Social Security Amendments of 1983: Legislative History and Summary of Provisions

by John A. Svahn and Mary Ross*

This article traces the legislative history of the new law from the report, on January 20, 1983, of the recommendations of the National Commission on Social Security Reform (which formed the basis of this legislation) to enactment, on April 20, 1983, of Public Law 98-21. It also analyzes the provisions of Public Law 98-21, which, among other things, delay the annual cost-of-living adjustments in benefits from July to January of each year, make up to one-half of the benefits received by higher-income beneficiaries subject to income taxes, gradually raise the retirement age early in the next century, call for the earlier implementation of scheduled payroll tax increases, and put new Federal employees under the Social Security program. The legislation also establishes a new system of prospective payment for hospital services under Medicare and extends supplementary unemployment compensation benefits that otherwise would have expired in March 1983.

On April 20, 1983, President Reagan signed into law H.R. 1900 (Public Law 98-21), the Social Security Amendments of 1983. In signing the bill the President stated:

> This bill demonstrates for all time our Nation's ironclad commitment to Social Security. It assures the elderly that America will always keep the promises made in troubled times a half a century ago. It assures those who are still working that they, too, have a pact with the future. From this day forward, they have our pledge that they will get their fair share of benefits when they retire . . . .
>
> Our elderly need no longer fear that the checks they depend on will be stopped or reduced. These amendments protect them. Americans of middle age need no longer worry whether their career-long investment will pay off. These amendments guarantee it. And younger people can feel confident that Social Security will still be around when they need it to cushion their retirement.

The President noted that there had been great controversy over how best to deal with the financing issues in Social Security and hailed the legislation as a tribute to bipartisan action and "a monument to the spirit of compassion and commitment that unites us as a people . . . . Each of us had to compromise one way or another. But the essence of bipartisanship is to give up a little in order to get a lot. And, my fellow Americans, I think we've gotten a very great deal."

The 1983 amendments, passed in record time by the 98th Congress, represent a bipartisan effort to deal with serious near-term and long-range financing problems facing the Old-Age, Survivors, and Disability Insurance (OASDI) program under prior law. Since 1975, expenditures of the OASDI program had exceeded revenues and it was anticipated that, without legislative action, it would not have been possible to continue paying OASDI cash benefits on time beginning in July 1983. An estimated $150-$200 billion in increased revenues or reduced expenditures was needed to restore financial viability through the 1980's. Also, the program faced a projected long-range deficit (the excess of average annual expenditures expressed as a percentage of taxable payroll for the next 75 years over average annual tax revenues for the same period) of some 1.80 percent of taxable payroll. The 1983 legislation includes provisions for limiting the future growth in expenditures and increasing revenues so that workers, employers, and beneficiaries will share in measures to bring revenues and expenditures into line both in the near term and over the long range.

The major OASDI provisions of the 1983 amendments are substantially in line with the January 20, 1983, recommendations of the National Commission on

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Social Security Reform (NCSSR)[1] and include:

(1) Coverage of new Federal civilian employees and most current executive level political appointees and elected officials (including members of Congress, the President, and the Vice President), and Federal judges, effective January 1984.

(2) Coverage of employees of nonprofit organizations and a ban on the termination of coverage of State and local and nonprofit employment.

(3) Delay of the July 1983 Social Security cost-of-living adjustment (COLA) to January 1984 and a shift of future COLA's to a calendar-year basis (payable in January, rather than July, of each year). The COLA's for Supplemental Security Income (SSI) will be similarly delayed and shifted, as will the date for increases in the Supplementary Medical Insurance (SMI) premium. Also an increase in the SSI payment standard of $20 per month ($30 for couples) is effective beginning July 1983.

(4) A "stabilizer" provision under which automatic annual benefit increases are to be based on the lower of price or wage increases if trust fund balances are low (less than 15 percent of outgo through 1988, 20 percent thereafter) and are to be adjusted later to reflect full cost-of-living increases, if trust fund balances rise above 32 percent.

(5) Elimination of windfall benefits for certain workers with pensions from noncovered employment and a gradual increase in the delayed retirement credit from 3 percent to 8 percent per year, fully effective after 2008.

(6) Improvements in benefits for divorced spouses, remarried disabled and divorced widow(er)s, disabled widow(er)s aged 50–59, and certain widow(er)s whose spouse dies many years before the survivor becomes eligible for benefits.

(7) Inclusion of up to 50 percent of Social Security benefits in the taxable income of higher-income beneficiaries and transfer of resultant revenues to the Social Security trust funds.

(8) Revisions in Social Security tax rates: Accelerating scheduled increases for employees and employers and providing a tax credit for employees for 1984; increasing the rates for the self-employed to equal the combined employee/employer rate and providing credits and deductions; and reallocating income between the OASI and DI parts of the program.

(9) Lump-sum reimbursement to the trust funds for the cost of certain noncontributory military wage credits and for unnegotiated Social Security checks.

(10) Additional NCSSR proposals including taxing and crediting certain elective deferred compensation, separation of Social Security trust fund operations from the unified budget, inclusion of two members of the public on the Board of Trustees, and a study of establishing the Social Security Administration as an independent agency.

In addition, the amendments include significant OASDI changes not spelled out in the NCSSR report:

(1) Fail-safe financing mechanisms, including a speedup in the crediting of Social Security tax receipts to the trust funds, extension of interfund borrowing authority (on a broader basis than recommended by the Commission), and a provision requiring the trustees to notify Congress if the trust funds are expected to fall below 20 percent of annual expenditures and to advise on the amount of tax increase or benefit reduction or combined measures needed to restore trust fund balances.

(2) Gradual increase in the age of eligibility for full benefits to age 66 in 2009 and to age 67 in 2027. The earnings test will also be modified so that after 1990 a $1-for-$3 benefit withholding rate will replace the present $1-for-$2 withholding for beneficiaries who have reached the age of eligibility for unreduced retirement benefits.

(3) Additional provisions affecting primarily dependents and survivors, including elimination of virtually all gender-based distinctions and modification of the public (noncovered) pension offset to provide that a person's Social Security benefit as a spouse or surviving spouse will be reduced by two-thirds (rather than 100 percent) of the amount of any pension the person has earned as a worker in noncovered employment.

(4) Additional proposals with a relatively small impact on revenues or expenditures, including acceleration of payment of Social Security contributions for State and local employment, limitations on payments to certain aliens outside the United States and to convicted felons in prison, the expanded use of death certificates in verifying benefit eligibility, and numerous other miscellaneous and technical changes.

The 1983 legislation also includes tax provisions affecting aged and disabled persons who are not beneficiaries, modifications in the SSI program, provisions for prospective payment for inpatient hospital services under Medicare, and an extension of the Federal supplemental compensation provisions of the Unemployment Compensation program. The major features of the system of prospective payment for hospital services under Medicare, which takes effect for hospital accounting years beginning after September 30, 1983, are

(1) Hospitals will be paid a price per discharge using diagnosis-related groups (DRG's). For the first 3 years, separate rates will be determined for each of nine census regions; during this time, there will be a blend of national and regional DRG rates and each hospital's cost base. Separate payment rates will apply to urban and rural areas.

[1] See pages 6–8 for further discussion of the NCSSR and its recommendations.

(2) The Secretary will provide additional payments for "outlier" cases, determined by length of stay as well as dollar threshold criteria. Total payments for outliers will be no less than 5 percent or more than 6 percent of total Medicare payments for inpatient hospital care. (Outlier cases are those involving extraordinary lengths of hospital stays.)

(3) Capital expenses will be specifically excluded from the prospective payment system until October 1, 1986. The rate of return on equity for proprietary hospitals will be reduced from one and one-half times the average rate of return on the HI trust fund to one times the rate.

(4) Direct medical education expenses will continue to be paid on a reasonable-cost basis; an adjustment for indirect medical education costs will be equal to twice the amount of the adjustment used for the present law "section 223" limits on Medicare reimbursement for providers.

(5) Beginning in October 1983, hospitals must enter into agreement with a Peer Review Organization (PRO) if one exists in the area. After October 1, 1984, hospitals will be required to have an agreement with a PRO as a condition of receiving Medicare payment.

(6) The Secretary will be required to make Medicare payments under a State's hospital cost control system if the system meets a number of statutory requirements.

(7) A number of studies and reports to Congress on various issues in prospective payment are required.

Part I of this article traces the development of the NCSSR bipartisan package, which contained the major Social Security coverage, benefit, and financing provisions that were included in the 1983 legislation, and the progress of these proposals, together with other Social Security, SSI, and Medicare provisions, through the legislative process. Part II contains a summary description of each of the provisions of Public Law 98-21. Part III briefly describes the effects of the legislation on the financial status of the OASDI and Medicare programs.

I. Background and Legislative History

By the end of the 1970's, it was increasingly clear that developing economic experience was significantly less favorable than had been anticipated in 1977 when major OASDI financing legislation was passed [2] and that the program would experience significant difficulties in the 1980's under then-current economic projections. In June 1980, following enactment of the Social Security Disability Amendments of 1980 (Public Law 96-265), the DI part of the program was estimated to be in relatively good financial condition, with income expected to exceed expenditures for all years after 1981 and a favorable long-range balance of 0.40 percent of taxable payroll. However, the OASI part of the program was projected to have serious financing shortfalls in both the short and long term; the long-range deficit was estimated to be 1.40 percent of taxable payroll.[3]

In October 1980, in Public Law 96-403, the Congress made specific provision for a reallocation of Social Security tax revenues from the DI part of the program to the OASI part of the program for the years 1980-81. In so doing, the Congress specifically noted the interim nature of this provision and stated that further action would be needed to deal with OASI financing in the early 1980's. The Committee on Ways and Means of the House of Representatives noted in its report on the legislation that the effect of the reallocation would be to "maintain sufficient reserves in the OASI fund to pay benefits for approximately an additional year, from late 1981 to late 1982 . . . giving Congress additional time to take further remedial action." The Committee on Finance of the Senate made a similar statement in its report.

Thus, in 1981, when the 97th Congress convened and the Reagan administration took office, Social Security financing issues were a major concern. On February 18, 1981, in announcing his budget and "Program for Economic Recovery" consisting of measures to be taken quickly to improve the economy and stem the growth in Federal programs, President Reagan indicated that—in addition to his immediate recommendations to the Congress, including several OASDI proposals [4]—more fundamental changes would be recommended later. The following day, the then Secretary of Health and Human Services, Richard S. Schweiker, in testimony before the House Ways and Means Committee, announced that, as one of his first actions as Secretary, he had established a high-level group to review all aspects of the OASDI program and consider a wide variety of reform proposals. This group, which included representatives of the White House, the Office of Management and Budget, and congressional staffs and was headed by then Under Secretary David B. Swoap, conducted an intensive 3-month study of the issues confronting the Social Security program.

On May 12, Secretary Schweiker announced the culmination of this activity in a wide-ranging package of OASDI reform proposals,which he said "will keep the system from going broke, protect the basic benefit structure, and reduce the tax burden of American workers." [5] The proposals, which are listed in Appendix A,

[2] See John Snee and Mary Ross, "Social Security Amendments of 1977: Legislative History and Summary of Provisions," **Social Security Bulletin**, March 1978, pages 3-20.

[3] See "Social Security Disability Amendments of 1980: Legislative History and Summary of Provisions," **Social Security Bulletin**, April 1981, pages 14-31.

[4] For information on proposals for 1981, see John A. Svahn, "Omnibus Budget Reconciliation Act of 1981: Legislative History and Summary of OASDI and Medicare Provisions," **Social Security Bulletin**, October 1981, pages 3-24.

[5] **HHS News** (press release), May 12, 1981.

were generally designed to encourage work at later ages, reduce "windfall" benefits, relate Disability Insurance benefits more closely to work history and medical condition, reduce welfare elements, and adjust financing provisions.

While the administration had been developing these proposals and during early congressional considerations of the administration's legislative and budget proposals for fiscal year 1982, there was considerable congressional interest in what further, longer-range proposals the administration might advance. Although, as described in the legislative history of the 1981 Omnibus Budget Reconciliation Act,[6] there was substantial interest on the part of the administration and the Congress in prompt action on the immediate proposals, including the OASDI proposals, that were a part of the President's "Program for Economic Recovery," there was also concern that the administration's OASDI proposals as presented in February 1981 did not solve the near-term financial problems facing the Social Security program and did not fully address the major long-range issues. This concern was particularly prevalent in the Subcommittee on Social Security of the House Ways and Means Committee, whose Chairman, Representative J. J. Pickle (D., Tex.) had indicated that he planned to introduce a comprehensive Social Security bill and to hold hearings covering the full range of Social Security issues. Thus, several of the proposals included in the administration's May 12 recommendations had been considered informally by the Subcommittee on Social Security and were included in H.R. 3207, a Social Security bill introduced by Chairman Pickle in April 1981. Among the provisions in H.R. 3207 that were included in the administration's May 12 proposals were a delay in the COLA, elimination of certain windfall benefits for workers with pensions from employment not covered by Social Security, elimination of the earnings test for older beneficiaries, and interfund borrowing.[7]

Secretary Schweiker testified on the package of reforms before the Select Committee on Aging of the House of Representatives on May 21, before the Social Security Subcommittee of the House Ways and Means Committee on May 28, and before the Subcommittee on Social Security and Income Maintenance Programs of the Senate Committee on Finance on July 7.[8] However, for the most part, the administration's proposals were not generally well received and little serious attention was given to the package as a whole. The most controversial proposal was one that would have increased the amount of the reduction for early retirement (before age 65).

Although the administration indicated its willingness to work with the Congress on possible modifications in the reform proposals and its willingness to consider alternative packages of proposals, it became clear that the 97th Congress would take no major action on Social Security reform. Therefore, in his September 24, 1981, address to the Nation concerning his Economic Recovery Program, President Reagan announced his intent to appoint a blue ribbon commission to review the issues further:

> To remove Social Security once and for all from politics, I am also asking Speaker Tip O'Neill of the House of Representatives and Majority Leader in the Senate Howard Baker to each appoint five members, and I will appoint five, to a task force which will review all the options and come up with a plan that assures the fiscal integrity of Social Security and that Social Security recipients will continue to receive their full benefits.

At the same time, the President announced that he was asking the Congress to restore the Social Security minimum benefit provision for current beneficiaries and to provide for interfund borrowing authority "as a temporary measure to give us time to seek a permanent solution." In December 1981, the Congress acted to modify the minimum benefit provisions of the 1981 Omnibus Budget Reconciliation Act, to make other modifications in the OASDI program, and to provide for temporary interfund borrowing among the OASI, DI, and Hospital Insurance (HI) trust funds.[9] The effect of the borrowing provision was to assure the solvency of the OASDI system through June 1983 without lessening the need for basic changes to assure the solvency of the system thereafter.

On December 16, 1981, President Reagan promulgated Executive Order 12335, which established the National Commission on Social Security Reform (NCSSR) to review the current and long-range financial condition of the Social Security trust funds and to report its findings and recommendations to the President and the Congress by December 31, 1982. In announcing the appointment of the Commission, the White House stated:

> Establishment of the Commission fulfills a pledge made by the President in September to create a bipartisan task force to work with the President and Congress to reach two specific goals:
>
> —To propose realistic, long-term reforms to put Social Security back on a sound financial footing, and

[6] See John A. Svahn, **op. cit.**

[7] H.R. 3207 was an omnibus Social Security bill containing: (a) short-term changes that formed the basis for House consideration of the Social Security legislation that was included in Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981; (b) disability changes later considered as part of H.R. 6181 but not finally acted upon in the 97th Congress; and (c) long-range proposals, including a proposal for a gradual increase in the age of eligibility for unreduced benefits from 65 to 68, which also were not acted on in the 97th Congress.

[8] Hearings were also held on the impact of the proposals on women, on June 3, before the Task Force on Social Security and Women of the House Select Committee on Aging, and on their financing impact, on June 16, before the Senate Special Committee on Aging.

[9] See John A. Svahn, "Restoration of Certain Minimum Benefits and Other OASDI Program Changes: Legislative History and Summery of Provisions," **Social Security Bulletin**, March 1982, pages 3-12.

—To forge a working, bipartisan consensus so that the necessary reforms can be passed into law.[10]

Appendix B contains an excerpt from Executive Order 12335. Appendix C lists the members of the Commission.

The NCSSR reviewed the extensive body of current views and analyses of the Social Security program, including the records of congressional hearings, the views and comments of experts in the field, and the reports of the 1979 Advisory Council on Social Security and the 1981 National Commission on Social Security. In addition, it thoroughly examined a wide variety of alternative approaches to the issues facing the Social Security system. It held nine public sessions throughout 1982.

At its final major substantive session, a 3-day meeting in November 1982, the Commission agreed to a number of major broad issues, but not on a specific plan for dealing with the short- and long-term financing problems. The Commission agreed unanimously on the magnitude of the financing issue: The system needed increased revenues or reduced expenditures of some $150–$200 billion in the 1980's and had a long-range (75-year) deficit of 1.80 percent of taxable payroll. It was also unanimous in the view that the financing problems should be solved without altering the fundamental structure of Social Security or undermining its fundamental principles. In addition, there was strong sentiment to the effect that the law should contain some form of financial "fail-safe"—such as automatic increases in revenues or reductions in expenditures—so that the program could continue through future unforeseen crisis situations, and that there should be some "stabilizer" provision to help insulate the program from economic uncertainties as to the relative rates of increases in wages and prices and to help maintain the financial integrity of the program in times when wages (and therefore tax income) might rise more slowly than prices, upon which cost-of-living adjustments (COLA's) are based.

