduction applies when a beneficiary who no longer requires acute hospital services must remain in the hospital because no long-term care bed is available.

(5) Increase the SMI deductible from $60 to $75.

(6) Eliminate the carryover deductible under SMI under which covered medical expenses incurred during the last quarter of the preceding calendar year, when the beneficiary did not meet the deductible, are used in determining whether the individual has satisfied the SMI deductible in the current calendar year.

(7) Provide for increases in SMI premium rates, beginning in 1982, so that they are sufficient to maintain the beneficiary premium rate at a constant proportion of total program costs for aged persons (24 percent).

(8) Provide for coordination of benefits with private coverage for Medicare kidney disease patients by making Medicare a secondary payor for the initial 12-month period of the patient's Medicare eligibility, with Medicare reimbursing only its share of those covered costs not covered by the private plan.

(9) Provide for coordination of Medicare benefits with FEHB benefits by providing that, in the case of those enrolled in both Medicare and FEHB, the latter would be the payor of first resort, under both HI and SMI, with Medicare paying only those costs not covered by FEHB.

Senate floor action. The Omnibus Budget Reconciliation Act, S. 1377, including the foregoing OASDI and Medicare provisions, was debated on the Senate floor during June 22-25. The most controversial aspect of the bill relating to OASDI was the elimination of the minimum benefit for persons already on the benefit rolls. Senator Riegle proposed an amendment that would have deleted this aspect of the minimum-benefit provision. The amendment was defeated, 53 to 45.

With regard to Medicare, the provision requiring Medicare to be second payor for medical services provided to persons also entitled under the FEHB program proved controversial. After considerable debate, on June 25 the Senate adopted (51-47) an amendment by Senator Roth to delete the provision from the reconciliation bill. On that same day, the Senate passed the reconciliation bill by a vote of 80 to 15.

Action in the House-Senate Conference

As indicated earlier, during House consideration of the Omnibus Budget Reconciliation bill, the adoption of the alternative bipartisan package resulted in a House-passed bill that was very similar to the Administration's original proposals and to the Senate-passed reconciliation bill. On July 13, the Senate voted to substitute its reconciliation proposals from S. 1377 for those passed by the House in H.R. 3982 and to go to conference to resolve the differences. A series of informal agreements were reached that were designed to assure that the work of the conference would proceed expeditiously. [8]

Although, except for the effective dates, the mini-

[8] These agreements included accepting procedures such as the Senate substitution of its bill, S. 1377, for the House bill and waivers of points of order, the use of "subconferences" with a majority comprised of Members who voted for final passage, and avoidance of reopening essentially similar provisions or raising unrelated issues.

mum-benefit provisions of both versions of the bill were identical, the retrospective application of this provision remained highly controversial. On July 21, prior to action on the part of the conferees, this issue was again debated and voted upon in both houses of Congress. In the Senate, Senator Riegle offered an amendment to the tax bill then being debated that was intended to restore the minimum benefit to persons already on the rolls. The Senate, by a vote of 52 to 46, adopted a motion by Senator Dole, Chairman of the Finance Committee, to table the Riegle amendment.

On the same day, the House of Representatives, by a vote of 405 to 13, passed a sense-of-the-House resolution (H. Res. 181) urging that "necessary steps be taken to insure that Social Security benefits shall not be reduced for those currently receiving them." As described by Majority Leader James C. Wright (**Congressional Record**, page H. 4597), the intent of this resolution was to urge the conferees on the reconciliation bill to go beyond the scope of the conference and not repeal the minimum benefit for persons already on the rolls. However, the conferees limited their consideration to matters traditionally within the scope of the conference.

The Conference Committee consisted of 72 Senators and 183 Members of the House of Representatives and conducted most of its business through Subcommittees. The conferees met during July 22–29, reaching final agreement on the bill on July 29.

A number of the OASDI proposals were substantially the same in both the House and Senate bills (and similar to what the Administration had proposed). In these areas, the Conference agreements were as follows:

(1) Elimination of the minimum benefit (with modification in the effective dates described hereafter).

(2) Phaseout of postsecondary student benefits.

(3) Limitations on payment of the lump-sum death benefit.

(4) Rounding of benefits to next lower dollar (with rounding to next lower dime for interim calculations).

(5) Reimbursement to the trust funds for the cost of providing earnings information for ERISA and other nonprogram purposes.

The following additional provisions from the House-passed bill were also agreed to:

(1) Reimbursement from the trust funds for certain vocational rehabilitation services for disabled beneficiaries who have 9 consecutive months of Substantial Gainful Activity.

(2) Termination of young parent's benefits when the last eligible child reaches age 16.

(3) Provision of benefits beginning only with the first month throughout all of which the eligibility requirements are met.

(4) Retention, through 1982, of age 72 as the age at which the retirement earnings test no longer applies.

In addition, the conferees adopted (with technical modifications) the disability Megacap provision from the Senate-passed bill.

With regard to the OASDI minimum benefit, the Joint Explanatory Statement of the Committee of Conference in the Conference Report (House Report No. 97–208, page 974) indicates agreement that the effective date for eliminating the minimum-benefit provision for persons coming on the rolls after November 1981 would be with regard to benefits beginning after that month (the same as in the House-passed bill). The final legislation, however, shifted this effective date to "after October 1981." For all other beneficiaries, the Explanatory Statement indicated that the elimination of the minimum-benefit provision would be for benefits for months after January 1982, but the final legislation provided that this should be for months after February 1982 (the same as in the House-passed bill). Thus, the first benefit check affected will be that for March 1982 payable in early April. Further, the Conference Report directs that, by December 3, 1981, the Social Security Administration must notify beneficiaries with minimum benefits that their benefits may be reduced.

Also, in rejecting the Senate-passed provision requiring recent work (currently insured status) in order to be eligible for disability benefits, the conferees indicated that this issue would be considered further in connection with the Administration's proposal to increase the present requirement for 20 quarters of coverage in the 40-quarter period preceding disability to 30 quarters of coverage in such a period.

With regard to Medicare, the House and Senate bills were virtually identical in four areas—elimination of the SMI carryover deductible, repeal of coverage of alcohol detoxification facility services, repeal of the 1-year limitation on agreements with SNF's, and repeal of the temporary delay in periodic interim payments. In a number of other areas, only one body had adopted a change, and the Conference Committee agreed to retain present law. The areas in which present law was not changed are the following:

(1) Nutritional therapy in case of renal disease.
(2) Basis for determining SMI premium rates.
(3) Requirement for Utilization Review Committees.
(4) Medicare/FEHB relationship.
(5) No daily copayment for the first 60 hospital days.
(6) Treatment of interest and other income on funded depreciation.
(7) Coverage of pneumococcal vaccine.
(8) Reasonable-charge criteria for physician reimbursement.
(9) Dental coverage.