The Commission also substantially agreed on several specific proposals: coverage of certain payments under deferred compensation plans, the establishment of more current and easily understood trust fund investment procedures, inclusion of two public members on the Board of Trustees of the Social Security trust funds, removal of Social Security trust fund operations from the unified budget, and a study of the feasibility of establishing the Social Security Administration as an independent agency.

Although the Commission was close to agreement on a number of major coverage, tax, and benefit proposals, it was not able in November to formulate a package of proposals that a majority could endorse; nor was it able to reach agreement at its final formal meeting on December 10. Efforts to arrive at such a bipartisan agreement continued through December and into January 1983 as President Reagan twice extended the Commission's reporting date by Executive Orders 12397 and 12402.

On January 15, the Commission announced that it had reached agreement.[11] The President, the Speaker of the House, and other Members of the House and Senate leadership issued statements endorsing the bipartisan package as a whole, though each acknowledged that it contained some provisions that were less attractive than others. Also, each pledged to work for enactment of the Commission's overall package of proposals.

The NCSSR report, formally transmitted to the President and the Congress on January 20, 1983, contained the following bipartisan package:

(1) Covering new Federal employees and employees of tax-exempt nonprofit organizations.

(2) Prohibiting withdrawals from coverage of State and local employees.

(3) Delaying the 1983 Social Security COLA and shifting future COLA's to a calendar-year basis; increasing, in July 1983, the amount of Social Security benefits that can be disregarded for SSI purposes.

(4) Basing automatic benefit increases on the lower of the Consumer Price Index (CPI) or wage increases after 1987 if trust funds are less than 20 percent of outgo, with provision for catch-up increases if funds exceed 32 percent.

(5) Eliminating certain windfall benefits for persons with pensions from noncovered employment.

(6) Increasing the delayed retirement credit gradually from 3 percent before 1990 to 8 percent by 2010.

(7) Provisions affecting primarily women: (a) continuing benefits of disabled and divorced widow(er)s upon remarriage, (b) wage indexing of deferred widow(er)s benefits, (c) paying benefits to divorced spouses regardless of the entitlement or payment status of the eligible worker, and (d) increasing the proportion of the worker's basic benefit (primary insurance amount, or PIA) payable to disabled widow(er)s aged 50–59.

(8) Counting, for income-tax purposes, one-half of the Social Security benefits of higher-income beneficiaries, with the revenues deposited to the Social Security trust funds.

(9) Changing the Social Security tax schedules: (a) shift forward scheduled increases for employees and employers and provide a one-time income-tax credit for employees for 1984, (b) increase

[10] **Public Papers of the Presidents of the United States: Ronald Reagan, 1981**, pages 1158 and 1159.

[11] Twelve of the 15 members of the Commission endorsed this "bipartisan agreement." Those who did not were Representative Archer, Senator Armstrong, and Mr. Waggonner. For a list of Commission members, see Appendix C.

rates for the self-employed and provide an income-tax deduction, and (c) reallocate OASI and DI taxes.

(10) Authorizing interfund borrowing by OASDI from HI.

(11) Crediting the OASDI trust funds with lump-sum payments representing (a) the cost of noncontributory military wage credits and (b) unnegotiated Social Security benefit checks.

Estimates prepared for the NCSSR showed that the Commission's proposals would reduce the revenue/expenditure gap for 1983-89 by $168 billion and reduce the long-range deficit of 1.80 percent of payroll by 1.22 percent.[12] The supporters of the package were divided as to how the remaining deficit (0.58 percent of payroll) should be eliminated. Eight recommended a deferred, gradual increase in the age of eligibility for unreduced benefits and five supported a contribution rate increase in the year 2010, with the employee share of the increase offset by a refundable income-tax credit.

Recommendations to the Congress

On January 25, 1983, President Reagan addressed the Congress on the State of the Union and urged the Congress to enact the NCSSR plan by Easter. He hailed the overall plan as fair and workable, though he expressed reservations about individual proposals. In the State of the Union message, he said:

> There are elements in it [the NCSSR plan], of course, that none of us prefers, but taken together it forms a package that all of us can support. It asks for some sacrifice by all—the self-employed, beneficiaries, workers, government employees, and the better off among the retired—but it imposes an undue burden on none. And, in supporting it, we keep an important pledge to the American people; the integrity of the Social Security system will be preserved—and no one's payments will be reduced.

The following day, the NCSSR recommendations were introduced in Congress as S. 1, by Senator Robert Dole (R., Kans.), a member of the NCSSR and Chairman of the Senate Committee on Finance, with 11 cosponsors.[13] The NCSSR consensus package was incorporated in the administration's budget and legislative recommendations as submitted to the Congress on January 29. The Committee on Ways and Means of the House of Representatives promptly began hearings on the proposals.

Although the administration's budget did not reflect any modifications to the NCSSR package as such, it did include other recommendations that affected the Social Security Amendments of 1983. The budget reflected an across-the-board delay in 1983 cost-of-living increases in entitlement programs, including a shift in the date for the SSI COLA from July 1983 to January 1984. The President's budget also included a number of Medicare proposals, including prospective reimbursement for inpatient hospital insurance services and modifications in the formula for determining the Part B (SMI) premium, and proposals relating to Unemployment Compensation including the Federal supplemental compensation program due to expire at the end of March 1983.

Action in the House of Representatives

Public hearings. On February 1 and 2, 1983, the Committee on Ways and Means of the House of Representatives heard testimony from members of the National Commission on Social Security Reform. Secretary Schweiker, accompanied by John A. Svahn, Commissioner of Social Security,[14] and Dr. Robert J. Rubin, Assistant Secretary for Planning and Evaluation, testified on the NCSSR proposals and on the administration's proposal for prospective payment under Medicare on February 3. The issue of prospective payment was considered by both the Congress and the administration to be of urgency and the Social Security bill was seen as a possible vehicle for this legislation since it was expected to move quickly and was also in the jurisdictions of the Ways and Means and Finance Committees.

With regard to Social Security, the Secretary referred to the urgency and importance of restoring the fiscal integrity of, and the public confidence in, the Social Security system. Further, he stressed the value of the Commission's work in reaching agreement on the kind of legislation that was needed and praised its proposals as "a carefully balanced effort to achieve a solution that can be accepted by the American people as a fair method of putting Social Security on a sound financial basis."

The administration expressed a desire to work with the committee on the resolution of matters left open in the NCSSR report (such as elimination of the remaining long-term deficit) and a desire to avoid upsetting the delicate balance of the consensus package by making

[12] The report included numerous supplemental views of individuals and groups of members. For the supplemental views of Commission members, see chapter 4 of "Report of the National Commission on Social Security Reform," **Social Security Bulletin**, February 1983, pages 13-38.

[13] At the same time, Senator Dole introduced S. 76, a bill reflecting the proposal for increasing the normal retirement age that a majority of the members of the NCSSR had supported. The bill provided for a gradual increase in the age of eligibility for unreduced benefits to 66 (for workers reaching age 62 in 2000-12) with automatic adjustments thereafter based on maintaining the ratio of retirement years to working years that existed in 1990.

[14] During the preceding week, Secretary Schweiker had announced his impending resignation and the President had nominated former Representative Margaret M. Heckler to be Secretary and John A. Svahn to be Under Secretary of HHS. (Under Secretary Swoap had resigned in December.) The new Secretary and Under Secretary were confirmed by the Senate in early March 1983.

major modifications or recommending specific solutions.

In testifying on the administration's proposals for prospective payment to hospitals under Medicare, the Secretary commended the committee on the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which laid the groundwork for further permanent reforms.[15] He also discussed the problems of rising hospital care costs and the potential for dealing with these problems, while maintaining quality of care, through the incentive structure that prospective payment could provide. He described the five primary elements of the administration's plan:

(1) Relating payment to output—putting hospital payment on a per-discharge basis using diagnosis-related groups (DRG's);
(2) Similar payment for similar service in a given geographical area;
(3) Inclusion of all operating costs—although initially capital and medical education costs would be paid separately;
(4) Special provisions for cases involving extraordinary lengths of hospital stays—the "outliers"; and
(5) Primary focus on short-term general hospitals—the proposal would not affect long-term care hospitals or children's and psychiatric hospitals, and special provision would be made for hospitals classified as sole community providers.

In welcoming the administration witnesses, Chairman Dan Rostenkowski (D., Ill.) noted a number of unusual circumstances surrounding congressional consideration of the Social Security legislation that were indicative of the high priority and expedited handling these proposals were to receive. He described a very tight schedule of public hearings and subcommittee and committee markup sessions on the bill. Also, he indicated that there were leadership agreements with other committees (such as Appropriations) that might have a substantive interest in some of the provisions under consideration and with the Rules Committee to expedite consideration of the measure on the floor of the House of Representatives.

The Ways and Means Committee had anticipated the need for new revised cost estimates since the assumptions underlying the 1982 Trustees Report were becoming somewhat dated and those used in estimating the NCSSR package and the budget in January might soon be out of date also. Therefore, the committee requested that, for purposes of the legislation, the 1983 estimates should be prepared earlier than usual and the proposals should be priced out on the basis of those estimates. Estimates based on this request were submitted to the Congress on February 10 and 18, 1983, and showed that, while \$150-\$200 billion remained a reasonable short-term target, the long-term deficit under the 1983 assumptions was 2.09 percent of taxable payroll, rather than 1.80 percent under the 1982 assumptions. (Also, new estimates were prepared for the NCSSR proposals which showed that they would reduce the long-range deficit by 1.41 percent of payroll, rather than 1.22 as under the earlier estimates.)

Also, with regard to the near term, the new estimates showed that there could be severe cash-flow difficulties under the NCSSR package in the period 1983-89. It was possible, however, to overcome this difficulty by crediting the trust funds with revenues anticipated in a given month at the beginning of the month (rather than on a daily basis throughout the month)—a process referred to as "normalization" of tax transfers to the trust funds. Also, the new estimates included the Hospital Insurance program—an area not directly addressed by the NCSSR—using projections reflecting continuation of savings due to the TEFRA provisions on hospital reimbursement. Overall, however, on the basis of these official estimates, the committee was faced with the need to adopt revenue increases or expenditure reductions by the end of 1989 of some \$115 billion (under the 1983 intermediate Alternative II-B assumptions) to \$200 billion (under the more pessimistic Alternative III assumptions) and to deal with a long-range deficit of about 2.09 percent of taxable payroll.

In addition, in anticipation of the rapidity with which major Social Security legislation might move through the Congress in 1983, the Subcommittee on Social Security had held hearings in December 1982 on H.R. 7326, a bill introduced by Subcommittee Chairman J. J. Pickle (D., Tex.), that contained proposals relating to financial management (such as crediting the trust funds for unnegotiated checks and modifying trust fund investment procedures) and gender-based distinctions in the Social Security program (such as had been passed by the House in 1977 but not included in the final Social Security bill that year [16]) and a number of administrative, technical, and miscellaneous proposals that had been under consideration by the administration and the Congress for some time. On December 6, 1982, Deputy Commissioner Paul B. Simmons, testifying on behalf of the administration, had indicated that the proposals were generally acceptable to the administration. Representative Pickle reintroduced them in 1983 (H.R. 660) for consideration along with the major Social Security proposals of the NCSSR and the administration.

Public hearings on the NCSSR package continued before the Subcommittee on Social Security, with Members of Congress testifying on February 4, and members of the general public testifying the following week. Also, on February 9, members of the NCSSR and, on

[15] For the provisions of this Act, see "Summary of Recent Legislation Affecting SSI, OASDI, and Medicare," pages 49-60 in this issue.

[16] "Social Security Amendments of 1977: Legislative History and Summary of Provisions," **op. cit.**, pages 3-20.

behalf of the administration, Louis D. Enoff, Deputy to the Deputy Commissioner of Social Security, testified on the SSI aspects of the proposals before the Subcommittee on Public Assistance and Unemployment Compensation. General interest was expressed in the potential interaction of the administration's proposal to delay the SSI COLA with the NCSSR proposals for delaying the Social Security COLA and providing a new $30 disregard for SSI recipients with Social Security income in July. There was also concern that additional changes might be needed for SSI recipients who were not also eligible for Social Security.

Subcommittee markup sessions.

Social Security (OASDI). The Subcommittee on Social Security of the House Committee on Ways and Means completed markup sessions on the draft bill in 2 days, February 22 and 23, and submitted its recommendations to the full committee. During markup sessions, there was close scrutiny of a number of the proposals and various far-reaching alternative plans were considered.

Coverage: The subcommittee agreed to the NCSSR proposals for (1) mandatory coverage of newly hired Federal employees after 1983, (2) mandatory coverage of tax exempt nonprofit organizations, and (3) barring future terminations of employees of State and local governments. In addition, they agreed on (1) providing immediate (January 1984) coverage for incumbent Members of Congress and high administration officials, sitting Federal judges, and legislative employees not already under the Civil Service system, (2) making special provision for deemed insured status for older employees of nonprofit organizations to which coverage was newly extended, (3) barring terminations of coverage for employees of nonprofit organizations, and (4) allowing State and local groups that had terminated coverage in the past to become covered again if they so choose.

Also, to help clarify the intent of the basic coverage proposal and the relationship between Social Security coverage and protection under the Civil Service Retirement System (CSRS), the subcommittee approved language for inclusion in the Ways and Means Committee report stating:

> This provision of your Committee's bill does not, and is not intended to, affect in any way the existing civil service retirement provisions or the applicability of such provisions to the newly covered employees and Members of Congress. Federal employees affected by the provision, including Members of Congress, who choose to participate in the civil service retirement program will continue to contribute the full amount to the Civil Service Retirement Fund as required by existing provisions of law, until those provisions are modified by the Congress.
>
> The members of your Committee are firmly committed to the proposition that Federal employees are entitled to comprehensive retirement protection and that a supplemental pension plan should be enacted for Federal employees which would provide such protection. Development of such a plan is the responsibility of the Committee on Post Office and Civil Service, whose Chairman has expressed a similar commitment to developing a supplemental plan.

The subcommittee considered but did not adopt proposals to (1) extend coverage to Federal employees with less than 5 years, or, alternatively, less than 15 years of Federal service and (2) provide for mandatory coverage of only new employees of nonprofit organizations.

Delay of COLA: The subcommittee adopted the NCSSR recommendation and a proposal, for purposes of the 1983 benefit increase only, to waive the requirement that there must be an increase in the Consumer Price Index (CPI) of at least 3 percent.[17] It also agreed to the NCSSR *stabilizer provision* with a pay-back provision that would, on a prospective basis, restore benefit levels for those affected by less than full cost-of-living increases. The subcommittee rejected proposals to (1) prorate the COLA for the year of first eligibility based on the date the worker became eligible for benefits (or died), and (2) shift the effective date of the stabilizer provision from 1988 as recommended by the NCSSR to 1985.

Windfall benefits: The NCSSR had suggested two alternative approaches for reducing windfall benefits of workers with pensions from noncovered employment—one based on calculating average earnings as though the noncovered work had been covered and one based on modifying the weighting in the Social Security benefit formula for workers with pensions based on noncovered work. The subcommittee agreed with the latter approach on advice that the former method would pose nearly insurmountable administrative problems and that generally similar results could be achieved through reducing the heavy weighting in the first part of the benefit formula.

Income tax treatment of benefits: In recommending taxation of 50 percent of the Social Security benefits for individuals with adjusted gross income (AGI) of $20,000 or more ($25,000 for couples), the NCSSR recognized further work would be needed to avoid a severe "notch" effect for beneficiaries with AGI only slightly above these levels and that a number of other aspects of the proposal would need to be worked out. To overcome the "notch" situation in the NCSSR proposal, the subcommittee worked out a plan for in-

17 In late February, the rate of increase in the CPI was very low and there was some thought that if fuel costs were to drop sharply, the CPI for the first quarter of 1983 might not be 3 percent higher than the CPI for the comparable period in 1982. Since enactment of Public Law 98-21, the CPI for all 3 months of the first quarter of 1983 has become available and, on the basis of the increase in the CPI since the first quarter of 1982, the COLA for December 1983 will be 3.5 percent.

cluding half of the benefits in income used to determine the extent to which benefits would be taxed and increasing the threshold to $24,500 for individuals ($31,500 for couples). Also, following the precedent in existing law governing the income tax treatment of Unemployment Compensation benefits, the subcommittee plan provided for a $0 AGI threshold for married couples filing separately.

The subcommittee considered, but did not adopt, proposals (1) to retain the present nontaxable status of Social Security benefits and (2) to treat Social Security benefits more like other pensions by exempting from taxation only an amount equal to the individual employee's own contributions.

Social Security tax schedules: After consideration of a proposal to delete the income tax credit for employees and one to extend it to employers, the subcommittee agreed to the NCSSR proposals to (1) move the previously scheduled 0.3 percent rate increase (from 5.4 percent for OASDI to 5.7 percent) forward from 1985 to 1984, (2) provide an employee Social Security tax credit for 1984 equal to the Social Security tax increase,[18] (3) increase the rate to 6.06 percent in 1988, thus advancing part of the increase to 6.20 percent previously scheduled for 1990, and (4) make half of the Social Security tax of the self-employed deductible for income tax purposes. The subcommittee decided to set the Social Security tax rate for the self-employed equal to the combined employee-employer rate for HI as well as OASDI and to provide a 0.3 percent Social Security tax credit for the self-employed for 1984, comparable to that provided for employees.

Other NCSSR proposals: The subcommittee agreed to the remaining NCSSR proposals—with the following exceptions: (1) removing trust fund operations from the unified budget, (2) including public members on the Boards of Trustees, and (3) taxing contributions to certain deferred compensation plans. With regard to the unified budget, there were significant jurisdictional considerations involving the House Budget Committee that were left for resolution to the full committee; the Social Security Subcommittee simply agreed to a provision requiring the separate display of trust fund transactions in the budget. In agreeing to the study of establishing Social Security as an independent agency, the subcommittee agreed that the study should address the feasibility as well as the implementation of such a plan. Also, the subcommittee adopted a modification of the proposal relating to trust fund investments to permit payment of interest rates based on short-term Treasury issues (those with maturities of less than 4 years) if such rates were higher than the prevailing long-term rates.

[18] Presumably for purposes of simplicity, the employee tax credit was designed as a credit against the Social Security tax, with the cost being borne by general revenues, rather than as a refundable income-tax credit as recommended by the NCSSR.

Other technical provisions: The subcommittee adopted (1) most of the provisions in the Pickle technical bill, (H.R. 660); (2) a proposal to modify the public pension offset so that Social Security spouse's or surviving spouse's benefits would be reduced by one-third (rather than 100 percent) of any pension the individual had based on his or her own work in noncovered public employment; and (3) some additional minor and technical provisions were also adopted.

Fail-safe: Some members of the subcommittee expressed concern that the provision for normalization of tax transfers—crediting the trust funds at the beginning of the month with revenues to be received during the month—was a tacit general revenue subsidy. The subcommittee agreed to the provision nonetheless and defeated an amendment that would have required the payment of interest by the trust funds on such normalized tax receipts. Concern was also expressed that extension of the interfund borrowing authority, with possible further borrowing from the HI trust fund, might cause a delay in repayment of funds already borrowed and/or weaken the financing of the HI program. Therefore, the subcommittee included safeguards to assure timely repayment of amounts borrowed and to preclude borrowing from any fund that was low.

The subcommittee considered but rejected a proposal to give the Social Security trust funds authority for short-term borrowing from the general funds of the Treasury as a means of assuring that there would always be funds available to meet benefit payments on a timely basis. Instead, the subcommittee adopted provisions requiring the Managing Trustee to (1) notify the Congress in the event that he determines that borrowing from the general fund is necessary to assure timely benefit payments and (2) submit a possible general fund borrowing plan that would include provisions for full repayment within 2 years. Such a plan could not take effect without explicit congressional approval.

Long-range deficit: To eliminate the remaining deficit of 0.68 percent of taxable payroll, the subcommittee adopted a proposal that included both a future benefit reduction and a future tax increase. This two-part, long-range proposal would have (1) gradually reduced initial benefit levels (replacement rates) by about 5 percent through reduction of benefit formula factors over the period 2000–07 (for a saving of 0.40 percent of taxable payroll) and (2) increased the Social Security tax rate in 2015 from 6.20 percent for employees and employers each to 6.44 percent each (for an increase in revenues equivalent to 0.28 percent of payroll over the long range). This proposal was agreed to after the subcommittee had considered alternatives that would have provided for gradually increasing the age of eligibility for unreduced benefits after the turn of the century and agreed that such proposals should be brought up later before the full committee.

The subcommittee also considered, but did not agree to, several alternative comprehensive proposals designed to meet the long-range deficit. These proposals, offered by Representative Archer (R., Tex.), the ranking minority member on the subcommittee and a member of the NCSSR who had not subscribed to the bipartisan package, included separate packages that would have

(1) increased the normal retirement age (the age at which unreduced benefits are paid) to 66 in 2010 and 67 in 2020, with automatic adjustments to changes in longevity thereafter, and eliminated the earnings test for persons who attained retirement age in 2001;

(2) increased the delayed retirement credit from 3 percent to 8 percent per year, increased the reduction for early retirement (at age 62) from 20 percent to 30 percent (with liberalizations in the disability and SSI provisions for workers aged 62–65), liberalized the earnings test, and—if experience were to show that the average age at retirement had not increased—gradually increased the retirement age for full benefits beginning in 1995, a plan based on a "work promotion program" advanced by the American Association of Retired Persons;

(3) gradually reduced the factors in the benefit formula by 10 percent over the period 1990–99; and

(4) incorporated, beginning in the 1990's, provisions based on a plan prepared by Michael Boskin, Professor of Economics at Stanford University, and advanced by the National Federation of Independent Business that would generally shift "social adequacy" aspects of Social Security to general fund financing (and provide payments through a revised needs-based program), relate retirement benefits directly to the worker's tax contributions, and include elements of an earnings-sharing system.

The subcommittee also considered and did not agree to an alternative plan involving the use of part of a worker's Social Security contributions for the purchase of special "Social Security bonds."

Supplemental Security Income: Meanwhile, the Subcommittee on Public Assistance and Unemployment Compensation held markup sessions on SSI and Unemployment Compensation. With regard to SSI, there was general agreement that, on an ongoing basis, the SSI and Social Security COLA's should occur at the same time. However, concern was expressed about protecting SSI recipients who were not also Social Security beneficiaries (and who would not, therefore, benefit from the NCSSR proposal for a new $30 SSI disregard of Social Security benefit income) from the effect of a delay in the July 1983 COLA's to January 1984.

After exploring various alternatives, the subcommittee agreed, on February 24, to provisions that would

(1) Shift the July 1983 SSI COLA to January 1984 and continue to provide January COLA's thereafter at the same time as Social Security COLA's and in the same amounts;

(2) Provide for a one-time (July 1983) increase in the SSI payment standard for all recipients of $20 per month for individuals ($30 for couples); [19] and

(3) Provide an additional option for States to meet the passthrough requirement by allowing them to substitute the supplementary payment levels in effect March 1983 for those in effect December 1976 as the basic payment levels the States must maintain. With regard to the increase in the Federal SSI standard in July 1983, the provision would have required the States to pass through only as much as would have been required if the SSI COLA were not changed to January 1984.

Medicare: The Subcommittee on Health marked up its part of the package on February 24, focusing almost exclusively on the prospective reimbursement aspects of the administration's Medicare proposals. The subcommittee adopted the following modifications in the administration's prospective payment proposals:

(1) There would be two standard rates for each diagnosis-related group—one for urban and one for rural hospitals.

(2) The adjustment for indirect costs of medical education would be doubled.

(3) For the first year only, 50 percent of each hospital's payment amount would be determined based on prospective payment and 50 percent would be determined by the per-discharge amount represented by the hospital's growth rate under TEFRA, subject to section 223 limits.

(4) For fiscal years 1984 and 1985, payment amounts would be increased annually by the hospital market basket index plus 1 percent. However, there would be an overall limitation designed to maintain budget neutrality. Beginning with fiscal year 1986, a panel of independent experts would be convened to review the appropriateness of the update factor and would make recommendations to the Secretary.

(5) The Secretary would be authorized to make Medicare payments under a hospital cost containment system in those States in which the State system met certain requirements.

(6) The Secretary would be authorized to issue regulations providing for exceptions and adjustments as deemed appropriate (including public and teaching hospitals).

(7) The Secretary would submit to Congress within 1 year legislative recommendations for including capital-related costs and return on net equity under prospective payment.

(8) Only the adequacy of the amount of the payment and the establishment of the DRG classification would be specifically excluded from administrative and judicial review.

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[19] The increases in the SSI payment standard took into account the application of the delay of the COLA to the SSI program and replaced the NCSSR proposal for a $30 disregard of Social Security increase.

(9) Hospitals would be required to contract with a utilization and quality control peer review organization as a condition of receiving payment under Medicare.

The subcommittee also agreed that the date for changes in the Supplementary Medical Insurance (SMI) premium—the monthly amount paid by aged and disabled persons who are enrolled in the SMI part of the Medicare program—should be shifted, with the Social Security COLA increases, from July to January of each year. The SMI premium is generally deducted from a person's Social Security cash benefits and increases in the premium have traditionally been timed to coincide with increases in the cash benefits. (The date for increases in HI premiums paid by persons who are enrolled in the HI program but are not entitled to cash benefits was also shifted from July to January.)

Thus, by the week of February 28, the various subcommittees had completed action on their parts of the legislation and the entire package was ready for consideration by the full committee.

Markup sessions by the full Ways and Means Committee. The Committee on Ways and Means held markup sessions on the proposals as submitted by the various subcommittees on March 1 and 2. The committee agreed to most of the provisions as reported by the subcommittees.

Social Security (OASDI).

Coverage: The committee agreed to the subcommittee provisions with two modifications: (1) a provision applying the earnings test to pay received by retired judges who assume a judicial workload, and (2) a phasing-in of the subcommittee's provision dealing with deemed insured status for newly covered older employees of nonprofit organizations. The committee also defeated proposals to (1) delete coverage of Federal employees and provide instead a general revenue contribution equal to the Social Security tax that would have been paid with respect to Federal civilian employment and (2) allow groups who objected to coverage on religious grounds (for example, the Amish) to opt out.

Delay of COLA's: As in the subcommittee, there was little discussion of the proposed COLA delay but some concern was expressed as to whether more fundamental changes should be made to safeguard the future stability of the program. Some members thought the *stabilizer provision*, under which the annual benefit adjustment would be based on the lower of CPI or wage increases if the trust fund ratios were low, should take effect earlier than 1988. However, no change was agreed to.

Income tax treatment of benefits: The committee further modified the provisions for taxing benefits by (1) rounding the tax threshold amounts to $25,000 ($32,000 for couples) and (2) clarifying that the provisions extended to Tier I (and not Tier II) benefits under the Railroad Retirement program. The committee also considered the possibility that the small differential between individuals and couples might result in a "marriage penalty" and that the $0 threshold for couples filing separate returns might seem unfair. However, no adjustments were made in these thresholds.

Social Security tax schedules: For the self-employed, the committee adopted a schedule of Social Security tax credits amounting to 1.8 percent for 1984 and 1.9 percent thereafter, in lieu of the income-tax deduction in the subcommittee bill. These credits would apply against the Social Security tax liability, with the cost being met from general revenues. The committee rejected proposals to (1) provide a more gradual schedule of Social Security tax increases for the self-employed, (2) eliminate the increase in the Hospital Insurance (HI) tax rate for them, and (3) provide an employer tax credit for 1984.

Other NCSSR proposals: When the committee reviewed the issue of removing Social Security trust fund operations from the unified budget, Representative Jones (D., Okla.), Chairman of the House Budget Committee (a member of the Ways and Means Committee, though not a member of its Subcommittee on Social Security) indicated that he could accept a proposal to remove the trust fund operations from unified budget totals. The subcommittee proposal for a separate budget category for the trust funds was modified to achieve this result.

The committee also agreed to amendments relating to the Social Security tax treatment of (1) employer contributions to simplified employee pension (SEP) plans, (2) contributions under certain deferred compensation plans (as recommended by the NCSSR) and cafeteria plans, and (3) contributions for tax sheltered annuities. In addition, the committee agreed to an amendment codifying the Supreme Court decision in *Rowan Companies, Inc.* v. *United States* (1981) that the value of meals and lodging furnished to an employee for the convenience of the employer is not wages for Social Security coverage and tax purposes. Codification of this decision provides a clear statutory precedent for different treatment of the same income for Internal Revenue Service and Social Security purposes.

Other technical provisions: The committee generally agreed with the technical provisions included in the subcommittee bill. In addition, the committee considered and rejected on a 16–16 tie vote a proposal to limit the payment of Social Security benefits to aliens outside the United States. When this proposal was not agreed to, Representative Pickle, Chairman of the Subcommittee on Social Security, indicated that the subcommittee would hold hearings later in the year on the subject of payment of Social Security benefits to aliens and to others outside the United States.

Fail-safe: The committee modified the fail-safe provisions to (1) provide for the payment of interest by the trust funds to the general fund with respect to normalized tax transfers and (2) replace the specific references to recommendations by the Managing Trustee of a plan for general fund borrowing with a general reference to whatever recommendations he might choose to make to deal with seriously low trust fund balances. The committee rejected a proposal to delete the provision for normalized tax transfers and substitute authority for short-term borrowing from the general fund.

Long-range deficit: The committee agreed to report the subcommittee provision for both increasing Social Security taxes and reducing benefits in the next century to deal with the long-range deficit. However, there was discussion of alternatives involving (1) paying less than the full COLA to beneficiaries under the normal retirement age as is done in the CSR system, (2) revising the benefit formula and relating benefits to length of service under Social Security, and (3) other alternatives similar to those that had been considered in the subcommittee. Also, several members expressed a preference for a gradual increase in retirement age over the two-pronged approach the subcommittee had adopted.

Chairman Rostenkowski assured the members of the committee that there was an understanding with Representative Claude Pepper (D., Fla.) Chairman of the Rules Committee and a member of the NCSSR, that two amendments would be in order when the Social Security bill was considered on the House floor: amendments to strike the long-range provisions of the committee bill and to substitute, alternatively (1) a proposal to eliminate the long-range deficit solely by increasing the retirement age or (2) a proposal to eliminate the deficit solely through increasing taxes in the 21st century. With this understanding, the committee agreed to report out the bill with the long-range provisions as recommended by the subcommittee for a tax increase in 2015 and a gradual 5-percent reduction in initial benefit levels.

Supplemental Security Income: The committee also considered and modified the SSI provisions that had been recommended by the Subcommittee on Public Assistance and Unemployment Compensation. The committee modified the passthrough provision so that it would require, rather than allow, States to maintain their March 1983 payment levels, and it also adopted additional amendments to

(1) Allow up to 3 months (in any 12-month period) of SSI payments to individuals who are temporarily residing in public emergency shelters for the homeless; and
(2) Disregard, as countable income, in-kind assistance provided by private nonprofit organizations to recipients of SSI and Aid to Families with Dependent Children (AFDC).

Medicare: The committee made the following modifications in the subcommittee's recommendations:

(1) Separate DRG rates would be established for each of the nine census divisions, which additionally would be broken down by urban and rural rates. This regional formula would "sunset" after the fourth year unless Congress took action to maintain it.
(2) The system would be phased in over a 4-year period. Twenty-five percent of the payment would be determined under the prospective system in the first year, 50 percent in the second, 75 percent in the third. The remainder of the payment would be determined on the hospital's per-discharge amount established under TEFRA.
(3) At least 4 percent of the cases would be treated as outliers (atypical cases).
(4) The report on including capital-related costs and return on equity would be due by December 31, 1983. The return on equity for proprietary hospitals would be phased out over a 4-year period.
(5) The administration's fiscal year 1984 proposal that prohibits payment under Part B for inpatient services (other than physician services) was approved. If the hospital had such arrangements in effect before October 1982, the Secretary could continue the billing arrangements during the transition period.
(6) The Secretary of HHS would be required to collect data in 1984 on physician charges in each DRG. The Secretary would make recommendations by January 1, 1985, on the advisability and feasibility of including physicians' payments in DRG's.

The committee bill was introduced as H.R. 1900, "The Social Security Act Amendments of 1983," on March 3, and was formally reported to the House on March 4. Cost estimates for the OASDI provisions of the committee bill showed that it would increase revenues and reduce expenditures by a total of $165 billion through 1989 and produce a positive long-range balance of 0.03 percent of taxable payroll.

Action in Rules Committee. On March 8, 1983, the Rules Committee of the House of Representatives considered and reported to the House floor H.R. 1900, with a modified closed rule. Under the rule, only the following substantive amendments, which would be considered as substitutes for the committee's long-range financing provisions, would be in order:

- An amendment, to be sponsored by Representative J. J. Pickle, Chairman of the Social Security Subcommittee of the Ways and Means Committee, to eliminate the long-range deficit solely by increasing the age of eligibility for unreduced retirement benefits; and
- An amendment, to be sponsored by Representative Claude Pepper, Chairman of the Rules Committee and member of the NCSSR, to substitute a provision to eliminate the long-range deficit solely by increasing Social Security payroll tax rates beginning in 2010.

Before adopting the rule, the committee defeated a proposal that would have permitted consideration of certain other amendments to the bill: (1) a delay in the effective date of coverage of newly hired Federal employees and other Federal officials (including Members of Congress) under Social Security or (2) elimination of the entire provision relating to coverage of Federal employees.