In other areas where disagreement existed between the House and Senate bills, the Senate approach was adopted on the following items:

(1) Increase in SMI deductible.

(2) Elimination of occupancy test for hospital long-term care (with modifications).

(3) Closing and conversion of underutilized facilities (with modifications).

(4) Occupational therapy as a qualifying condition for home health services (with modifications).

(5) Elimination of continuous open SMI enrollment.

(6) Medicare as secondary payor in the first year of renal-disease benefits (with modifications).

(7) Cost limits for outpatient services (with modifications).

(8) Reduction in 8.5-percent nursing-salary cost differential (with modification making it 5 percent).

The conferees accepted the House provision in the following areas:

(1) Incentive reimbursement for renal dialysis (with modifications).

(2) Limits on reimbursement for home health agencies.

(3) Civil monetary penalties for fraud (with modifications).

(4) Utilization guidelines for home health services.

(5) Correction of technical errors in 1980 legislation.

(6) Implementation of AFDC home health aide demonstration.

(7) Phaseout of PSRO's (with major modifications).

(8) Hospital reimbursement experiments.

(9) Limitations on payments for certain drugs.

(10) Withhold Medicare payments from certain Medicaid providers.

(11) Base HI coinsurance on current-year deductible.

(12) Make HI deductible and coinsurance more current.

(13) Limits on hospital reimbursement (with modifications).

On July 29, conferees representing both the House and Senate tentatively agreed to file a conference report on the budget bill. However, an impasse developed when the Chairman of the House Committee on Rules, Representative Bolling, threatened to delay indefinitely final action on the budget bill unless the Social Security minimum-benefit provision was restored. A compromise was reached on the basis that there would be a separate vote on a new bill that would delete the provision of the budget bill eliminating the minimum-benefit provision.

On July 31, the House first considered the rule providing for consideration of the Conference Report and of H.R. 4331, the bill to amend the Omnibus Budget Reconciliation Act of 1981 so as to restore the OASDI minimum-benefit provision. The rule was adopted by a vote of 370–52. H.R. 4331, a separate bill, was passed, 404–20, and sent to the Senate. Two procedural votes to bring the bill to the Senate floor for consideration failed. Accordingly, H.R. 4331 was "held at the desk" for consideration at a later date.

The Omnibus Budget Reconciliation Act of 1981, as agreed to by the conferees, was passed by the House of Representatives on July 31 by a voice vote, and later the same day by the Senate by a vote of 80 to 14. On August 13, the bill was signed by President Reagan and became Public Law 97–35.

II. Summary of Major Provisions

OASDI Provisions

Minimum benefits. The regular minimum benefit is eliminated for all beneficiaries who initially become eligible for benefits for months after October 1981. For all other beneficiaries, the minimum is eliminated for benefits payable for months after February 1982. Beneficiaries on the rolls who have their benefits based on a regular minimum Primary Insurance Amount will have their benefits recomputed on the basis of either (a) the extended benefit table or the benefits formula established pursuant to the 1977 Social Security Amendments, whichever is applicable, or, if larger, (b) the special age-72 benefit (currently, at the primary rate of $117 monthly) if they meet the insured-status and other requirements for that benefit.

Minimum-benefit beneficiaries aged 60–64 whose benefits are reduced under this provision and who would be eligible for Supplemental Security Income (SSI) benefits if they were aged 65 are eligible for an SSI payment in an amount equal to the difference between their newly reduced Social Security benefit and the amount that they had been receiving under prior law. This special SSI payment will not be adjusted for changes in the cost of living, and the recipient will not be eligible for State supplementary payments or for other benefits such as food stamps or Medicaid solely by reason of his or her eligibility for the special benefit.

The minimum benefit is often paid to persons who were not primarily dependent on earnings from covered employment. Such workers include government employees and persons with minimal labor-force attachment. The new provision is intended to reduce substantially the "windfall" portion of the benefits received by these persons. It is believed that SSI payments or other assistance programs are more appropriate vehicles for meeting the needs of those beneficiaries who have been receiving the Social Security minimum benefit and who are truly needy. In fact, the provision explicitly extends the scope of the SSI program to help those aged 60-64 who receive minimum benefits but who could not receive SSI under prior law.

In many instances, the elimination of the minimum benefit will not result in any reduction in income for minimum-benefit beneficiaries—for example (a) persons currently also receiving SSI and (b) persons receiving benefits on the earnings record of a spouse as well as the minimum benefit. For some persons in the latter group of dual beneficiaries, there will be no change in total income, while for a few there will be small decreases, and for others there will be small increases.

Student benefits. The benefits paid to students aged 18-21 are phased out for persons who are full-time students at institutions of higher education or other postsecondary schools; the phaseout for those on the rolls will be complete after April 1985. Benefits paid to individuals aged 18 who attend elementary or secondary school will end at age 19, effective with respect to benefits for months after July 1982.

Students who began (or who will begin) postsecondary school before May 1982 and who received a child's benefit for August 1981 may continue to receive student benefits after reaching age 18. However, beginning with checks received for September 1982, and repeating for September 1983 and September 1984, the amount of the benefit will be reduced each year by 25 percent of the benefit amount for August 1981. No benefits to postsecondary students will be paid after April 1985. Further, the benefit amount will not be adjusted for changes in the cost of living after August 1981. Finally, benefits will not be paid for the months of May through August, regardless of whether the postsecondary student is in full-time attendance.

Students who first become entitled to child's benefits after August 1981 can receive such benefits at ages 18-21 while attending postsecondary school, but only for months through July 1982 (and including any cost-of-living increase for June 1982).

Student benefits were provided in 1965 on the presumption that students aged 18-21, just as children under age 18 or disabled, are dependent on their parents for support and thus lose a source of support when a parent retires, becomes disabled, or dies. Since 1965, however, a number of programs have been established that provide educational assistance for postsecondary students based on their individual and family financial circumstances. Such programs represent a more appropriate source of educational assistance for financially needy students. (Postsecondary student benefits continue to be available in the Railroad Retirement and Civil Service Retirement programs.)

Lump-sum death payments. Effective for deaths after August 1981, the lump-sum death payment available when an insured worker dies will be paid to a spouse living with the worker at the time of death. If there is no such spouse, it will be paid to a spouse (excluding a divorced spouse) who is eligible for widow's or widower's benefits for the month in which the worker died. If there is no spouse eligible for the payment, it will be made to children who are eligible for monthly benefits for the month of death. Its amount will always be $255.

Under prior law, the lump sum of $255 was paid to the surviving spouse living with the worker at the time of death. If there was no such spouse, it was paid either to the funeral home to cover unpaid burial expenses or to any person who paid the burial expenses (in an amount of $255 or the actual funeral expenses, if less—although the latter was rarely the case). In recent experience, about half of the lump-sum payments were made in cases where there was neither a surviving spouse nor surviving children. The new law focuses the lump-sum death payment on its basic purpose of helping the deceased worker's family with costs associated with the worker's last illness and death.

Megacap and workers' compensation offset. The new law provides for a disability Megacap, under which a person's Social Security disability benefits (including any benefits for the spouse and children) will be reduced (if necessary) so that the sum of all benefits payable under certain Federal, State, and local public programs on the basis of disability will not exceed 80 percent of the person's "average current earnings" (a concept defined in the law by the 1965 amendments). However, this provision will not apply to VA service-connected benefits, public-employee pensions based on employment covered under OASDI, needs-based public benefits, or private pension or insurance benefits. The provisions of the Megacap offset are generally similar to those of the workers' compensation (WC) offset provision in prior law, but are more inclusive.

The new law also modifies the WC provision in prior law by extending the offset to disabled workers aged 62-64, and by making the offset effective with the month of the individual's first concurrent entitlement to OASDI and other disability benefits, instead of the month of application for OASDI benefits or, if later, the month in which the Secretary is notified of such other entitlement. In addition, the present restriction against the offset when a State plan calls for reducing State WC benefits because of the OASDI benefits will be limited to those States having such a plan in effect on February 18, 1981. The Megacap provision is effective with respect to initial entitlements to disability benefits for months after August 1981, but only in the case of persons who became disabled after February 1981.

This provision will avoid undue incentives for persons to file for disability benefits and stay on the disability rolls, instead of trying to return to work, by assuring, on the whole, that public disability benefits will not exceed the worker's predisability net after-tax earnings. The Megacap will also limit the overlapping and duplication of public disability programs.

Mother's and father's benefits. Entitlement of the mother or father caring for a child who receives child's benefits will end when the child reaches age 16 (rather than age 18, as under prior law). This provision does not affect the benefits of a parent caring for an eligible disabled child aged 16 or over. Parents becoming entitled to child-in-care benefits after August 1981 are immediately affected by the provision. However, parents entitled to such benefits for the month of August 1981 (month of enactment) are not affected until after August 1983. Benefits to children are not affected by this change.

Benefits for parents caring for a child are designed to provide income if the parent stays at home to care for that child. The new provision recognizes the fact that the extent of parental care ordinarily required for a child who is not disabled and is aged 16 or over is substantially less than that required for young children. Thus, it does not seem unreasonable to presume that such parents can seek employment outside the home or to otherwise provide for their own support.

Payment of benefits in month of entitlement. Workers and their spouses (including divorced spouses) will not receive old-age benefits for a month unless they meet the requirements for entitlement throughout the month. The major effect of this provision is to postpone, in the vast majority of the cases, entitlement to old-age benefits for persons who claim benefits in the month in which they reach age 62 to the next month, which means reduction for early-retirement benefits based on the 35 months before age 65, instead of on 36 months. Only in the case of a person who attains age 62 on the first day of a month can benefits be paid for the month of attainment of age 62.

Most entitlement requirements (other than the entitlement of the worker) affecting young spouses or children of retired or disabled workers will be deemed to have occurred as of the first of the month in which they occurred; however, in the case of a child who is born in or after the first month of entitlement of a retired or disabled worker, benefits are not payable for the month of birth (unless born on the first day of the month). The provision does not affect survivor benefits. The provision is effective for workers and spouses who attain age 62 after August 1981.

Rounding benefits. OASDI benefit amounts will be rounded to the next lower 10 cents at every step of the benefit calculations and then to the next lower dollar (after deducting any SMI premium) at the final step. This provision is effective for initial calculations or adjustments of Primary Insurance Amounts after August 1981.

This change reflects the view that rounding benefits to the next higher multiple of 10 cents at each step of the benefit computations, as in prior law, provided a little-known and unnecessary advantage to beneficiaries and involved significant program costs. Rounding to whole dollars will result in some simplifications.

Retention of Social Security earnings test exempt age at 72 through 1982. The new law generally retains age 72 as the upper age limit beyond which the earnings test no longer applies through 1982. Beginning in 1983, the limit will be age 70. Under prior law, the age dropped to age 70 effective for taxable years ending after 1981. To avoid creating overpayments of benefits to the relatively few persons reporting on a fiscal-year basis, for whom the age-70 limit has already gone into effect (or will soon go into effect), age 70 was retained as the limit for those whose first taxable year ending after 1981 begins before 1982 (but only for persons for whom such a taxable-year basis was in effect on August 13).

Reimbursement of States for successful rehabilitation services. The cost of vocational rehabilitation (VR) services provided by the States to OASDI beneficiaries will be reimbursed from the trust funds only for those disabled beneficiaries who successfully engage in Substantial Gainful Activity (SGA) for 9 continuous months, and for whom the VR services contributed to the successful return to SGA. This provision will be effective with respect to VR services provided after September 1981.

Under prior law, the trust funds reimbursed the States for VR services provided to disabled beneficiaries, regardless of whether or not the rehabilitation led to the return of the beneficiaries to work. In 1980, reimbursement totaled about $100 million.

Pension information reimbursement. The new law authorizes the Secretary to charge requestors the full cost of furnishing detailed earnings information to enable an employee benefit plan to comply with ERISA or for any other purpose not directly related to the administration of the programs under the Social Security Act. Under prior law, reimbursement to the OASDI Trust Funds for expenses incurred in furnishing detailed earnings information was governed either by the Freedom of Information Act or by the Privacy Act. Under the former, the reimbursement was limited to about 40 percent of the cost; under the latter, no reimbursement was permitted. Thus, the trust funds were bearing the cost of furnishing information for nonprogram purposes. The provision is effective upon enactment.

Medicare Provisions

Benefit Changes

Alcohol detoxification facility services. The provision (adopted in late 1980) that authorized reimbursement for inpatient services in freestanding detoxification facilities is repealed, effective with services rendered on or after August 23. Also repealed is the requirement for studies and demonstration projects on this subject.

Limitation on Medicare and Medicaid payments for certain drugs. This provision prohibits payments under SMI and Medicaid for prescription drugs that were approved prior to the 1962 Federal Food, Drug, and Cosmetic Act Amendments and that were subsequently determined by the Food and Drug Administration to be less than effective in use, effective with October 1, 1981.