House floor action. On March 9, the House of Representatives debated the Social Security bill. The general debate focused on the fact that, although there were many provisions in H.R. 1900 that individuals or certain groups might find troublesome, there was an overriding need to deal effectively with the Social Security financing issues. The retirement age proposal offered by Representative Pickle, which called for increases in the age at which full retirement benefits are payable to age 66 by the year 2009 and to age 67 by the year 2027, was approved by a vote of 228–202. Under the amendment, reduced retirement benefits would continue to be paid beginning at age 62, but the maximum reduction would increase from 20 percent to 25 percent by 2005 and to 30 percent by 2022. Also, the provision called for a Departmental study, by January 1, 1986, of the possible effects of the increase in the retirement age, especially with respect to workers who for health or other reasons could not extend their working careers.

The House then debated the substitute amendment offered by Representative Pepper to raise the OASDI tax rate from 6.20 percent to 6.73 percent beginning in 2010. This amendment was defeated by a vote of 296–132. Had the amendment passed, it would have superseded Representative Pickle's amendment. The House then rose (Social Security bills are generally debated, as was H.R. 1900, by the House sitting as a Committee of the Whole) and voted (230–200) to consider the bill as reported by the Ways and Means Committee and as amended by the Pickle retirement-age proposal.

During the general debate, Chairman Rostenkowski stated that there was nothing in the legislation that would harm the Federal employees retirement system, and gave assurance that the protection of those in the Civil Service Retirement System would not be impaired. Representative Ford (D., Mich.), Chairman of the House Post Office and Civil Service Committee, indicated his intention to develop a supplemental civil service plan that would be fair to new workers coming into the system and would not impair the integrity of the Civil Service fund.

The House then passed H.R. 1900, as it had been amended, by a vote of 282 to 148, on the evening of March 9.

Provisions of House-passed bill

Provisions based on NCSSR recommendations:

(1) Mandatory coverage of new Federal employees and current Members of Congress, the President, the Vice President, current legislative employees not under the Civil Service Retirement System, and most current executive-level political appointees, including current Federal judges, effective January 1984.

(2) Mandatory coverage of employees of nonprofit organizations, with a provision for deemed fully insured status for older employees affected by the change, effective January 1984, and a prohibition against coverage terminations.

(3) Prohibition of State and local coverage terminations and removal of prohibition against coverage of previously terminated entities.

(4) Delay in the 1983 COLA for 6 months and shift in future COLA's (including both Social Security and SSI COLA's and Medicare premium increases) to a calendar year basis.

(5) Stabilizer provision for basing Social Security and SSI benefit increases on lesser of CPI or wage increases if after 1987 trust fund ratios fell below 20 percent of expected outgo (with prospective catch-up provision if trust fund ratios then rose above 32 percent).

(6) Windfall benefit provision for workers with pensions from noncovered employment that would apply a less weighted Social Security benefit formula, using 61 percent rather than 90 percent of average indexed monthly earnings in the first bracket of the benefit formula.

(7) Gradual increase in the delayed retirement credit from the present 3 percent per year for workers reaching age 65 before 1990 to 8 percent per year for workers reaching the age of eligibility for unreduced benefits in 2009 or later. Reduction from 72 to 70 in the age beyond which no delayed retirement credits can be earned.

(8) Income taxation of up to half of Social Security benefits for higher-income Social Security and Railroad Retirement Tier I beneficiaries.

(9) Adjustments in income tax credits for the elderly and the disabled.

(10) Acceleration of scheduled Social Security tax increases for employees and employers and 1984 Social Security tax credit for employees.

(11) Revised Social Security tax schedule for the self-employed and tax credit against Social Security taxes.

(12) Reallocation of Social Security tax revenues between OASI and DI trust funds.

(13) Continuation of benefits for disabled and divorced widow(er)s who remarry.

(14) Payment of benefits to divorced spouses regardless of the entitlement or payment status of the eligible worker.

(15) Indexing of deferred widow(er)s benefits based on wage (rather than price) increases since the worker died.

(16) Increase in percentage of worker's benefit payable to disabled widow(er)s aged 50–59.

(17) Fail-safe provisions: (a) normalization of tax

transfers, (b) extension of interfund borrowing authority, and (c) recommendations by the Boards of Trustees to remedy trust fund balance inadequacies.

(18) Provision for lump-sum transfers from the general fund to the trust funds to cover costs of noncontributory military wage credits and unnegotiated Social Security checks.

(19) Social Security taxation of contributions to, and payments under, certain deferred compensation plans and codification of *Rowan* decision.

(20) Revision of trust fund investment procedures to eliminate anomalies and permit payment of current interest rates on total assets.

(21) Presentation of Social Security trust fund operations as a separate budget category effective for 1984 and exclusion of such operations from the unified budget, beginning in fiscal year 1989.

(22) Provision for congressional study of implementation and feasibility of establishing the Social Security Administration as an independent agency.

Long-term provisions:

(1) Gradual increase in the retirement age to 66 in 2009 and 67 in 2027. Reduced benefits (30 percent reduction) would be available at age 62 and Medicare would continue to be available at age 65.

(2) Secretarial report to Congress, by January 1, 1986, on the effects of increasing the retirement age.

Other Social Security provisions:

(1) Increase in interest rate charged on late deposits of Social Security contributions by States.

(2) Study of "float" period between issuance of Social Security checks and the time the checks are negotiated.

(3) Modify noncovered pension offset to reduce Social Security dependent or survivor benefits by one-third (not 100 percent) of any pension the individual earned in noncovered public employment.

(4) Elimination of certain gender-based distinctions relating to: (a) divorced husbands, (b) remarriage of surviving spouse, (c) illegitimate children, (d) transitional insured status, (e) payments for the noninsured (Prouty payments), (f) father's insurance benefits, (g) effect of marriage involving certain disabled beneficiaries, (h) credit for certain military service, and (i) treatment of deductions for failure to have a child beneficiary in one's care and for the foreign work test.

(5) Modifications relating to Social Security coverage provisions to (a) extend coverage on an optional basis to certain employees of foreign affiliates of American employers, (b) conform Social Security tax and coverage treatment of earnings subject to the foreign earned income exclusion, (c) cover standby pay after age 62 as wages, (d) treat multi-employer sick pay plans as agents of employers with respect to payment of Social Security taxes, and (e) revise obsolete reference to names of State and local coverage groups in Utah.

(6) Modifications in provisions relating to international Social Security agreements to: (a) reduce congressional review period for such agreements and (b) impose Social Security taxes if an agreement provides for coverage under the U.S. Social Security system.

(7) Substitution of 45-hour test for 7-day work test for beneficiaries outside the U.S.

(8) Technical and conforming amendments to maximum family benefit provisions.

(9) Relaxation of insured-status requirements for certain workers previously entitled to a period of disability.

(10) Protection of benefits of illegitimate children of disabled beneficiaries.

(11) Provision for 1 month's retroactivity of reduced widow's and widower's insurance benefits.

(12) Reaffirmation of existing provisions assuring that Social Security benefits are not assignable in bankruptcy cases.

(13) Provision to facilitate use of death certificates to prevent erroneous benefit payments to deceased individuals.

SSI provisions:

(1) (a) Increase in the Federal SSI benefit standard for individuals of $20 per month ($30 for couples and $10 for essential persons) effective July 1983, and (b) delay the SSI COLA from July 1983 to January 1984.

(2) Modification in the Federal passthrough provisions to require States to maintain the supplementation levels in effect in March 1983, rather than those in effect in December 1976. In addition, with regard to the increased Federal SSI standard for July 1983, States would be found to meet the passthrough requirements if they pass through only the amount that would have been required if the SSI COLA had not been delayed to January 1984 (rather than the full increase in the payment standard).

(3) SSI eligibility for individuals who reside in public emergency shelters for the homeless for no more than 3 months in any 12-month period.

(4) Disregard of in-kind support and maintenance for individuals under the SSI and AFDC programs when furnished by private nonprofit organizations.

Medicare provisions:

Establishment of a program of Medicare payments for inpatient hospital services based on prospective rates, phased in over a 4-year transition period (as described earlier).

Unemployment Compensation provisions:

Extension of Federal supplemental compensation program. Also, miscellaneous provisions dealing with: (a) voluntary health insurance programs and (b) the treatment of certain organizations retroactively determined to be described in section 501(c)(3) of the Internal Revenue Code of 1954.

Action in the Senate

Action in the Finance Committee. On February 15 and 16, following public hearings in the House, the Senate Finance Committee heard testimony from members of the NCSSR and from the administration. The administration reiterated its support for the NCSSR package, summarized the recent history of Social Security financing and the causes of the financing problems, and described (without endorsement) possible ways of dealing with the long-range financing situation. In the week of February 21, the Finance Committee continued public hearings, during which witnesses representing various groups commented on individual aspects of the NCSSR package, including especially short- and long-range financing, COLA-delay, and benefit-taxation proposals.

On March 9, 1983, the day H.R. 1900 was passed by the House of Representatives, the Senate Finance Committee began markup sessions on the bill. H.R. 1900 was "held at the desk" when it was received after passage by the House of Representatives, so that, technically, only S. 1 was before the committee for consideration. For markup purposes, however, the committee had before it a staff paper describing the NCSSR recommendations, the comparable provisions in S. 1 and in H.R. 1900, and, in some instances, a staff suggestion as to the preferable approach. Ultimately, the committee reported S. 1 with amendments and the committee-approved version of S. 1 was incorporated into "Amendment Number 516" and considered on the Senate floor as an amendment to H.R. 1900.

Thus, while the Senate Finance Committee markup sessions (which concluded on March 10) related technically to S. 1, the committee was in a position to consider the range of proposals that had been considered in the House and, of course, related matters that members wished to raise. During their two days of the markup sessions, the committee agreed to a system of prospective payment for hospitals under Medicare and to the NCSSR bipartisan package, but many of the same issues that had proved troublesome in the House also posed difficulties in the Senate, as described below.

Social Security (OASDI).

Coverage: The committee agreed to (1) coverage of new Federal employees; (2) coverage of the President, the Vice President, and the Commissioner of Social Security, Members of Congress, and legislative employees who were not covered by the Civil Service Retirement System; and (3) a provision, similar to that rejected by the Ways and Means Committee, under which a member of a religious sect opposed to Social Security coverage could elect not to be covered under the program if the employer was a member of such a sect. They did not agree to the House provisions for extending coverage to current Federal judges and executive-level political appointees.

Concern was expressed about extending Social Security coverage to new Federal employees before a supplementary Civil Service plan for such workers was adopted by the Congress. Chairman Dole read into the record a letter from Senators Stevens (R., Alaska, Majority Whip, Chairman of the Subcommittee on Civil Service, Post Office, and General Services of the Committee on Governmental Affairs) and Mathias (R., Md.) (also a member of that subcommittee) stating that, although they did not favor the proposal, "coverage of new Federal employees does not present insurmountable problems vis-á-vis the Civil Service Retirement System" and that "it should not affect any current Federal employee's or retiree's expected benefit." They indicated that they would seek to work out a satisfactory supplementary plan for new Federal employees covered under Social Security. After some debate, the Finance Committee rejected an amendment that would have delayed coverage of new Federal employees until a supplementary plan was established if that were later than January 1, 1984. The committee then approved language affirming that nothing in the legislation should be construed to adversely affect any existing rights under the Civil Service Retirement System.

Delay of COLA: The committee agreed to a provision similar to that agreed to by the House, after defeating a proposal to freeze the COLA's for 2 years. Also, with regard to the *stabilizer provision* (relating to the payment of benefit increases based on the lesser of CPI or wage increases if trust fund ratios are low) the committee defeated a proposal to shift the effective date from 1988 to 1983. It did, however, adopt a payback provision such that, if trust fund ratios subsequently rose above 32 percent, the difference between wage and price increases would be made up retrospectively on an individual basis rather than prospectively only as in the House bill.

Windfall benefits: The committee modified the House provision so that it would (1) have a lesser relative effect on persons with 25 or more years of coverage under Social Security and a greater effect on those with less Social Security coverage and (2) not apply to persons with at least 30 years of Social Security coverage.

Income tax treatment of benefits: The committee agreed to provisions similar to those in the House bill except that certain nontaxable income, such as interest from municipal bonds, would be considered in determining whether a person met the income threshold for taxing benefits. This change was thought to close a possible loophole for high-income taxpayers with such nontaxable income. The committee considered, but did not adopt, proposals that (1) would have approximated the private sector practice by providing that persons could receive benefits tax free for up to 3 years before the benefits would become taxable, (2) would have addressed the issue of a possible "marriage penalty" by adjusting the relative tax threshold for individuals and couples (for example, from $25,000 and $32,000 to, say, $20,000 and $36,000), and (3) would have eliminated the provision for taxing Social Security benefits.

Social Security tax schedules: The Finance Committee adopted essentially the same provisions for employees and employers as those recommended by the NCSSR and adopted by the House. With respect to the self-employed, it agreed to (1) increase the Social Security tax rate to the combined employee-employer rate for OASDHI, and (2) provide Social Security tax credits, financed from general revenues, equal to the following percentages of self-employment income: 2.9 percent for 1984, 2.5 percent for 1985, 2.2 percent for 1986, 2.1 percent for 1987-89, and 2.3 percent after 1989.

Other NCSSR proposals: The committee also agreed to various other NCSSR proposals, including: (1) the four benefit equity provisions affecting primarily women, (2) the reallocation of taxes between OASI and DI, (3) lump-sum payment for gratuitous military wage credits and unnegotiated checks, (4) new trust fund investment procedures, and (5) the addition of two public members to the Boards of Trustees of the Social Security trust funds.

The committee agreed that two NCSSR proposals—the removal of the trust funds from the unified budget and the study of the feasibility of establishing Social Security as an independent agency—should be dealt with on the Senate floor, rather than in the Finance Committee, because the proposals related to matters in the jurisdiction of other committees—the Senate Budget Committee and the Senate Committee on Governmental Affairs, respectively.

Other technical proposals: The committee considered several additional proposals relating to child care dropout years for workers with children and additional dropout years for divorced spouses. Since such proposals involved some additional long-range costs, they were finally considered as part of a long-range package and, in that context, the committee agreed to provide up to 2 additional dropout years for years in which a person had no earnings and was living with a child under age 3.

In addition, the committee adopted amendments restricting payments to aliens and to prisoners. Benefits would not be payable to aliens outside the United States for more than 6 months to the extent that benefits (after taxes) exceeded the worker's (but not his employer's) Social Security contributions, plus interest. Also, all OASI benefits (like disability and student benefits under a 1980 amendment, Public Law 96-473) would not be paid to convicted felons while they are incarcerated. (This measure would not have affected payments to dependents or survivors of such felons.)

Also, although the committee did not agree to the House provision relating to interest on late deposits of Social Security contributions by the States, it did agree to a proposal that would have accelerated receipt of revenues by requiring Social Security contributions on the wages of State and local employees to be deposited on the same schedule as applies to Social Security taxes in the private sector (up to eight times a month) rather than only monthly.

Fail-safe: The committee approved a normalization provision under which (1) advance tax transfers would occur only if trust fund ratios were projected to fall below critical levels (12 percent of expenditures), and (2) interest would be paid by the trust funds on such transfers. As a final fail-safe, the committee adopted a provision that would have required the Secretary to notify Congress and to reduce the annual benefit increases if trust fund ratios were projected to reach 20 percent of expenditures and were declining. Such benefit increase reductions were to occur, to the extent possible, at middle or upper benefit levels—primary insurance amounts (PIA's) of $250 or more.

Long-range deficit: The committee agreed to long-range provisions that would have (1) gradually increased the age at which unreduced retirement benefits are first payable to 66 beginning in 2015 (with reduced benefits payable at age 62 equal to 75 percent of the unreduced benefit); (2) reduced benefit levels generally by some 5.3 percent over the period 2000-07, by modifying the percentage factors in the benefit formula; and (3) eliminated the Social Security earnings test for persons over the age of first eligibility for unreduced benefits.

The Social Security provisions as adopted by the Senate Finance Committee were estimated to increase revenues or reduce expenditures by about $165.5 billion over the period 1983-89. Over the long range the committee's bill would have provided a favorable long-range balance of 0.08 percent of taxable payroll.

Supplemental Security Income: With regard to the SSI program, the Finance Committee adopted essentially the same provisions as agreed to by the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation (not the full Ways and Means Committee) except that it provided that the stabilizer would not apply to SSI and it added one new provision—to require an SSI outreach effort. Under this provision, offered by Chairman Dole, the Secretary would send a one-time notice to elderly OASDI beneficiaries who are potentially eligible for SSI payments announcing the availability of SSI and encouraging them to contact SSA. Also, in the future, on a regular basis, the Secretary was to provide that SSI eligibility information be included in the notice to OASDI beneficiaries about eligibility at age 65 for Supplementary Medical Insurance.

Medicare: On March 10, the Senate Finance Committee, after defeating an attempt to delay consideration of prospective payment for several months, approved prospective payment provisions as part of the Social Security bill. The following are the major Medicare provisions added by the Finance Committee to the package as contained in the House bill:

(1) Instead of establishing separate DRG rates for nine census divisions as in the House bill, the Finance Committee provided for four regions.

(2) The Secretary would have been required to adjust the DRG payment rate at least every 5 years.

(3) In addition to the House provisions on outliers (unusually long-stay cases), the committee added a provision under which the Secretary would have permitted hospitals to appeal for additional payments for outlier cases in which charges were equal to or exceeded a multiple of the DRG rate or a dollar amount, whichever was greater.