Occupational therapy as a qualifying criterion to home health services. The new law modifies a provision (adopted in 1980) so that the need for occupational therapy alone would not be enough to establish initially a patient's need for the full range of home health services; however, when eligibility for home health services has initially been established on another basis, services would be continued even though the patient only required occupational therapy. This provision is effective for plans of treatment established after November.

Deductible, Coinsurance, and Premium Rates

HI deductible and coinsurance amounts. The HI initial deductible and daily coinsurance amounts are made more current in relation to daily hospital care costs by adding $5 to the base figure of $40 in the formula that is used in the annual determination of the inpatient hospital deductible, thus resulting in increases of about 12.5 percent over what would otherwise have occurred under the automatic-adjustment procedure. This change is effective for inpatient hospital services and posthospital extended-care services furnished after 1981. The amount of the deductible for 1982 is expected to be $260, rather than the $232 figure to which it would have risen under the prior-law formula. This provision is expected to save $185 million in fiscal year 1982, increasing to $360 million in 1984.

HI coinsurance based on current-year deductible. The HI daily coinsurance amounts will be based on the deductible for the current year rather than on the deductible in effect when the beneficiary's spell of illness began. The provision is effective for inpatient hospital services and posthospital extended-care services furnished after 1981. This provision is expected to save $5 million in fiscal year 1982.

Elimination of carryover for meeting the SMI deductible. The new law repeals the provision that permitted beneficiaries to count covered medical expenses incurred in the last quarter of the previous calendar year toward meeting the SMI annual deductible for the current year, beginning in 1982. The provision is expected to save $55 million a year in SMI funds beginning in fiscal year 1982, but to cost $4 million a year in Medicaid funds.

SMI deductible increase. The SMI annual deductible is increased from $60 to $75, effective for covered medical expenses incurred in 1982. This provision will save $120 million in fiscal year 1982.

Open enrollment. The new law repeals the provision (adopted in 1980) for continuous open enrollment for SMI and reinstitutes the January-March enrollment period, effective with September 1981. The savings from this provision is expected to increase from $3 million in fiscal year 1982 to $11 million in 1984.

Changes in Reimbursement

Reduction in the routine nursing salary cost differential. Provides for a reduction in the routine nursing salary differential allowed as a reasonable cost from 8.5 percent to 5 percent of the average routine nursing salary costs of the hospital, effective upon enactment. The Comptroller General is required to conduct a study to determine the extent to which higher payments are justified and report back to Congress.

Occupancy test for hospital long-term care. The 80-percent exception from the reduced reimbursement to hospitals providing long-term care because no long-term care bed is available in the area is eliminated. Rather than using the 80-percent criteria, a nonpublic hospital's payments would be reduced by Medicare if there is an "excess capacity" of beds either in the institution or the area. In the case of public hospitals, the determination could also be based on other public hospitals in the area that are under common ownership with that hospital. This provision shall apply to services provided after August 1981.

Limits on reimbursement to hospitals. The law reduces the Medicare reimbursement limits currently applied to hospital inpatient general routine operating costs from 112 percent to 108 percent of the mean, effective for cost reporting periods ending after September 1981 (but the lower limits are applied only in proportion to portions of reporting periods occurring after then).

Repeal of temporary delay in Periodic Interim Payment. This provision repeals the temporary deferral in Periodic Interim Payments that was passed in 1980, effective upon enactment.

Incentive reimbursement rate for renal dialysis services. This provision requires the Secretary to provide a method (or methods) for determining a prospective reimbursement rate (or rates) for each mode of dialysis furnished in a hospital-based or free-standing facility or at home. The method(s) would incorporate separate composite weighted formulas for the two types of facilities and take into account the proportions of patients dialyzing in a facility and those dialyzing at home.

However, if the Secretary determines, after detailed analysis, that another method (or methods) of determining prospectively the amounts of payment to be made for dialysis services would more effectively encourage the more efficient delivery of dialysis services and would provide greater incentives for increased use of less costly home dialysis than the dual composite weighted formulas, the Secretary may use that other method. Such method(s) must differentiate between hospital-based and free-standing facilities, and encourage home dialysis. In addition, the payment method adopted must provide for exceptions for unusual circumstances, such as sole providers in an area.

This provision will be effective after September (including promulgation of regulations by this date). It is expected to save $105 million in fiscal year 1982, increasing to $155 million by 1984.

Reimbursement to home health agencies. The Medicare reimbursement limits for home health agencies are lowered from the 80th to the 75th percentile. Current exceptions and exemptions would continue to be permitted, effective with cost reporting periods ending after September (but lower limits would be applied only in proportion to the portion of the reporting period occurring after then).

Medicare hospital reimbursement experiments. The new law repeals the provision of prior law limiting to six the number of statewide Medicare hospital reimbursement demonstration projects.

Payments to promote closing and conversion of underutilized facilities. This provision allows for the inclusion in reimbursement under titles XVIII and XIX of payments for certain increased costs associated with the closing, or conversion to approved use, of underutilized beds or services in hospitals, effective after September.

Closure and conversion would be made consistent with area health planning and bed reduction plans. No more than 50 hospitals could receive such payments prior to 1984. The Secretary would be required to report to Congress by January 1, 1983, on this program.

Withholding of payments for certain Medicaid providers. The Secretary would be authorized to offset, from reimbursements due to Medicare providers, any overpayments made to them under Medicaid in cases where the provider has terminated or substantially reduced participation in Medicaid. State Medicaid agencies would be reimbursed from amounts recovered. These changes are effective upon enactment.

Reasonable charge for outpatient services. The Secretary is required, to the extent feasible, to establish by regulation the limitations on costs or charges that will be considered reasonable for hospital outpatient services, effective upon enactment. Limits would be based on the reasonableness of these costs in relation to the actual charges in the same area for similar services provided in physicians' offices.

Medicare payments for end-stage renal disease. Medicare will become the secondary payor for the first 12 months after an individual who has private group health insurance coverage has been determined to be eligible for end-stage renal benefits under the Medicare program. Thus, Medicare would become the primary payor beginning with the 13th month of coverage. This provision would apply only when the renal patient is under age 65 and is not entitled to Medicare as a disabled beneficiary, and when the private coverage is through an employer group health insurance plan. Until the Secretary determines that the private plan has begun to make payments promptly, Medicare must pay the claim and seek recovery from the private plan.

This provision will also deny, as a business expense deduction under the tax code, the expenses paid or incurred by an employer for a health plan, if such plan contains a discriminatory provision that reduces or denies payment of benefits for renal patients. The Secretary is required to investigate complaints of job discrimination related to this provision and report the findings to Congress.

Medicare secondary-payor provisions are effective upon enactment. Tax code provisions are effective with respect to taxable years beginning after 1981.

Professional Standards Review Organizations

The new law directs the Secretary to assess PSRO performance. The Secretary could terminate up to 30 percent of current PSRO's by the end of fiscal year 1982. PSRO delegation of review to hospitals is permitted instead of required. The Secretary may require a PSRO to review ancillary, ambulatory, and long-term care services. The optional use of PSRO's for Medicaid, at a 75-percent matching rate, is allowed.

Miscellaneous

Civil monetary penalties. The Secretary is authorized to impose a civil monetary penalty of up to $2,000 per claim, plus up to twice the amount of the claim in lieu of damages, for fraudulent claims under Medicare and Medicaid. Imposition of the penalty would be subject to exhaustion of administrative remedies provided in the law. These changes are effective on August 13.

Utilization guidelines for provision of home health services. The law requires the Secretary to establish home health utilization guidelines and issue instructions to HI intermediaries for a program of postpayment coverage review of submitted claims on a sample basis, effective after September 1981.

Time limits on agreements with skilled nursing facilities. The 12-month limit on provider agreements with skilled nursing facilities is repealed, effective on August 13.

Technical corrections. Restores the provisions in prior law limiting SMI reimbursement to the lower of the provider's customary charge or the reasonable cost of the covered services. This change is retroactive to correspond with the effective date of the 1980 provisions (Public Law 96–499), which this provision is intended to correct.

Statutory deadlines for implementing AFDC home health aide demonstration projects. A provision enacted in 1980 required the Secretary to enter into agreements with States to conduct demonstration projects involving the employment of AFDC recipients as home health aides. The new law requires the Secretary to establish, by October 1, 1981, such guidelines and regulations as are necessary to assure that agreements with States are entered into not later than January 1, 1982, and to report to Congress, during January 1982, on current and anticipated progress in this matter.

III. Financial Implications of OASDI and Medicare Provisions

Enactment of the OASDI and Medicare provisions in the 1981 Omnibus Budget Reconciliation Act will have a favorable effect on the overall financial status of the OASDI and HI Trust Funds. This effect will not be sufficient to restore the financial soundness of the programs in the near term or over the long range, especially under realistic-but-pessimistic or "worst-case" assumptions. Nonetheless, it will facilitate somewhat the reaching of that objective. Further action will be needed in the near future to restore and maintain the financial status of these programs—particularly the OASI program, which otherwise will be unable to meet its benefit obligations in a timely manner in late 1982.

The 1981 Reports of the Boards of Trustees of the OASDI and HI Trust Funds, submitted to the Congress on July 2, 1981, showed that the OASDI and HI programs continued to face serious long-range financing difficulties and that, absent prompt remedial action, the OASI Trust Fund would be exhausted in late 1982. As in the past, the Trustees Report contains trust fund projections based on optimistic, intermediate, and pessimistic economic and demographic assumptions. This year, however, there are two sets of intermediate assumptions—Alternative II-A, which assumes robust economic performance consistent with successful implementation of the Administration's Program for Economic Recovery, and Alternative II-B, which assumes less robust economic conditions. The reports also include short-range projections based on "worst-case" assumptions, which are somewhat less optimistic for the OASDI program than those used for the usual pessimistic (Alternative III) projections.

In evaluating the long-range financial status of the OASDI and HI programs, it is prudent to use the Alternative II-B estimates. On the other hand, evaluation for the short term must be based on "worst-case" assumptions. Reliance on more optimistic short-range assumptions can lead to the adoption of financing arrangements that will not withstand temporary unforeseen economic adversities and cannot be said to adequately assure the financial soundness of these programs. (Of course, with financing arrangements made on this sound and conservative basis, any economic ex-

Table 1.—Estimated change in long-range OASDI actuarial balance under Public Law 97-35

OASDI provision	Long-range cost effect (percentage of taxable payroll)	
	Alternative II-A	Alternative II-B
Balance under prior law	-0.93	-1.82
Eliminate minimum benefit for new beneficiaries and for beneficiaries already on the rolls	+.01	+.01
Eliminate lump-sum death benefits when there is no surviving spouse or surviving eligible child	(2)	(2)
Begin retired-worker and spouse benefits with first full month of entitlement	(2)	(2)
Retain retirement test exempt age at 72 through 1982	(2)	(2)
Terminate mother's and father's benefits when youngest child attains age 16	+.02	+.02
Round benefits to next lower dime at each intermediate step and to next lower dollar at final step	+.01	+.01
Extend workers' compensation offset provision (Megacap)	+.03	+.03
Eliminate trust fund payments for vocational rehabilitation except in certain cases	+.01	+.01
Phaseout postsecondary student benefits	+.08	+.08
Total effect of Public Law 97-35 [1]	+0.16	+0.17
Balance after enactment of Public Law 97-35	-.77	-1.65

[1] Total reflects interaction of provisions; estimates for individual provisions do not.

[2] Cost or income effect of less than 0.005 percent of taxable payroll.

Note: Estimates are 75-year average cost or income effect as percent of taxable payroll and are based n the Alternative II-A and II-B assumptions of the 1981 Trustees Report.

Table 2.—Trust fund assets at beginning of year as a percentage of expenditures during year under prior law and under Public Law 97-35

Calendar year	Prior law			Public Law 97-35		
	OASI	DI	OASDI	OASI	DI	OASDI
	Alternative II-A					
1980	23	35	25	23	35	25
1981	18	20	18	18	20	18
1982	13	13	13	13	13	13
1983	5	33	8	6	36	10
1984	-4	62	3	(1)	68	7
1985	-13	96	-1	-7	106	5
	Alternative II-B					
1980	23	35	25	23	35	25
1981	18	20	18	18	20	18
1982	13	13	13	13	13	13
1983	4	32	7	6	35	9
1984	-5	58	2	-2	64	6
1985	-16	87	-5	-10	97	1
	"Worst-case" assumptions					
1980	23	35	25	23	35	25
1981	18	20	18	18	20	18
1982	13	13	13	13	13	13
1983	2	29	5	4	32	7
1984	-13	47	-7	-10	52	-3
1985	-29	68	-18	-23	77	-13

[1] Between 0 and -0.5 percent.

Note: Estimates for 1983 and later are theoretical because the OASI Trust Fund would become depleted late in 1982, when assets become insufficient to pay benefits when due. Estimates are based on assumptions of the 1981 Trustees Report.