(4) Payments for outliers would have been no less than 5 percent or more than 6 percent of total Medicare payments to hospitals for inpatient care.

(5) The study on inclusion of capital-related costs in the prospective payment system would be due 18 months after enactment. As of October 1, 1986, capital costs would no longer be excluded from prospective payment.

(6) The Secretary would adjust base costs for individual nonprofit hospitals that have additional costs for covering their employees under Social Security.

(7) The transitional provision would work in the following way: In the first year, 25 percent of the payment would be based on a blend of national and regional DRG rates (25 percent national, 75 percent regional); 75 percent would be based on each hospital's own experience. In year two, 50 percent of the payment would be based on a blend of national and regional DRG rates (50 percent each); 50 percent would be based on each hospital's cost experience. In year three, 75 percent of the payment would be based on a blend of DRG rates (75 percent national, 25 percent regional); 25 percent would be based on each hospital's cost experience. In year four, the entire payment would be based on the national DRG rate.

Senate floor action. The timing of the Senate floor debate was somewhat problematic because of the interest in the Senate in repealing a provision of the Tax Equity and Fiscal Responsibility Act of 1982 calling for withholding of income taxes on interest and dividends—a move strongly opposed by the administration and the Senate leadership. In mid-March an amendment to repeal this income tax withholding provision was pending on an emergency supplemental appropriations and jobs bill, another Finance Committee bill that was also considered "must" legislation before the Easter recess. Thus, although the committee completed action on its version of the Social Security bill on March 10 and was ready to take the bill up on the Senate floor on Monday, March 14, the Senate floor debate on the Social Security bill did not actually begin until March 16, when the Senate reached agreement to deal with the withholding issue after the Easter recess, passed the jobs bill, and turned to Social Security. Over the period March 16 through March 23, the Senate debated 98 Social Security-related amendments and, on March 21–22, amendments relating to income-tax withholding on interest and dividends.

A major subject of Senate floor consideration related to the coverage of new Federal employees. Senator Long (D., La.) proposed, as he had during Finance Committee consideration, that the coverage of newly hired Federal employees should not take effect before enactment of a supplemental Civil Service plan for such employees. Before this amendment was voted on, however, the Senate considered two alternative amendments.

First, by a vote of 86 to 12 the Senate defeated an amendment offered by Senator Stevens and Senator Mathias that would have eliminated the provisions for coverage of Federal employees from the bill. Then Senator Stevens offered an amendment that would have provided that new Federal employees (after January 1, 1984) would not be required to contribute to the Civil Service Retirement System (CSRS) until October 1985, or, if earlier, the effective date of a new supplemental Civil Service retirement plan for such workers. Such employees would receive credit, financed from general revenues, for work during the period when contributions were not required under the present CSRS or, if a new supplemental plan were enacted, under the new plan. During debate on this proposal, there was discussion of the need for action by the Governmental Affairs Committee to avoid the dual contributions that would otherwise be required under the bill from new Federal employees beginning January 1984. However, Senator Long's amendment that would also avert this situation was pending before the Senate, and the second Stevens amendment was defeated by a vote of 50 to 45.

The Senate then passed, by voice vote, the amendment by Senator Long that provided that coverage of new Federal employees would take effect in January 1984 or, if later, the month after the month of enactment of a supplemental Civil Service plan for such workers. The Senate also agreed to an amendment by Senator Levin (D., Mich.) pledging that the full faith and credit of the United States stood behind the language already agreed to by the Finance Committee stating that nothing in the bill would affect accrued entitlements to future benefits under the CSRS for current workers or retirees or their families.

In other action affecting the coverage provisions, the Senate rejected an amendment that would have provided for mandatory coverage of employees of nonprofit organizations only on a "new hires" basis. The Senate also rejected an amendment to delete the provisions for more frequent deposit of State and local Social Security contributions and agreed to an amendment for collection of such contributions by the Treasury Department (rather than the Department of Health and Human Services, as under present law). The Senate also agreed to coverage of ministers as employees, rather than as self-employed persons, under certain circumstances, and to Social Security tax relief in the form of tax credits and delayed deposits for certain small employers. The Senate also made some modifications in the provisions relating to the treatment of deferred compensation.

With regard to the income-tax treatment of the Social Security benefits of beneficiaries with adjusted gross income (plus certain tax exempt income) of more than $25,000 ($32,000 for couples filing jointly), the Senate defeated amendments that would have (1) indexed the threshold levels, (2) adjusted the levels (to $20,000 for individuals and $36,000 for couples) to avoid a possible "marriage penalty," and (3) eliminated the provision for including tax-free income in determining whether the thresholds were met. This latter provision was viewed by some as a potential threat to the tax-free status of interest on municipal bonds and as possibly unconstitutional.

In the area of near-term financing, the Senate rejected proposals to (1) eliminate the revisions in the Social Security tax schedule through 1990, (2) further postpone the July 1983 COLA by another 6 months, to July 1984, and (3) shift the effective date of the stabilizer provision—the provision for basing benefits on the lower of CPI or wage increases if the trust funds were below 20 percent of expenditures—from 1988 to 1983.

However, the Senate agreed to a provision by Senator Long under which normalized tax transfers could occur whenever the trust fund ratio was less than 20 percent of expected outgo, rather than 12 percent as in the committee bill. This provision was needed so that the normalized tax transfer provision could take effect on a timely basis and, thereby, prevent the fail-safe provision for a downward adjustment of the COLA for higher-PIA beneficiaries from triggering in the near term. A triggering of this aspect of the fail-safe—as might have otherwise occurred under the Senate Finance Committee bill—was unintended and would have generated a reduction in long-range costs not anticipated by the committee.

The Senate also adopted a number of modifications in benefits and provisions for studies relating to benefit structure: (1) further restrictions on benefits for aliens (primarily affecting aliens not legally permitted to work in the United States and subject to deportation); (2) further restrictions on benefits for convicted felons (to include persons found not guilty by reason of insanity); (3) "transitional" benefits for persons widowed at ages 55–59; (4) an implementation study of earnings-sharing proposals; and (5) studies by the Secretary of the Treasury of alternatives to Social Security based on the purchase of special bonds and/or individual retirement accounts. The Senate also adopted an amendment (by Senator Heinz, R., Pa.) calling for a study (as proposed by the NCSSR) on establishing Social Security as an independent agency.

With regard to the long-range provisions in the Finance Committee bill, the Senate agreed to amendments to (1) coordinate the gradual increase in the delayed retirement credit with the phased elimination of the earnings test; (2) phase out the test beginning in 1988 (rather than 1990); and (3) apply the earnings test and the phaseout of the test to the blind (instead of the test of substantial gainful activity). The Senate also adopted a provision requiring the next Advisory Council on Social Security to study the effect of increasing the age of eligibility for unreduced benefits and rejected a proposal for an occupational definition of disability for workers aged 62 or over who were unable to continue to engage in their current occupation or employment as well as an amendment for phasing in a rise in the retirement age to 68 over a 36-year period beginning in 1984.

Concern was also expressed about provisions of the bill authorizing automatic appropriations to the Social Security trust funds and, thereby, bypassing the appropriations committees. Thus, the Senate agreed to an amendment by Senator Hatfield (R., Oreg.), Chairman of the Senate Appropriations Committee, that would have required that the lump-sum payment for pre-1957 military wage credits and payments for uncashed checks be subject to the normal appropriations process. There was also agreement that funds for the study of Social Security as an independent agency should be subject to the appropriations process. The Senate ruled out of order an amendment to remove the Social Security trust funds from the unified budget and the congressional budget process and tabled a motion to remove Social Security from the unified budget.

Several relatively minor Medicare amendments were agreed to. For example, hospitals of 500 or more beds in rural areas and regional or national referral centers were to be reviewed by the Secretary of HHS to see whether they should receive special treatment. There was also discussion of major amendments relating to health insurance for unemployed persons. However, no such provisions were agreed to and it was understood that the subject would be considered further in the current session of the Congress.

On the evening of March 23, the Senate passed H.R. 1900, as amended, by a vote of 88 to 9. The financial effect of the bill as passed by the Senate was dependent upon assumptions made with regard to the effective date of coverage of Federal employees under the provision delaying coverage until an alternative CSR plan was in effect. If such a plan were in effect by 1984, the Senate-passed bill would have provided an estimated $165.7 billion in additional revenues or reduced expenditures over the period 1983–89 and would have eliminated the long-range deficit of 2.09 percent and provided a favorable actuarial balance of 0.07 percent of payroll. If, however, it was assumed that coverage of Federal employees was delayed indefinitely, the near-term saving under the Senate bill would have been less and there would have been a remaining long-range deficit of 0.21 percent of payroll.

Provisions of Senate-passed bill

Provisions based on NCSSR recommendations:

(1) Mandatory coverage of new Federal employees and current Members of Congress, the President, the Vice President, and the Commissioner of Social Security, and legislative employees not under the Civil Service Retirement System, effective January 1984, or, if later, the month following the month of enactment of a supplemental Civil Service plan. The provision included a guarantee against impairing accrued rights under the Civil Service Retirement System.

(2) Mandatory coverage of employees of nonprofit organizations, effective January 1984, and a prohibition on new terminations.

(3) Prohibition on State and local coverage terminations and removal of prohibition against coverage of previously terminated entities.

(4) Delay the 1983 COLA for 6 months and shift future COLA's to a calendar year basis (including both Social Security and SSI COLA's and Medicare premium increases and the conforming change in the effective date of the 1982 Omnibus Budget Reconciliation Act provision for the rounding of certain veterans' pensions).

(5) Stabilizer provision for basing OASDI benefit increases on the lesser of CPI or wage increases, if, after 1987, trust fund assets fall below 20 percent of expected outgo (with the triggering of an individual retrospective catch-up provision if trust fund ratios then rose above 32 percent). The provision would not have applied to the SSI COLA.

(6) Windfall benefit provision for workers with pensions from noncovered employment and less than 30 years of coverage under Social Security. For workers with less than 25 years of Social Security coverage, a less weighted Social Security benefit formula, using 32 percent rather than 90 percent of average indexed monthly earnings in the first bracket of the benefit formula, would phase in over 5 years. Larger factors would apply to workers with 25 to 30 years of coverage.

(7) Gradual increase in the delayed retirement credit from the present 3 percent per year for workers reaching age 65 before 1993 to 8 percent per year for workers reaching retirement age in 1998 or later.

(8) Income taxation of up to half of Social Security benefits for higher income Social Security and Railroad Retirement Tier I beneficiaries; include tax-exempt income in determining if income threshold is met.

(9) Acceleration of scheduled Social Security tax increases for employees and employers and 1984 tax credit for employees.

(10) Revised Social Security tax schedule for the self-employed and tax credit against Social Security taxes.

(11) Reallocation of tax revenues between OASI and DI trust funds.

(12) Continuation of benefits for disabled and divorced widow(er)s who remarry.

(13) Payment of benefits to divorced spouses regardless of the entitlement or payment status of the eligible worker.

(14) Indexing of deferred widow(er)s benefits based on wage (rather than price) increases since the worker's death.

(15) Increase in the percentage of a worker's benefit payable to a disabled widow(er) aged 50–59.

(16) Fail-safe provisions: (a) normalization of tax transfers, with provision for paying interest, only when trust fund balances are less than 20 percent of outgo; (b) extension of interfund borrowing authority, with a number of safeguards protecting the loaning fund and assuring repayment; and (c) a requirement that, when trust fund balances are less than 20 percent and declining, the Secretary so notify the Congress by July 1 and—if no congressional action is taken—scale back the COLA payable on the following January to prevent the anticipated decline in the funds. (The scaling back of the COLA would apply, to the extent possible, only at basic monthly benefit levels (primary insurance amounts) of more than $250.)

(17) Authorization for appropriations to cover lump-sum transfers from the general fund to cover the costs of noncontributory military wage credits and unnegotiated Social Security checks.

(18) Social Security taxation of contributions to, and payments made under, certain deferred compensation plans and codification of *Rowan* decision.

(19) Revised trust fund investment procedures to eliminate anomalies and permit payment of current interest rates on total assets.

(20) Addition of two public members to Boards of Trustees.

(21) Authorization of Presidential study of implementation of a proposal to establish Social Security as an independent agency.

Long-term provisions:

(1) Gradual increase in the age of eligibility for unreduced benefits to 66 for those reaching that age in 2015 or later, while retaining provisions for payment of reduced benefits (with a 25-percent reduction) at age 62. The age of eligibility for Medicare would also be increased.

(2) Require the next Advisory Council on Social Security (to be appointed in 1985) to study the effect of increasing the retirement age.

(3) Gradual reduction in initial benefit levels (by adjusting the factors in the benefit formula) by about 5.3 percent over the period 2000–07.

(4) Gradual elimination of the earnings test for persons aged 65 or older by additional increases in the exempt amounts for 1990–94, with elimination thereafter.

Other Social Security provisions:

(1) Require the deposit of contributions on wages of State and local employees on the same schedule as used for private employees.

(2) Require less frequent deposit of Social Security taxes by small employers.

(3) Provide a Social Security tax credit (not to exceed $300) for employers with 50 or fewer employees, with the cost of the credit met from general revenues.

(4) Coverage modifications similar to House-passed provisions to (a) exclude employer contributions under simplified employee pensions from covered wages, and (b) cover standby pay after age 62 as wages.

(5) Additional coverage modifications to (a) exempt certain employed members of certain religious sects from Social Security coverage, (b) cover ministers as employees (pursuant to irrevocable election by the minister and the employing church), and (c) apply common paymaster rule where health care professionals are employed by State universities as medical school faculty members and by tax exempt faculty practice plans.

(6) Except as provided under treaties or international social security agreements, benefits would be payable to aliens outside the United States for more than 6 months only to the extent that the total after-tax benefits did not exceed the worker's own contributions, plus interest. Also benefits would not be payable to noncitizens who were unable to show that they had been legally admitted to work in the United States. Finally, in the case of beneficiaries who are deported or in the process of being deported, no quarters of coverage based on illegal work could be used in determining benefit eligibility.

(7) Withholding of OASDI benefits from felons during incarceration; benefits to dependents and survivors of convicted felons would not be affected.

(8) Eliminate the concept of substantial gainful activity for the blind and instead apply the earnings test to blind persons and phase out the earnings test for the blind on the same schedule as for the aged (with elimination of the test after 1994).

(9) Provide up to 6 months of transitional benefits equal to 71.5 percent of the deceased worker's benefit to persons widowed at ages 55–59 who would not otherwise qualify for immediate benefits.

(10) Allow up to 2 additional dropout years for workers who have years of zero earnings and were living with a child under age 3.

(11) Facilitate the use of death certificates to prevent erroneous benefit payments to deceased individuals.

(12) Require the issuance of new and replacement Social Security cards that will be more counterfeit-resistant and printed on banknote paper.

(13) Require that all Social Security checks (and the envelopes in which they are delivered) carry a legend indicating that it is a felony to negotiate a check erroneously issued to a beneficiary who has died.

(14) Require the Secretary of Health and Human Services to report to the Ways and Means and Finance Committees, by January 1, 1984, on

the possible implementation of alternative proposals involving earnings sharing.

(15) Mandate two studies by the Secretary of the Treasury: one relating to the feasibility of implementing a system of "Social Security Option Accounts" and one on the feasibility of implementing a system of Individual Retirement Security Accounts. (Under either approach, workers would be permitted, in effect, to allocate a part of their Social Security taxes to IRA-type accounts and to receive reduced Social Security benefits to take account of the deposits to the IRA-type accounts.)

(16) Provide for waiving certain requirements of the veterans' laws in the case of an administrative reorganization of the VA Los Angeles Data Processing Center.

SSI provisions:

(1) (a) Effective July 1983, increase the Federal benefit standard for individuals, couples, and essential persons by \$20, \$30, and \$10, respectively.

(b) Delay the SSI COLA from July 1983 until January 1984.

(c) Except the SSI program from the Social Security stabilizer provision for paying the lower of the increase in wages or prices under certain circumstances.

(2) For purposes of the Federal SSI passthrough provisions, States could either maintain their December 1976 or their March 1983 supplementation levels. Also, States would be required to pass through only so much of the July 1983 benefit increase as would have resulted had the COLA not been delayed to January 1984.

(3) The Secretary would send, to elderly OASDI beneficiaries who are potentially eligible for SSI benefits, a one-time notice of the availability of SSI and encourage them to contact SSA. Also, in the future, on a regular basis, the Secretary would provide that SSI eligibility information be included in the notice to OASDI beneficiaries about eligibility at age 65 for Supplementary Medical Insurance.

Medicare provisions:

Establishment of a program of Medicare payments for inpatient hospital services on the basis of prospective rates phased in over a 3-year (rather than a 4-year) transition period and including other variations from the House-passed provisions.

Unemployment Compensation provisions:

Extension of the Federal supplemental compensation program. Also, miscellaneous provisions dealing with (a) a cap on credit reduction, (b) deferral of interest, (c) average employer contribution rate, (d) date for payment of interest and penalty for failure to pay interest, (e) employees of educational institutions, and (f) extended benefits for individuals who are hospitalized or on jury duty.