Table 3.—Estimated amount of reduction in OASDI benefit payments resulting from Public Law 97-35 based on the **Alternative II-A** assumptions of the 1981 Trustees Report, 1981-86

[In millions]

OASDI provision	Effective date	1981	1982	1983	1984	1985	1986
Eliminate minimum benefit for new beneficiaries and for beneficiaries already on the rolls	(1)	(2)	$980	$1,350	$1,370	$1,400	$1,420
Eliminate lump-sum death benefits when there is no surviving spouse or surviving eligible child	September 1981	$15	182	188	190	192	193
Begin retired-worker and spouse benefits with first full month of entitlement	September 1981	35	205	225	245	265	285
Retain retirement test exempt age at 72 through 1982	January 1982	...	460	40	...	...	...
Terminate mother's and father's benefits when youngest child attains age 16	September 1981	1	40	150	420	460	490
Round benefits to next lower dime at each intermediate step and to next lower dollar at final step	September 1981	(2)	140	270	320	370	420
Extend workers' compensation offset provision (Megacap)	September 1981	9	49	80	116	155	196
Eliminate trust fund payments for vocational rehabilitation except in certain cases	October 1981	19	85	71	61	63	66
Phaseout postsecondary student benefits	May 1982	...	911	1,689	2,173	2,406	2,492
Composite total, taking account of interaction	...	79	3,040	4,040	4,870	5,280	5,520

[1] Effective months are November 1981 for persons who first become eligible for benefits after October 1981, and March 1982 for persons first eligible for benefits before November 1981.

[2] Less than $500,000.

Note: Composite total reflects interaction of provisions; estimates for individual provisions do not.

perience that proves more favorable than anticipated will, desirably, result in a more-rapid-than-expected restoration of the financial soundness of the Social Security system.)

OASDI

Long range. The Alternative II-B cost estimates in the 1981 Trustees Report show that, over the long range, the OASDI system prior to enactment of Public Law 97-35 had a deficit of 1.82 percent of taxable payroll—consisting of a deficit of 2.44 percent for the OASI Trust Fund and a surplus of 0.62 percent for the DI Trust Fund. The overall effect of the OASDI changes in Public Law 97-35 is to reduce the combined long-range deficit by 0.17 percent of taxable payroll, to 1.65 percent, comprised of a deficit of 2.32 percent for OASI and a surplus of 0.67 percent for DI. Table 1 shows the long-range effect of each provision and of the amendments as a whole. Also shown are the corresponding figures for the Alternative II-A cost estimates; these show little difference from the Alternative II-B cost estimates as to the effect of each provision considered individually.

The provisions for phasing out student benefits (a savings of 0.08 percent of taxable payroll) and for a disability Megacap (a savings of 0.03 percent of taxable payroll) have the greatest long-range effect. Their short-term effects, as seen hereafter, are relatively small, however, because there is a phased implementation of the

Table 4.—Estimated amount of reduction in OASDI benefit payments resulting from Public Law 97-35 based on **Alternative II-B** assumptions of the 1981 Trustees Report, 1981-86

[In millions]

OASDI provision	Effective date	1981	1982	1983	1984	1985	1986
Eliminate minimum benefit for new beneficiaries and for beneficiaries already on the rolls	(1)	(2)	$ 980	$1,370	$1,430	$1,500	$1,560
Eliminate lump-sum death benefits when there is no surviving spouse or surviving eligible child	September 1981	$15	182	188	190	192	193
Begin retired-worker and spouse benefits with first full month of entitlement	September 1981	35	205	230	250	270	290
Retain retirement test exempt age at 72 through 1982	January 1982	...	460	40	...	...	...
Terminate mother's and father's benefits when youngest child attains age 16	September 1981	1	40	160	450	490	530
Round benefits to next lower dime at each intermediate step and to next lower dollar at final step	September 1981	(2)	140	270	320	370	420
Extend workers' compensation offset provision (Megacap)	September 1981	9	49	82	119	164	210
Eliminate trust fund payments for vocational rehabilitation except in certain cases	October 1981	19	86	74	65	68	72
Phaseout postsecondary student benefits	May 1982	...	915	1,715	2,260	2,570	2,730
Composite total, taking account of interaction	...	79	3,050	4,110	5,060	5,600	5,980

[1] Effective months are November 1981 for persons who first become eligible for benefits after October 1981, and March 1982 for persons first eligible for benefits before November 1981.

[2] Less than $500,000.

Note: Composite total reflects interaction of provisions; estimates for individual provisions do not.

student benefit provision and because the Megacap applies only to new beneficiaries. The elimination of the minimum benefit, on the other hand, has relatively little long-range impact (a savings of 0.01 percent of taxable payroll), because the relative significance of the minimum benefit would have declined in any case under prior law. Its short-range effect, however, is substantial, because a sizable number of persons will be affected quickly thereby.

Overall, although the long-range effects of the changes in Public Law 97-35 are significant in themselves, they are relatively small considering the size of the OASDI program as a whole and the magnitude of the remaining long-range deficit.

Short range. The 1981 Trustees Report shows that, under prior law, using the Alternative II-A, the Alternative II-B, or the "worst-case" assumptions, the OASDI Trust Funds, both combined and separately, fall to 13 percent of annual outgo by the beginning of 1982 and that the OASI Trust Fund is unable to pay benefits when due in the latter part of that year. Although this serious situation is somewhat improved as a result of enactment of Public Law 97-35, it is essentially unchanged, and prompt corrective legislative action is still needed. Table 2 shows the projected OASDI Trust Fund ratios (assets of the trust funds at the beginning of the year as a percentage of expenditures during the year) over the period 1981-85 under the amended law and under prior law.

In reviewing the figures on trust fund ratios, it is necessary to bear in mind that these figures provide only a rough indication of the ability of the program to meet its benefit obligations and that, in any case, under present law, funds from one trust fund cannot be used to meet expenditures from another one.[9] In general, though, a trust fund ratio of 13 percent or less is considered dangerously low. The Administration has recommended that such ratios should not be allowed to fall below 17 percent of annual outgo and should, ideally, be maintained at about 50 percent. The Administration's proposals that were announced on May 12, as described previously, were designed to accomplish this objective.

The new legislation will, under the assumptions of Alternative II-B in the 1981 Trustees Report, reduce OASDI expenditures by about $2.2 billion in fiscal year 1982, $3.9 billion in 1983, and $5.9 billion in 1986. The cumulative reduction in expenditures for 1982-86 is $22.3 billion ($21.4 billion under the Alternative II-A assumptions and $23.8 billion under the "worst-case" assumptions). Comparable figures on a calendar-year basis are $3.0 billion in 1982, $4.1 billion in 1983, and $6.0 billion in 1986—for a cumulative 5-year reduction of $23.8 billion ($22.8 billion under Alternative II-A assumptions and $25.5 billion under "worst-case" assumptions). These short-range totals and detailed provision-by-provision cost/saving effects on a calendar-year basis are shown in table 3 using the Alternative II-A assumptions, in table 4 using the Alternative II-B assumptions, and in table 5, using "worst-case" assumptions.