House-Senate Conference Committee

The House of Representatives had appointed conferees on the afternoon of March 23 in the hope that the Senate might pass H.R. 1900 early enough that conference could be held that night. However, by evening, when the Senate passed the bill and appointed conferees, it was decided that conference would begin early on March 24 with the objective of completing work on the bill and beginning the Easter recess that day.

The conference committee, chaired by Representative Rostenkowski, convened on March 24 and moved quickly on a number of major provisions, setting aside some of the more technical or problematic areas to be dealt with last. While staffs conferred in one area, the conference formally moved on other areas so that, by mid-afternoon, most of the differences between the House and Senate bills affecting Medicare and Unemployment Compensation, as well as Social Security and SSI, had been resolved.

In general, the Senate agreed to most of the technical OASDI provisions that had been included in the House-passed bill, including the provisions eliminating gender-based distinctions. It also receded from the benefit liberalizations that were included in the Senate bill but not in the House bill. On other benefit and administrative amendments, compromises were reached between the House and Senate provisions and in a number of areas Senate-passed provisions were dropped because of the lack of time for consideration by the House conferees, or for other reasons such as, in the case of the Treasury Department studies of alternative Social Security plans, there was ample authority to conduct the studies without a special legislative mandate.

Some concern was expressed among House conferees about the Senate provisions requiring that funds relating to unnegotiated checks and noncontributory military wage credits should be subject to the appropriations process. Senator Dole described an understanding he had reached with Senator Hatfield on the Senate floor under which the necessary funds were to be included shortly in a supplemental appropriation for 1983. The Senate receded with respect to an automatic appropriation for military wage credits and the House receded with respect to unnegotiated checks and also agreed that funding for the study of Social Security as an independent agency should be subject to the legislative appropriation process. The Senate also receded with respect to the separate budget display of Social Security trust fund operations and the removal of these operations from the unified budget except that the latter part of the provision would take effect beginning in fiscal year 1992, rather than 1989, as was included in the House bill.

With regard to coverage of Federal employees, the Senate provision that would have delayed coverage pending adoption of an alternative plan was rejected by the conference. Thus, the conferees agreed to major coverage provisions following the House bill.

The conferees agreed to COLA changes including technical adjustments as in the Senate bill, to a windfall benefit provision along the lines of the Senate bill but using a more generous basic formula and exempting a number of groups, and to a *stabilizer provision* using the House prospective-only approach to the catch-up but providing for a 1984 effective date and a lower (15 percent) trigger ratio for 1984–89.

The conferees accepted, essentially, the House-passed retirement age and other long-range provisions. They agreed to the Senate provision for including tax-exempt income in determining the thresholds for taxing Social Security benefits. They also adopted the Senate provision on the timing of deposits of Social Security contributions for State and local employment but not to the Senate provisions affecting employers with 50 or fewer employees. Both Houses dropped their provisions for revised trust fund investment procedures when it was learned that under either approach there would be some short-term loss in interest revenues due to recent declines in interest rates.

The major remaining area of difference in the OASDI area related to the fail-safe provision. Following caucuses, the House and Senate conferees agreed to the House provisions on the normalization of tax transfers (without any triggering trust fund ratio) and agreed to the Senate provisions on interfund borrowing (which included various safeguards for the lending funds and more specific repayment provisions). Although the conferees did not agree to the Senate provision authorizing the Secretary of Health and Human Services to limit future COLA's, if necessary, they did modify the *stabilizer provision* as described above so that it could become effective on the basis of a 15-percent trigger as early as December 1984. Also, the conferees provided that the Trustees should include, in any report to Congress that trust fund balances would be unduly low, specific information on the extent of benefit reductions and/or revenue increases needed to correct such low trust fund balances.

The conference committee report (which was not signed by three of the conferees—Senator Long and Representatives Archer and Frenzel) was then quickly drafted and sent back to the House and the Senate for final action.

Final Passage

The House was called into session at about 10:25 p.m. to consider the conference committee report. Following an explanation of the conference agreement by Representative Rostentowski and speeches by Representatives Conable, Pickle, and Pepper, the House rejected without a recorded vote a motion to recommit the bill and passed the conference report by a vote of 243 to 102.

The Senate was then called into session to consider the conference committee report and several members requested a recorded vote. There was considerable dissatisfaction with the conference agreement. Senator Long urged that the report not be agreed to because of the absence of a stronger fail-safe provision and because of the proposed inclusion of tax-exempt income in the provision for taxing benefits and the coverage of new Federal employees. Senator Armstrong (R., Colo.), too, expressed strong reservations about the bill, including the fail-safe provision, the tax increases, and the use of general revenue funds, although he supported final passage. Others spoke in support of the bill. Senators Moynihan (D., N.Y.) and Heinz spoke in strong support of final passage, as did a number of the other Senators.

Finally, in the early morning hours of March 25, the Senate passed H.R. 1900, as agreed to in the conference committee report, by a vote of 58–14 and the Congress adjourned for the Easter recess.[20]

II. Summary of Provisions

On April 20, President Reagan signed the legislation as Public Law 98-21. As enacted, the Social Security Amendments of 1983 contain the following provisions.

Universal Coverage Provisions

Coverage of newly hired Federal employees. The following groups are to be covered under Social Security: (1) all Federal employees (except reemployed Civil Service annuitants) hired on or after January 1, 1984, including executive, legislative, and judicial branch employees and including those with previous periods of Federal service (provided the break in service has exceeded 365 days); (2) current employees of the legislative branch who are not participating in the Civil Service Retirement System (CSRS) on December 31, 1983; and (3) all Members of Congress, the President, the Vice President, Federal judges, and most executive-level political

[20] It quickly became apparent that the final bill contained a number of typographical and technical errors. Therefore, immediately following the Easter recess and before the bill was sent to the President for signature, the Congress passed a concurrent resolution (H.Con.Res. 102) directing the enrolling clerk of the House of Representatives to make the necessary corrections. H. Con. Res. 102 passed by both Houses of Congress on April 7 and the corrected bill was cleared to go to the President for signature.

appointees of the Federal Government, effective January 1, 1984. Judicial retirement pay of retired Federal judges for periods when they resume judicial duties is covered. This provision includes a statement of principle on protecting accrued entitlement of current Federal employees under the Civil Service Retirement System.

This provision eliminates gaps in protection for Federal employees, particularly those who shift between Federal employment and jobs already covered under Social Security. In addition, over the long run, windfall Social Security benefits—benefits that represent a comparatively high return on Social Security taxes for workers who spend less than a working lifetime in covered employment—will be eliminated for these employees.

Coverage of employees of nonprofit organizations. Current and future employees of private tax-exempt nonprofit organizations are covered, effective January 1, 1984, on a mandatory basis. Under prior law, work performed for such organizations was excluded from coverage unless the organization filed a certificate with the Internal Revenue Service waiving its exemption from Social Security taxes. Also, persons will be deemed to be fully insured if, on January 1, 1984, they are at least aged 55 and employed by a nonprofit organization whose employees are covered solely as a result of Public Law 98-21, and if they acquire, after December 31, 1983, the number of quarters of coverage shown in the following tabulation:

Age on January 1, 1984	Quarters of coverage required
60 or over	6
59	8
58	12
57	16
55 or 56	20

In addition, termination of Social Security coverage of employees of nonprofit organizations is prohibited on or after March 31, 1983. Under prior law, nonprofit organizations could terminate coverage upon giving 2 years advance notice, providing coverage had been in effect for 8 years or more when the notice was given.

These amendments will avoid gaps in protection for employees of nonprofit organizations (and their families) who move between covered and noncovered work. Further, over time, windfall benefits will be eliminated for these employees.

Prohibit termination of coverage of State and local government employees. States are prohibited from terminating coverage of State and local government employees if the termination has not gone into effect by April 20, 1983 (the date of enactment). Under prior law, a State could terminate coverage for groups of State and local employees by giving 2 years advance written notice, providing the coverage had been in effect for at least 5 years when the notice was given. Also, State and local groups whose coverage has been terminated may elect to be covered again. Prior law prohibited a terminated group from being covered again. This provision avoids gaps in protection for State and local employees (and their families) whose coverage would otherwise have been terminated. Further, over time, windfall benefits will be eliminated for these employees.

Benefit Computation

Shift cost-of-living adjustments (COLA's) to calendar year basis. The July 1983 COLA is delayed until January 1984. Future automatic COLA's are effective on a calendar year basis, with the increase payable in January rather than in July of each year. Beginning with the COLA payable in January 1985, the period for measuring the increase in the Consumer Price Index (CPI) will be shifted from a first-quarter to first-quarter measure to a third-quarter to third-quarter measure. The Supplemental Security Income (SSI) payment increase and the Medicare premium increase will also be delayed to January 1984 and placed on a calendar year basis. (The SSI payment standard will be increased by $20 for an individual and by $30 for a couple in July 1983. See pages 34 and 40 for additional information on SSI and Medicare changes.)

Cost-of-living increases to be based on lower of wage or price increase if OASDI trust funds are low—"Stabilizer." Beginning with the December 1984 OASDI benefit increase payable in January 1985, future automatic increases will be limited to the lesser of the increase in wages or prices if the ratio of the combined OASDI trust fund assets to estimated outgo falls below a given percentage. If this occurs, the automatic increase will be the smaller of (1) the increase in prices as measured by the Consumer Price Index (the regular COLA) or (2) the increase in wages as measured for purposes of the contribution and benefit base and other automatic wage adjustments in the program. The "triggering" trust fund percentage is 15 percent through December 1988 and 20 percent thereafter.

The law also provides for making up for any benefit increases that are based on wage increases, rather than on the increase in the cost of living. When the trust fund ratio reaches 32 percent, additional increases will be given, to the extent that funds are available above the 32-percent ratio, so that benefits are increased to the level they would have reached if all increases had been based on the increase in prices. Under the 1983 Board of Trustees Alternative II-B assumptions, the provision is not expected to actually take effect.

Eliminate windfall benefits for persons receiving pensions from noncovered employment. For workers who are first eligible after 1985 for both a pension based on noncovered employment and Social Security retirement or disability benefits, a different benefit computational method will apply. Specifically, the 90-percent factor generally applied to average earnings in the first band of the benefit formula is replaced by a factor of 40 percent, after a 5-year phase-in. There is a guarantee (designed to help protect workers with relatively low pensions based on noncovered employment) that the reduction in the Social Security benefit will not exceed one-half of the amount of the pension. For purposes of this guarantee computation, only that portion of the pension attributable to post-1956 noncovered earnings will be considered.

The provision will not apply to certain groups, including most current Federal or nonprofit employees who become newly covered under Social Security effective January 1984, railroad employees, and workers who have 30 or more years of Social Security coverage. For workers who have 26–29 years of coverage, a factor larger than 40 percent will be used (on a sliding scale). This provision reduces the extent to which the heavy weighting in the benefit formula that is intended for workers with low wages would otherwise go to workers who spent many years in noncovered employment and worked only a few years in covered employment.

Lower the withholding rate under the earnings test. Beginning in 1990, the earnings test benefit withholding rate will decrease from $1 for each $2 of earnings over the annual exempt amount to $1 for each $3 of excess earnings for individuals who attain full-benefit retirement age (age 65 in 1990). Beginning in the year 2000, the age at which this withholding rate applies will increase as the retirement age increases. The lower withholding rate will apply for the whole year in which an individual attains retirement age (as does the higher annual exempt amount under present law).

Increase the delayed retirement credit (DRC). The DRC payable to workers who delay retirement past the full-benefit retirement age (currently age 65) and up to age 70 will be gradually increased. DRC's will increase by 1/2 of 1 percent every other year from 3 percent per year for workers aged 62 before 1987 until reaching 8 percent per year for workers aged 62 after 2004. Under prior law, DRC's were equal to 3 percent per year for workers who reached age 62 in 1979 or later.

Under a conforming provision, the age beyond which DRC's can no longer be earned is reduced from 72 to 70. This change in the DRC provision is in line with the 1977 and 1981 legislation, which lowered from 72 to 70 the age at which the earnings test no longer applies, effective for calendar year 1983.

Amend the government pension offset to exempt a portion of the government annuity from offset against the Social Security spouse's benefit. For spouses and surviving spouses who become eligible after June 1983 for a public pension based on their own noncovered employment, two-thirds of the public pension will be offset against Social Security benefits, rather than 100 percent of the pension as under prior law. This change responds to the criticism that the offset under prior law applied to the entire government pension—both the part analogous to a Social Security benefit and the part analogous to a private pension.

Income Tax Treatment of Benefits

Taxation of Social Security and Railroad Retirement Tier I benefits. Beginning in 1984, up to one-half of Social Security (and Railroad Retirement Tier I) benefits received by taxpayers whose incomes exceed certain base amounts will be included in taxable income. The base amounts are $25,000 for a single taxpayer, $32,000 for married taxpayers filing jointly, and zero for married taxpayers filing separately. Income for purposes of figuring these base amounts includes adjusted gross income under prior law (plus nontaxable interest income), and one-half of Social Security and Railroad Retirement Tier I benefits. The amount of benefits included in taxable income will be the lesser of one-half of benefits or one-half of the excess of the taxpayer's combined income (adjusted gross income + one-half of benefits) over the base amount. The provision for including nontaxable interest income is intended to provide similar tax treatment of benefits received by individuals whose total income consists of different mixes of taxable and nontaxable income and to limit opportunities for manipulation of tax liability on benefits.

For tax purposes, the definition of Social Security benefits includes Workers' Compensation benefits to the extent that they cause a reduction in Social Security and Railroad Retirement Tier I disability benefits. This provision is intended to assure that these social insurance benefits, which are paid in lieu of Social Security benefits, are treated similarly for purposes of taxation. Also, benefits paid to an individual in any taxable year include amounts constructively received but withheld; subsequent adjustments will be made to take account of such items as, say, overpayments repaid during the year. Taxpayers who receive a lump-sum payment of retroactive benefits may treat the benefits as wholly payable for the year in which they receive them or may elect to attribute the benefits to the tax years in which they would have fallen had they been paid timely. No benefits for months before December 1983 will be taxable, regardless of when they are paid.

The Department of Health and Human Services and the Railroad Retirement Board will be required to file annual returns with the Secretary of the Treasury setting forth the amount of benefits paid to each individual in each calendar year and to furnish similar information to each beneficiary.

The provision applies to nonresident aliens as well as U.S. citizens. Under the Internal Revenue Code, nonresident aliens who have income from sources other than a U.S. trade or business are taxed at a flat rate of 30 percent, unless a tax treaty provides otherwise, and the taxes must be withheld at the source of payment. Thus, 30 percent of one-half of the Social Security benefit (15 percent of the total benefit) will be withheld from nonresident alien beneficiaries.

Amounts equivalent to estimated quarterly proceeds from the taxation of benefits will be automatically deposited in the Social Security trust funds and the Railroad Retirement Account, as appropriate, at the beginning of each calendar quarter, subject to final adjustments based on estimates by the Secretary of the Treasury. The Secretary of the Treasury will submit an annual report on the transfers under this provision.

Income tax credit for elderly and disability income exclusion.

Credit for the elderly: The prior law tax credit equal to 15 percent of a base amount for individuals aged 65 or over is retained. However, the base amounts have been doubled, and the provision has been extended to include disabled persons under age 65 if they retired with a permanent and total disability and have income from a public or private employer on account of that disability. For individuals under age 65, the initial amount is limited to the amount of their disability income.

Disability income exclusion: The disability income exclusion is repealed. Affected individuals are made eligible for the credit for the elderly (and disabled persons) to the extent of disability income (see above). Under prior law, permanently and totally disabled individuals who retired on disability and were under age 65 could exclude amounts received under an employer's disability income plan from gross income to the extent that they were attributable to employer contributions.

This provision is a general tax provision, not a Social Security provision, and applies to taxable years beginning after December 31, 1983. It has no effect on the Social Security program.

Surviving, Divorced, and Disabled Spouse Benefits

Benefits for surviving divorced spouses and disabled widows and widowers who remarry. After 1983, Social Security benefits will not be terminated for surviving divorced spouses, disabled surviving divorced spouses, and disabled widows and widowers who remarry after entitlement to benefits. Under prior law, when a disabled or divorced disabled widow(er) married before age 60, his or her benefits on the record of a former spouse terminated, unless the new marriage was to a person receiving certain types of auxiliary benefits. This provision removes a possible deterrent to marriage previously in the law and provides treatment for disabled or divorced disabled widow(er)s that is more nearly comparable to that provided for aged widow(er)s.

Independent entitlement of divorced spouses. Effective January 1985, a divorced spouse aged 62 or over who has been divorced for at least 2 years may receive benefits based on the earnings of a former spouse who is eligible for retirement benefits, regardless of whether the former spouse has applied for benefits or has benefits withheld under the earnings test. Under prior law, a divorced spouse could not qualify for dependent's benefits based on the earnings of a former spouse until the former spouse had filed an application for benefits. If the former spouse did become entitled to benefits but continued to work, a divorced spouse could have some or all benefits withheld due to the former spouse's earnings. The requirement that the divorce must have been in effect for 2 years is intended to discourage divorces solely for the purpose of becoming entitled to benefits or avoiding the earnings test.