[9] The Administration has proposed, as part of its set of long-range financing and benefit proposals, to permit borrowing (and repayment with interest) among the OASI, DI, and HI Trust Funds. Such a proposal is included in H.R. 3207, introduced by Representative Pickle, Chairman of the Social Security Subcommittee of the House Ways and Means Committee. Also, on July 24, during consideration of H.J. Res. 266, relating to the Economic Recovery Tax Act, the Senate adopted (89 to 4) an amendment, later dropped in conference, directing its Finance Committee to report a bill including such a provision.

Table 5.—Estimated amount of reduction in OASDI benefit payments resulting from Public Law 97-35 based on the "**worst-case**" assumptions of the 1981 Trustees Report, 1981-86

[In millions]

OASDI provision	Effective date	1981	1982	1983	1984	1985	1986
Eliminate minimum benefit for new beneficiaries and for beneficiaries already on the rolls	(1)	(2)	$1,010	$1,440	$1,540	$1,660	$1,760
Eliminate lump-sum death benefits when there is no surviving spouse or surviving eligible child	September 1981	$15	182	188	190	192	193
Begin retired-worker and spouse benefits with first full month of entitlement	September 1981	35	205	230	250	270	290
Retain retirement test exempt age at 72 through 1982	January 1982	...	460	40	...	...	...
Terminate mother's and father's benefits when youngest child attains age 16	September 1981	1	40	170	470	530	580
Round benefits to next lower dime at each intermediate step and to next lower dollar at final step	September 1981	(2)	140	270	320	370	420
Extend workers' compensation offset provision (Megacap)	September 1981	9	49	83	123	175	229
Eliminate trust fund payments for vocational rehabilitation except in certain cases	October 1981	19	86	76	68	72	79
Phaseout postsecondary student benefits	May 1982	...	935	1,815	2,450	2,860	3,100
Composite total, taking account of interaction	...	79	3,100	4,300	5,390	6,100	6,620

[1] Effective months are November 1981 for persons who first become eligible for benefits after October 1981, and March 1982 for persons first eligible for benefits before November 1981.
[2] Less than $500,000.

Note: The estimates shown for each provision represent the effect of the provision itself, without taking account of interaction with other provisions. The estimates for the composite total effect, however, reflect interaction.

Table 6.—Estimated operations of the OASI, DI, and HI Trust Funds under Public Law 97-35 on the basis of **Alternative II-A** assumptions of the 1981 Trustees Report, 1980-90

[Amounts in billions]

Calendar year	OASI	DI	OASDI	HI	OASDI-HI
			Income		
1980	$105.8	$13.9	$119.7	$26.1	$145.8
1981	123.3	17.0	140.2	35.3	175.5
1982	132.9	23.9	156.8	40.3	197.1
1983	146.3	27.4	173.7	45.1	218.8
1984	160.4	30.8	191.2	49.9	241.1
1985	181.2	39.0	220.2	56.4	276.6
1986	197.8	43.8	241.6	65.6	307.1
1987	214.2	48.5	262.7	71.2	333.9
1988	229.3	53.1	282.3	76.1	358.4
1989	244.7	57.8	302.5	80.8	383.3
1990	279.4	70.6	350.0	85.3	435.3
			Outgo		
1980	$107.7	$15.9	$123.5	$25.6	$149.1
1981	127.0	18.0	145.0	29.5	174.5
1982	141.9	19.2	161.1	33.6	194.6
1983	157.3	20.2	177.5	38.6	216.1
1984	172.0	21.3	193.3	44.4	237.8
1985	186.8	22.5	209.3	50.9	260.2
1986	201.5	23.7	225.2	58.0	283.2
1987	216.0	25.2	241.2	65.8	307.0
1988	230.5	26.9	257.4	74.1	331.4
1989	244.5	28.7	273.1	82.3	355.4
1990	258.9	30.6	289.5	91.6	381.1
			Net increase in funds		
1980	−$1.8	−$2.0	−$3.8	$0.5	−$3.3
1981	−3.7	−1.1	−4.8	5.8	1.0
1982	−8.9	4.6	4.3	6.8	2.5
1983	−11.0	7.2	−3.8	6.5	2.7
1984	−11.6	9.5	−2.1	5.5	3.4
1985	−5.6	16.5	10.9	5.5	16.4
1986	−3.7	20.1	16.4	7.6	24.0
1987	−1.9	23.3	21.4	5.5	26.9
1988	−1.2	26.2	24.9	2.0	27.0
1989	.3	29.1	29.4	−1.5	27.9
1990	20.5	40.0	60.5	−6.3	54.2
			Funds at end of year		
1980	$22.8	$3.6	$26.5	$13.7	$40.2
1981	19.1	2.6	21.7	19.5	41.2
1982	10.2	7.2	17.4	26.3	43.7
1983	−.8	14.4	13.6	32.8	46.4
1984	−12.4	23.9	11.5	38.3	49.8
1985	−18.1	40.4	22.4	43.8	66.2
1986	−21.8	60.5	38.7	51.4	90.2
1987	−23.7	83.8	60.2	56.9	117.1
1988	−24.9	110.0	85.1	58.9	144.0
1989	−24.6	139.1	114.5	57.5	171.9
1990	−4.1	179.1	175.0	51.2	226.1
			Assets at beginning of year as percentage of outgo during year		
1980	23	35	25	52	29
1981	18	20	18	47	23
1982	13	13	13	58	21
1983	6	36	10	68	20
1984	[1]	68	7	74	20
1985	−7	106	5	75	19
1986	−9	171	10	76	23
1987	−10	240	16	78	29
1988	−10	312	23	77	35
1989	−10	384	31	72	41
1990	−10	455	40	63	45

[1] Between 0 and −0.5 percent.

Note: Estimates for 1982 and later are theoretical because the OASI Trust Fund would become depleted late in 1982, when assets become insufficient to pay benefits when due.