Index deceased worker's earnings to widow(er)'s eligibility. In computing aged widow(er)'s benefits for the spouse of a worker who died before age 62, the deceased worker's earnings will be indexed to wages up to the earliest of (1) 2 years before the worker would have reached age 62, (2) 2 years before the survivor becomes eligible for aged widow(er)'s benefits, or (3) 2 years before the survivor becomes eligible for disabled widow(er)'s benefits. The new computation will apply only if it results in a higher benefit than under the prior-law computation. Under prior law, if a worker died before reaching age 62, the aged widow(er)'s benefit payable at or after age 60 reflected adjustments for wage levels up to the worker's death and price increases thereafter. The provision is effective for widow(er)s newly eligible for benefits after December 1984.

Increase benefits for disabled widow(er)s. Benefits for disabled widow(er)s aged 50–59 (including persons already on the rolls who have received benefits as disabled widow(er)s) will be 71.5 percent of the PIA—the same reduction currently applicable to widow(er)s first entitled at age 60. Under prior law, benefits for disabled widow(er)s were further reduced for entitlement before age 60 with a maximum reduction of 50 percent for disabled widow(er)s becoming entitled at age 50.

Revenue Measures

Changes in Social Security tax rates and allocation of tax income. Table A shows the Social Security tax rates for employees and employers (each) and for the self-employed under Public Law 98-21 and under prior law. For employees and employers the previously scheduled tax increase for 1985 has been shifted to 1984 and a part of the increase scheduled for 1990 is to take effect in 1988, as recommended by the NCSSR. The tax rates for the self-employed have been set equal to the combined

Table A.—Social Security tax rates as a percent of earnings for employers and employees (each) and for the self-employed under Public Law 98-21 and under prior law

Year	Employer and employee rates					Self-employed rates				
	OASI	DI	OASDI	HI	OASDHI	OASI	DI	OASDI	HI	OASDHI
Public Law 98-21:										
1983	4.775	0.625	5.4	1.3	6.7	7.1125	0.9375	8.05	1.3	9.35
1984	5.2	.5	5.7	1.3	7.0	10.4	1.0	11.4	2.6	14.0
1985	5.2	.5	5.7	1.35	7.05	10.4	1.0	11.4	2.7	14.1
1986-87	5.2	.5	5.7	1.45	7.15	10.4	1.0	11.4	2.9	14.3
1988-89	5.53	.53	6.06	1.45	7.51	11.06	1.06	12.12	2.9	15.02
1990-99	5.60	.6	6.2	1.45	7.65	11.20	1.2	12.4	2.9	15.3
2000 and later	5.49	.71	6.2	1.45	7.65	10.98	1.42	12.4	2.9	15.3
Prior law:										
1983	4.575	.825	5.4	1.3	6.7	6.8125	1.2375	8.05	1.3	9.35
1984	4.575	.825	5.4	1.3	6.7	6.8125	1.2375	8.05	1.3	9.35
1985	4.75	.95	5.7	1.35	7.05	7.1250	1.425	8.55	1.35	9.9
1986-89	4.75	.95	5.7	1.45	7.15	7.1250	1.425	8.55	1.45	10.0
1990 and later	5.1	1.1	6.2	1.45	7.65	7.6500	1.65	9.30	1.45	10.75

employee-employer rates (rather than, ultimately, 75 percent of that rate for OASDI and 50 percent for HI, as under prior law). The table also shows the shift in the portion of the OASDI tax that is allocated to the Disability Insurance part of the program. The effect of this reallocation is to put the two parts of the program in roughly comparable financial condition, with the DI program being in slightly more favorable circumstances than OASI.

Social Security tax credits and deductions. For 1984 only, Public Law 98-21 provides a credit for employees against their Social Security tax liability of 0.3 percent of their wages. Thus, the effective OASDHI tax rate on employees will be 6.7 percent for 1984—the same as applied for 1983—although the regular automatic appropriations to the trust funds will be at the full 7.0-percent rate. (Conforming changes are made with respect to the Tier I Railroad Retirement taxes.)

For 1984-89, credits (similarly financed from general revenues) are provided to the self-employed against their Social Security tax liability equal to the percentages of self-employment income shown below:

1984	2.7
1985	2.3
1986-89	2.0

After 1989, the credit will be replaced with special provisions designed to treat the self-employed in much the same manner as employees and employers are treated for Social Security and income-tax purposes. First, a person's net earnings from self-employment will, in effect, be adjusted downward so that only half of the total combined tax would be considered part of the person's net earnings. This is comparable to the way employees are treated in that the employer tax with respect to their wages is not counted as part of their wages for Social Security tax and benefit purposes. Second, self-employed individuals will get an income tax deduction equal to one-half of the self-employment tax. This deduction will parallel for the self-employed the present provisions under which employers are allowed to deduct as a business expense the Social Security taxes they pay on their employees' wages. Regular automatic appropriations to the trust funds will continue to be based on the full self-employment tax rates without regard to tax credits or income-tax deductions. (Tax revenues and earnings credited for benefit purposes will generally be slightly lowered due to the adjustment in net earnings.)

Mechanisms to Assure Continued Benefit Payments—"Fail-safe"

Normalization of Social Security tax income. The new law establishes accounting procedures for crediting the OASDI trust funds and the HI trust fund at the beginning of each month with estimated revenues for the entire month. The Treasury will be required to estimate the amount of tax revenue to be collected each month and transfer such sums to the trust funds at the beginning of the month. The trust funds will pay interest, at rates equivalent to those earned on trust fund investments, on amounts so credited to the extent that they are credited before the Treasury's actual receipt of taxes. Under usual circumstances, these interest payments will have no net effect since they will be offset by additional interest earnings on the same monies. That is, the interest earned on the advances will offset the interest payments to the Treasury. The provision is a change primarily in accounting procedures; under prior law, Social Security taxes were transferred to the trust funds on an estimated as-received basis throughout the month.

Interfund borrowing. Authority for interfund borrowing among the OASI, DI, and HI trust funds is reinstated and extended for calendar years 1983-87 (such borrowing had been authorized for 1982), with provision for repayment of the principal, with interest, of all such loans (including amounts borrowed in 1982) at the earliest feasible time, but not later than the end of calendar year 1989. Borrowing is permitted only to the extent that the balance in the lending fund is sufficient to meet its own obligations.

More specifically, any such borrowing between OASDI and HI is subject to the following additional requirements: (1) payment of interest to the HI trust fund is to begin immediately, (2) the borrowing fund is to make repayments whenever the ratio of its assets at the end of the year to projected outgo during the following year exceeds 15 percent, (3) the lending fund's assets may not be reduced below 10 percent of outgo by borrowing, and (4) a 24-month repayment schedule for any outstanding loans is provided for 1988-89. Any loans between OASI and DI must be fully repaid by the end of 1989.

Recommendations by Trustees to remedy inadequate trust fund balances. If the Board of Trustees determines at any time that the OASI, DI, HI, or SMI trust fund ratio may become less than 20 percent for any calendar year, the Board must promptly submit to each House of the Congress a report setting forth the Board's recommendations for statutory adjustments affecting the receipts of, and disbursements from, the trust fund(s) necessary to achieve a 20-percent ratio, with due regard to the economic conditions that created the inadequacy. The report is to include specific information as to the extent to which benefits would have to be reduced, payroll taxes increased, or some combination thereof enacted to meet the 20-percent-ratio objective.

Other Financing Amendments

Financing of noncontributory military wage credits. The new law provides for lump-sum payments to the OASDHI trust funds from the general fund for (1) the value of the additional Social Security benefits and administrative expenses less past reimbursements arising from pre-1957 gratuitous military service wage credits and (2) the amount equivalent to the combined employer-employee OASDHI taxes, plus interest, on the post-1956 noncontributory military wage credits for the period from 1957-83 (less amounts already paid). The amount of the lump sums is to be determined within 30 days after enactment and automatically transferred to the trust funds. The trust funds will be reimbursed on an annual basis on July 1 for the OASDHI employer-employee taxes on the post-1956 wage credits for military service after 1983. Under prior law, the noncontributory wage credits were financed by annual payments from the general fund to the trust funds over an extended period of time.

Uncashed OASDI checks. Public Law 98-21 authorizes lump-sum appropriations to the trust funds for the amount the Secretary of the Treasury and the Secretary of Health and Human Services jointly determine to be those checks (and the interest thereon) that have been uncashed for a period of 6 months or more on the date of enactment. Previously, money was transferred to the general fund from the trust funds each month to cover benefit checks for the month. The amounts transferred for those checks that were not cashed were never returned to the Social Security trust funds because there was no cutoff point after which the Treasury Department stopped payment on unnegotiated checks. The new law also requires the Secretary of the Treasury to implement procedures (by April 20, 1985) to permit identification in the future of OASDI benefit checks that have not been presented for payment within 6 months and authorizes monthly crediting (subject to annual appropriations) to the trust funds of amounts equal to benefit checks (including interest) remaining uncashed after 6 months.

Accelerate State and local deposits of Social Security taxes. Beginning after 1983, States are required to deposit withheld Social Security contributions for State and local employees twice a month. Previously, these deposits were made on a monthly basis. This change provides for treating the States on a basis more comparable to that for large private employers who must deposit as often as eight times per month.

Float allowance study. The Secretaries of the Treasury and Health and Human Services are to conduct a study consisting of two separate investigations. The first concerns the appropriateness of the current float period allowed between the issuance of benefit checks and the subsequent transfers from the Social Security trust funds to the general fund of the Treasury; the second will deal with the feasibility and desirability of providing for the transfer on a daily basis to the general fund from the appropriate trust fund of amounts equal to the amounts of benefit checks that are paid by the Federal Reserve banks on each day. The Secretary of the Treasury is required to promulgate regulations to implement the changes found appropriate by these investigations.

In early 1983, Treasury Department procedures governing the transfer of trust fund monies to the general fund generally recognized a 2-day delay between the time checks are issued and the time they are presented to the Treasury for payment. A 1982 study by the Inspector General of the Department of Health and Human Services found that in December 1980 it took an average of 5.2 days for regular benefit checks to clear through the banking system. The study estimated that, if the trust funds were drawn down on a checks-paid basis, the Social Security trust funds could earn as much as $91.5 million in additional interest each year.

Public members on the Boards of Trustees. The Boards of Trustees of the OASDI, HI, and SMI trust funds are expanded to include, in addition to the Secretaries of the Treasury, Health and Human Services, and

Labor, two members of the general public. The public members will be nominated by the President and confirmed by the Senate and cannot both be from the same political party.

Removal of trust fund operations from the unified budget. The operations of the OASI, DI, HI, and SMI trust funds are to be shown as a separate function within the Federal budget for fiscal years 1985 through 1992. Beginning with fiscal year 1993, OASI, DI, and HI trust fund operations are to be removed from the unified budget. Removal of the operations of the trust funds is intended to help insulate the program from pressures caused by unrelated budgetary considerations. The new law makes no explicit reference to the treatment of the trust fund operations under the congressional budget process, under which reductions in program expenditures may be targeted to achieve the overall Federal budget goals.

Annual Trustees' Reports. The annual OASDI and HI Trustees' Reports will each include an actuarial opinion by the responsible chief actuary certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable. In addition, the law extends the due date for the 1983 Trustees' Reports from April 1 to June 4, 1983.

Table B.—Effects of retirement-age provision in Public Law 98-21

Year of birth	Retirement age (years/months)		Age 62 benefits as percent of PIA [1]	
	Worker/ Spouse	Widow(er)	Worker	Spouse
1937 (same as prior law)	65/0	65/0	80.0	37.5
1938	65/2	65/0	79.2	37.1
1939	65/4	65/0	78.3	36.7
1940	65/6	65/2	77.5	36.2
1941	65/8	65/4	76.7	35.8
1942	65/10	65/6	75.8	35.4
1943	66/0	65/8	75.0	35.0
1944	66/0	65/10	75.0	35.0
1945-54	66/0	66/0	75.0	35.0
1955	66/2	66/0	74.2	34.6
1956	66/4	66/0	73.3	34.2
1957	66/6	66/2	72.5	33.8
1958	66/8	66/4	71.7	33.3
1959	66/10	66/6	70.8	32.9
1960	67/0	66/8	70.0	32.5
1961	67/0	66/10	70.0	32.5
1962 and after	67/0	67/0	70.0	32.5

[1] Reduced retirement benefits will continue to be available to workers (and spouses) beginning at age 62 but at a greater reduction. For workers and spouses, the prior-law reduction factors (5/9ths of 1 percent per month for workers and 25/36ths of 1 percent per month for spouses) are retained for the first 36 months of benefits before age 65 and a new factor (5/12ths of 1 percent) is applied for each additional month. For older survivors, reduced benefits continue to be available at age 60 with the monthly reduction adjusted for each age cohort so as to maintain a 28.5 percent reduction at age 60—the same maximum reduction as occurred under prior law.

Long-Term Provisions

Retirement age/reduction for early retirement. Retirement age—the age at which unreduced retirement benefits are first available—will increase by 2 months a year for persons reaching age 62 in 2000-05, remain fixed at age 66 for those reaching age 62 in 2005-16, increase by 2 months a year for persons reaching age 62 in 2017-22, and will be fixed at age 67 for those reaching age 62 after 2022. The age of eligibility for Medicare is not affected by these changes. The effects of this provision are shown in table B.

Reduced benefits will continue to be available at age 62 (age 60 for widows) but the reduction factors are revised so that there is a further reduction (up to a maximum of 30 percent for workers entitled at age 62 after the retirement age is increased to age 67, rather than only up to 20 percent for entitlement at age 62 under prior law). There is no increase in the maximum reduction in the case of widow(er)s.

Report to Congress on effects of increased retirement age. The Secretary is required to conduct a comprehensive study and analysis of the implications of the change in retirement age for those individuals affected by the provision for increasing full retirement age who, because they are engaging in physically demanding employment or because they are unable to extend their working careers for health reasons, may not find that their work lifetimes are increased as a result of general improvements in longevity. The Secretary's report and recommendations are to be submitted to Congress by January 1, 1986.

Elimination of Gender-Based Distinctions

Divorced husbands. Social Security benefits are provided for aged divorced husbands and aged or disabled surviving divorced husbands based on their former wives' earnings records. The statute, as previously written, provided for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives, but benefits were not provided for similarly situated men. However, as a result of court decisions, Social Security benefits were being paid to similarly situated husbands. This provision conforms the statute to reflect benefits that are actually being paid.

Remarriage of surviving spouse before age of eligibility. Social Security benefits are provided for a widower who has remarried before attaining age 60 but is unmarried at the time he applies for benefits. The statute, as previously written, provided for the payment of benefits to a widow on a deceased husband's earnings if she was unmarried when she applied for benefits even if she remarried before reaching age 60. The statute did not provide benefits for similarly situated men although benefits were actually being paid to such widowers as a result of court decisions that declared this gender-based distinction in the law to be unconstitutional. This provision conforms the statute to reflect benefits that are actually being paid.

Illegitimate children. Social Security benefits are provided for illegitimate children based on their mothers' earnings. Prior law provided for a determination of eligibility for illegitimate children based on their fathers' earnings without regard to appropriate intestate law, if, among other things, the father had been decreed by a court or was shown by evidence satisfactory to the Secretary to be the father of the child. The statute did not provide for such determinations of eligibility for illegitimate children based on their mothers' earnings. This provision provides for such determinations based on mothers' earnings beginning with benefits payable for months after April 1983.

Transitional insured status. Under the new law, husbands and widowers are eligible under transitionally insured provisions that previously applied only to wives and widows, effective for monthly benefits payable for months after April 1983. Under prior law, certain workers who attained age 72 before 1969 were eligible for a flat-rate Social Security benefit (currently $125.60) on the basis of fewer quarters of coverage than would ordinarily be required. Wives and widows of eligible male workers who reached age 72 before 1969 also were eligible for benefits under prior law, but husbands and widowers of eligible female workers were not.

Equalize special age-72 benefits. Public Law 98-21 provides that where both a husband and wife qualify for Prouty benefits—special payments under section 228 of the Social Security Act for uninsured persons who reached age 72 before 1972—a full payment will be made to each spouse. Under prior law, even though each spouse had to meet the same eligibility requirements he or she would have had to meet if not married, once the eligibility of both was determined, the husband received an amount equal to that paid a single individual and the wife received one-half of that amount. Thus, the total payment for the couple, which in most cases comes from general revenues, was allocated so that the husband was paid two-thirds of the total and the wife was paid one-third. The provision is effective for monthly benefits payable for months after April 1983.

Fathers' insurance benefits. Social Security benefits are provided for fathers who care for children of their retired, disabled, or deceased divorced wives. The statute, as previously written, provided for benefits for a young wife, widowed mother, or surviving divorced mother who had in her care an entitled child who was under age 16 or disabled. The statute did not provide benefits for similarly situated men although benefits were actually being paid to such fathers as a result of court decisions that declared this gender-based distinction in the law to be unconstitutional. This provision conforms the statute to reflect benefits that are actually being paid.

Effect of marriage on childhood disability beneficiary and on other dependent or survivor benefits. The new law provides for the continuation of the benefits of an individual, regardless of sex, who is receiving either dependent or survivor benefits, when his or her spouse is no longer eligible for benefits as a childhood disability beneficiary or disabled-worker beneficiary.