Table 7.—Estimated operations of the OASI, DI, and HI Trust Funds under Public Law 97-35 on the basis of **Alternative II-B** assumptions of the 1981 Trustees Report, 1980-90

[Amounts in billions]

Calendar year	OASI	DI	OASDI	HI	OASDI-HI
			Income		
1980	$105.8	$13.9	$119.7	$26.1	$145.8
1981	123.3	17.0	140.2	35.3	175.5
1982	132.9	23.9	156.8	40.3	197.1
1983	146.9	27.6	174.4	45.3	219.8
1984	161.1	31.1	192.2	50.3	242.5
1985	182.6	39.6	222.2	57.2	279.4
1986	198.5	44.6	243.0	66.5	309.5
1987	213.9	49.4	263.3	72.3	335.6
1988	228.9	54.3	283.2	77.5	360.7
1989	243.4	59.3	302.7	82.4	385.1
1990	278.4	72.8	351.2	87.1	438.3
			Outgo		
1980	$107.7	$15.9	$123.5	$25.6	$149.1
1981	127.0	18.0	145.0	29.5	174.5
1982	142.1	19.3	161.4	33.7	195.1
1983	159.7	20.5	180.3	39.2	219.4
1984	178.8	22.1	200.9	45.4	246.3
1985	199.0	23.8	222.9	52.7	275.6
1986	219.6	25.6	245.2	60.6	305.8
1987	240.1	27.6	267.6	69.3	336.9
1988	260.1	29.7	289.9	78.5	368.4
1989	279.3	31.8	311.2	88.0	399.1
1990	298.2	34.0	332.2	98.9	431.0
			Net increase in funds		
1980	−$1.8	−$2.0	−$3.8	$0.5	−$3.3
1981	−3.7	−1.1	−4.7	5.8	1.0
1982	−9.2	4.6	−4.6	6.6	2.0
1983	−12.9	7.0	−5.8	6.2	.3
1984	−17.7	8.9	−8.7	4.9	−3.9
1985	−16.4	15.8	−.6	4.5	3.9
1986	−21.1	18.9	−2.2	5.8	3.7
1987	−26.2	21.8	−4.3	3.0	−1.3
1988	−31.3	24.6	−6.7	−1.0	−7.7
1989	−35.9	27.5	−8.4	−5.6	−14.0
1990	−19.8	38.8	19.0	−11.7	7.2
			Funds at end of year		
1980	$22.8	$3.6	$26.5	$13.7	$40.2
1981	19.1	2.6	21.7	19.5	41.2
1982	9.9	7.2	17.1	26.1	43.2
1983	−2.9	14.2	11.3	32.3	43.6
1984	−20.6	23.2	2.6	37.2	39.7
1985	−37.0	38.9	2.0	41.7	43.6
1986	−58.1	57.9	−.2	47.5	47.3
1987	−84.3	79.7	−4.5	50.5	46.0
1988	−115.5	104.3	−11.2	49.5	38.3
1989	−151.4	131.8	−19.7	43.9	24.2
1990	−171.3	170.6	−.7	32.1	31.5
			Assets at begining of year as percentage of outgo during year		
1980	23	35	25	52	29
1981	18	20	18	47	23
1982	13	13	13	58	21
1983	6	35	9	67	20
1984	−2	64	6	71	18
1985	−10	97	1	71	14
1986	−17	152	1	69	14
1987	−24	210	[1]	69	14
1988	−32	268	−2	64	12
1989	−41	328	−4	56	10
1990	−51	388	−6	44	6

[1] Between 0 and −0.5 percent.

Note: Estimates for 1982 and later are theoretical because the OASI Trust Fund would become depleted late in 1982, when assets become insufficient to pay benefits when due.

To this extent then, further proposals to deal fully with the near-term financial difficulties of the OASDI system can build upon a somewhat stronger base as a result of the enactment of Public Law 97-35.

Medicare

Similarly, the recent legislation has a favorable impact on the financing of the Medicare program. While the anticipated reductions in expenditures will improve the financial status of the Hospital Insurance program in the near term, the impact is not sufficient to avert serious deficits and eventual exhaustion of the HI Trust Fund in the 1990's. Further legislative actions will be needed to remedy this situation.

For the next 5 years, however, the HI program is expected to have significant excesses of income over expenditures. The trust fund ratios will reach 71 percent of expenditures by the beginning of 1984 (74 percent under the Alternative II-A assumptions and 64 percent under "worst-case" assumptions). They will remain at or above 60 percent through the beginning of 1988 (under Alternative II-A assumptions through the beginning of 1990, and under "worst-case" assumptions, through the beginning of 1985).

Tables 6-8 show the estimated progress of the OASDI and HI Trust Funds under the law as modified by Public Law 97-35. These tables also give the corresponding trust fund ratios.

Table 8.—Estimated operations of the OASI, DI, and HI Trust Funds under Public Law 97-35 on the basis of "**Worst-case**" assumptions of the 1981 Trustees Report, 1980-86

[Amounts in billions]

Calendar year	OASI	DI	OASDI	HI	OASDI-HI
			Income		
1980	$105.8	$13.9	$119.7	$26.1	$145.8
1981	122.8	17.0	139.8	35.3	175.0
1982	132.9	23.9	156.8	40.3	197.1
1983	143.6	27.2	170.8	44.7	215.5
1984	160.6	31.5	192.1	50.9	243.0
1985	186.2	41.3	227.5	59.4	287.0
1986	206.7	47.7	254.4	70.8	325.3
			Outgo		
1980	$107.7	$15.9	$123.5	$25.6	$149.1
1981	127.0	18.0	145.0	29.5	174.4
1982	145.2	19.7	164.9	34.1	199.1
1983	168.4	21.6	190.0	40.2	230.2
1984	193.2	23.8	217.0	47.5	264.4
1985	219.9	26.1	246.0	55.7	301.7
1986	247.3	28.4	275.6	64.9	340.5
			Net increase in funds		
1980	-$1.8	-$2.0	-$3.8	$0.5	-$3.3
1981	-4.2	-1.0	-5.2	5.7	.7
1982	-12.3	4.2	-8.1	6.2	-1.9
1983	-24.8	5.6	-19.3	4.6	-14.7
1984	-32.6	7.7	-24.8	3.4	-21.4
1985	-33.7	15.3	-18.5	3.7	-14.8
1986	-40.6	19.4	-21.2	6.0	-15.2
			Funds at end of year		
1980	$22.8	$3.6	$26.5	$13.7	$40.2
1981	18.6	2.6	21.2	19.5	40.9
1982	6.3	6.8	13.1	25.7	38.9
1983	-18.6	12.4	-6.1	30.2	24.2
1984	-51.1	20.1	-31.0	33.7	2.8
1985	-84.9	35.4	-49.5	37.4	-11.9
1986	-125.5	54.8	-70.7	43.3	-27.2
			Assets at beginning of year as percentage of outgo during year		
1980	23	35	25	52	29
1981	18	20	18	47	23
1982	13	13	13	57	20
1983	4	32	7	64	17
1984	-10	52	-3	64	9
1985	-23	77	-13	60	1
1986	-34	125	-18	58	-4

Note: Estimates for 1982 and later are theoretical because the OASI Trust Fund would become depleted late in 1982, when assets become insufficient to pay benefits when due.