Under prior law, the special provisions that permitted the continuation of benefits when the dependent or survivor beneficiary married a disabled beneficiary also provided that, if the disability benefits of one spouse were terminated, the continued eligibility of the other spouse depended on the spouse's sex. A woman's childhood disability benefits or benefits as a dependent or survivor ended when her husband's disability benefits ended. This was not the case for a similarly situated man whose wife's disability benefits ended. The provision is effective for benefits payable for months after April 1983.

Credit for certain military service. Under certain circumstances, widowers, as well as widows, may now waive the right to a Civil Service survivor annuity and receive credit (not otherwise possible) for military service before 1957 for purposes of determining eligibility for, and the amount of, Social Security survivor benefits. Under prior law, only widows were allowed to exercise this option. This provision is effective with respect to benefits payable for months after April 1983.

Coverage Provisions

Coverage of employees of foreign affiliates of American employers. Effective on enactment, an American employer (a corporation, sole proprietorship, or partnership) may enter into an agreement with the Secretary of the Treasury to provide coverage for U.S. citizens and U.S. residents working outside the United States for a foreign affiliate when the American employer has not less than a 10-percent direct or indirect interest in the foreign affiliate employer. Under prior law, such coverage was available only to U.S. citizens and only if both the American employer and the foreign affiliate were corporations. This change permits continuation of Social Security protection for some additional U.S. citizens and residents while they work outside the United States for a period of time.

Extension of coverage by international social security agreement. The new law provides for the imposition of Social Security taxes if an international social security agreement provides for coverage under the U.S. Social Security system. The provision corrects a drafting error in section 233 of the Social Security Act that prevented U.S. Social Security taxes from being imposed on earnings intended to be covered under the U.S. system pursuant to an international social security agreement. The provision is effective for taxable years beginning after enactment (April 20, 1983).

Treatment of certain services performed outside the United States. Effective with respect to taxable years beginning after December 31, 1981, foreign earned income that was previously subject to the Social Security self-employment tax is creditable for Social Security coverage purposes. This assures that such earnings are covered under Social Security since they are subject to Social Security taxes. It also provides, effective for taxable years beginning after 1983, that the self-employment income of U.S. citizens who are residents of foreign countries will be computed for Social Security purposes without regard to the foreign earned income exclusion. This provision subjects the self-employment income of U.S. citizens to Social Security taxes regardless of their residence.

Coverage of amounts received under certain deferred compensation and salary reduction arrangements. The new law provides that employer contributions shall be taxed and credited for Social Security purposes if they are (1) made under a deferred compensation or salary reduction arrangement as part of a qualified plan under section 401(k) of the Internal Revenue Code, (2) made for an annuity contract under section 403(b) of the Code, or (3) employee contributions that are treated as employer contributions under section 414(h)(2) of the Code. With respect to payments not paid to or under such plans (nonqualified deferred compensation), the legislation provides that such compensation will be taxed and credited when the related services are performed or when there is no substantial risk of forfeiture of rights to the amounts, whichever is later. Also, it assures that nonqualified deferred compensation will be taxed only once. The provision assures that certain deferred compensation and salary reduction plans are not used to avoid Social Security tax liability and that employes get Social Security protection based on such remuneration.

Extend Social Security coverage to all standby pay. Public Law 98-21 provides for coverage of payments (other than vacation or sick pay) made to an employee after the month in which he or she attains age 62 even if the employee did not work for the employer during the period for which the payment was made. (Such payments are often referred to as standby pay.) This provision is effective for payments made after December 31, 1983. For Social Security earnings-test purposes, the standby pay will count as earnings for the period for which the wages are paid. This provision is intended to close a loophole in the law that could have enabled some beneficiaries to continue working while avoiding Social Security taxes and benefit reductions under the earnings test.

Treatment of contributions under simplified employee pensions. This provision excludes from coverage employer contributions to a simplified employee pension plan. Previously, such contributions were excluded from Social Security taxes but not from coverage. Since the tax and coverage treatment for Social Security purposes were not the same, credit could be given for amounts not taxed. The amendment will be effective with respect to remuneration paid after December 31, 1983.

Effect of changes in names of State and local employee groups in Utah. Under prior law, Utah was permitted to extend Social Security coverage to specific entities listed in the law as separate coverage groups. This provision amends the law to take account of the fact that the names of some of the entities specifically listed in the law were changed after the provision was enacted. The amendment prevents confusion and potential conflict over whether the entities should continue to be treated as separate coverage groups for Social Security purposes.

Effective dates of international social security agreements. Under this provision, an international social security agreement can become effective after the expiration of a period during which at least one House of the Congress has been in session on each of 60 days. Prior law required a period during which both Houses were in session on each of 90 days. Because days on which either House failed to meet could not be counted under prior law, there were considerable delays in implementing agreements. This provision is effective for agreements submitted to Congress after enactment (April 20, 1983).

Codification of Rowan decision with respect to coverage of meals and lodging. This provision conforms the statutory language to the decision in *Rowan Companies, Inc.* v. *United States* (1981) that the value of meals and lodging furnished to an employee for the convenience of the employer is not wages for Social Security coverage and tax purposes. Also, it provides that an exclusion of income from income-tax withholding shall not affect the treatment of the income for Social Security coverage and taxation purposes. The *Rowan* decision could have been interpreted to mean that certain payments (other than meals and lodging) that are currently treated as covered wages under Social Security should not be taxed and credited under Social Security because they are not subject to income-tax withholding. Such an application of the *Rowan* decision would have decreased Social Security revenues and reduced employee protection. This provision will be effective with respect to remuneration paid after December 31, 1983.

Other OASDI Amendments

Technical and conforming amendments to the maximum family benefit provisions. This provision eliminates the January readjustment of the super maximum—the limit on combined maximum family benefits where a family is potentially eligible for benefits based on the earnings of two workers with maximum earnings. Under the new provision, once the super maximum is computed for a family, the limit thereafter increases on the basis of COLA's alone. Under prior law, the super maximum was recomputed each January based on wage increases. If wages did not increase at the same rate as the COLA, benefits based on the recomputed super maximum effective January for families on the rolls could be greater, or less, than benefits for the previous December. Thus, the January readjustment resulted in a benefit cut in times when wages did not rise as fast as prices and resulted in a benefit increase in times when wages rose faster than prices. The January readjustment is eliminated effective with respect to benefits for months after December 1983.

Relaxation of insured status requirements for certain workers previously entitled to a period of disability. Public Law 98-21 extends the application of the special disability insured status test for workers disabled before age 31. It provides that a worker who had a period of disability that began before age 31, who subsequently recovered, and then became disabled again at age 31 or later will again be insured for disability benefits if he or she has one quarter of coverage for every 2 calendar quarters elapsing after age 21 and through the quarter in which the later period of disability began, but applying the rules for excluding the prior period of disability (up to a maximum of 20 quarters of coverage out of 40 calendar quarters). This change provides relief to those workers who could otherwise not get disability benefits because they did not have time following recovery from an earlier disability to work long enough before a second disability to meet the 20-out-of-40 quarters insured status test. The provision is effective for benefits payable for months after April 1983.

Protection of benefits of illegitimate children of disabled workers. Effective with benefits for April 1983, Social Security monthly benefits are payable to the illegitimate child of a disabled worker for the first month *in* which the child satisfies all entitlement conditions even though the acknowledgment, court decree, or order establishing parenthood occurs later than the first day of the month. Prior law provided benefits for illegitimate children of disabled workers for the first month *throughout* which those conditions were satisfied. This provision removes the anomaly that existed because prior law deemed an acknowledgement, court decree, or court order establishing the parenthood of the illegitimate child of a retired worker to have occurred on the first day of the month in which it actually occurred.

Allow 1 month retroactivity of widow's and widower's benefits. Effective for benefits based on applications filed after June 1983, 1 month's retroactivity is provided for an aged widow(er) who files an application for actuarially reduced widow(er)'s benefits in the calendar month following the month in which his or her spouse died. This provision makes an exception to the rule, enacted in the Social Security Amendments of 1977, that bars the payment of retroactive benefits if the retroactive benefits would result in the reduction of future benefits. This provision facilitates payment in situations where death occurs late in the month and the widow(er) is under age 65 and fails to apply for benefits until the following month.

Nonassignability of benefits. The new law specifies that the provision in Social Security law (section 207) prohibiting assignment of Social Security or SSI benefits or subjecting them to the operations of bankruptcy laws may not be superseded by another law unless the other law does so by express reference to section 207. (The Social Security law continues to prohibit the transfer or assignment of any future Social Security or SSI benefits payable and to state that no money payable or rights existing under the Social Security or SSI programs should be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.) Based on the legislative history of the Bankruptcy Reform Act of 1978, some bankruptcy courts have considered Social Security and SSI benefits listed by the debtor to be income for purposes of bankruptcy proceedings under that Act and have ordered the Social Security Administration (SSA) in a number of cases to send all or part of a debtor's benefit check to the trustee in bankruptcy. This provision clarifies that such orders are not appropriate.

Use of death certificates to prevent erroneous benefit payments to deceased individuals. The Secretary of Health and Human Services (HHS) is required to establish a program under which the States can voluntarily contract with HHS to supply information derived from official death certificates. This information will be compared with benefit program records to prevent payments from being made to deceased persons. The provision includes safeguards to protect the confidentiality of State-supplied death information by exempting it from the Freedom of Information Act and authorizes reimbursement to the States for the cost of furnishing such information. The Secretary's 1984 Annual Report to the Congress is to include information on the status of this program.

Study of SSA as an independent agency. The chairmen of the Ways and Means and Finance Committees will appoint a three-person panel to conduct a study with respect to the implementation of establishing SSA as an independent agency. The panel is to be composed of experts in the fields of government administration, social insurance, and labor relations and its report shall address managing the transition, authorities needing to be transferred or amended, the program(s) that should be included within the jurisdiction of the new agency, the relationship of SSA to other organizations required as a result of establishing SSA as an independent agency, and any other details that may be necessary. The panel will submit a report and recommendations to the chairmen of the committees no later than April 1, 1984.

Suspending payment of benefits to prisoners. Effective with benefits for months after April 1983, Public Law 98-21 prohibits the payment of OASDI benefits to convicted felons while they are in prison; benefits to auxiliaries based on an incarcerated individual's earnings will not be affected. This provision extends to all OASI benefits the prior-law provision that limited payment of disability and student benefits to prisoners convicted of a felony.

U.S. residency requirement for alien auxiliary and survivor beneficiaries outside the United States. The new law provides for suspending Social Security benefits for any alien auxiliary or survivor beneficiary who is outside the United States for more than 6 months unless the beneficiary resided in the United States for at least 5 years, and unless during that period the relationship of the beneficiary to the worker who is the basis for payment was in existence. Children who cannot meet the 5-year residency test on their own will be deemed to meet it if the test was met by the parent(s). Also, children adopted outside the United States will not be paid outside the United States. To a large extent, the provision avoids paying benefits to auxiliaries and survivors outside the United States who had little or no connection to the United States and who were not dependent on the worker for their livelihoods while he or she was working under Social Security in the United States. The provision does not apply if nonpayment would be contrary to a U.S. treaty obligation or to individuals who are citizens or residents of a country with which the United States has an international social security agreement. The provision is effective for individuals who initially become eligible for benefits after December 31, 1984.

Professors of clinical medicine. State universities that employ health care professionals as faculty members at medical schools and tax-exempt faculty practice plans that employ faculty members of the medical schools will be deemed to be related corporations for purposes of "common paymaster" rules, provided that 30 percent or more of the employees of the plans are concurrently employed by the medical schools. This provision is effective for remuneration paid after 1983.

Generally, an employer is required to pay Social Security taxes for its employees only on amounts up to the wage base. However, if an employee works for more than one employer during the year and his or her annual wages exceed the wage base, employer taxes can be paid on amounts in excess of the wage base. The "common paymaster" exception provides that if two or more related corporations employ the same individual, and pay him or her through a common paymaster that is one of the corporations, then the common paymaster is considered to be the only employer.

Foreign work test. This amendment changes the foreign work test to provide that retirement, auxiliary, and survivor beneficiaries will have benefits withheld for each month in which they are under age 70 and work for more than 45 hours in noncovered remunerative activity outside the United States. (However, the 7-day work test will continue to apply with respect to withholding an auxiliary benefit because of work performed by the retired worker.) The provision is effective with respect to benefits payable for months after April 1983.

Earnings sharing implementation report. Public Law 98-21 provides for a study by the Secretary of Health and Human Services, in consultation with the Senate Finance Committee and the House Ways and Means Committee, of the implementation of an earnings-sharing plan. The Secretary is also required to consult with the Congressional Budget Office (CBO), which, in turn, is required to submit a separate report on the methodology, recommendations, and analyses in the Secretary's report. The Secretary's report is due to the Congress by July 1, 1984, and the CBO report is due 30 days after submission of the HHS report.

Social Security cards. The new law requires that all new and replacement Social Security cards issued after October 30, 1983 (193 days after the date of enactment) must be made of banknote paper, and that the cards be as counterfeit-proof as practicable. It also provides that by July 19, 1983 (90 days after enactment), the Secretary shall report to Congress on the implementation plans for this provision.

Veterans Administration reorganization report. This provision waives the general requirement that the Veterans Administration (VA) provide advance notice to the Congress before reducing the staff in any of its offices by more than 10 percent in any fiscal year. The provision applies only to a planned administrative reorganization at the VA Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees.

Supplemental Security Income Provisions

Delay of SSI COLA and increase in Federal SSI benefit standard. As discussed above, the SSI cost-of-living adjustments (COLA's) will now occur in January, rather than in July, beginning January 1984. Thus, SSI and OASDI COLA's will continue to occur at the same time. However, the percentages may differ in the future since OASDI COLA's may, depending on the condition of the trust funds, be based on the lower change in either the CPI or average wages. The SSI COLA will be based on CPI changes even if the OASDI COLA is based on wage changes.

Effective July 1, 1983, however, the Federal SSI benefit standard is increased by $20 per month for individuals, $30 for couples, and $10 for "essential persons," as shown below:

Type of SSI recipient	Monthly Federal SSI payment standard June 1983	July 1983
Individuals..........	$284.30	$304.30
Couples	426.40	456.40
Essential persons	142.50	152.50

The increase in the Federal SSI benefit standard, in conjunction with the SSI COLA delay, increases SSI program costs by $3.74 billion for fiscal years 1983–88.

Mandatory State passthrough of Federal SSI benefit increases. A State that uses the payment level method will be found to meet the requirement that it pass through increases in the Federal SSI standard if it passes through only the amount of the increase in the Federal SSI standard that would have occurred in July 1983 under prior law ($9.70 for an individual and $14.60 for a couple) rather than the July 1983 increase of $20 a month for an individual ($30 a month for a couple) that is provided by Public Law 98-21. This will permit some States to reduce their supplement amounts, but they will be required to maintain combined Federal-State benefit levels at least equal to the March 1983 levels plus the July 1983 passthrough amount described above plus all subsequent increases in the Federal benefit level. Prior law permitted a State using the payment level method to maintain its December 1976 payment levels by passing through increases in the Federal SSI standard. The change that requires basing future passthroughs on March 1983 rather than December 1976 levels is intended to prevent States that have increased their payment levels since 1976 from reducing them to 1976 levels or levels between the December 1976 and March 1983 levels. The amendment continues the provision of prior law that permitted a State to meet the passthrough requirement by the aggregate expenditures method (that is, to spend at least the same amount for SSI supplementation in the current 12-month period as in the last 12-month period). The provision is effective on enactment (April 20, 1983) and has no effect on Federal costs.

SSI eligibility for temporary residents of emergency shelters for the homeless. Public Law 98-21 provides that aged, blind, and disabled residents of public emergency shelters for the homeless (to be defined in regulations) may be eligible for SSI payments for as many as 3 months in a 12-month period. Under prior law, residents of public institutions (excluding publicly operated community residences housing 16 or fewer persons and certain medical institutions) were not eligible for SSI payments for any full month of institutionalization. The provision is effective for months after April 1983 and increases SSI program costs by approximately $35 million through fiscal year 1988.

Disregard emergency and other in-kind assistance under the SSI and AFDC programs when provided by private nonprofit organizations. Under this provision, in-kind support and maintenance provided by a private nonprofit organization will be excluded from income under the SSI program if the State determines (under regulations issued by the Secretary) that such assistance is based on need. Previously, in SSI, the receipt of privately furnished in-kind support and maintenance (other than certain home energy assistance) generally caused a reduction in SSI benefits. For the Aid to Families with Dependent Children (AFDC) program, the amendment provides statutory authority for present policy that generally leaves the treatment of in-kind assistance to State decisions (except for the mandatory disregard of certain in-kind home energy assistance). This provision allows a charitable organization to assist a needy aged, blind, or disabled person or a needy family without causing a reduction in the recipients' SSI or AFDC benefits. The provision is effective for months after April 1983 and is temporary, expiring September 30, 1984. SSI program costs will be less than $1 million during the period that the provision is in effect.

SSI alert. The Secretary is required to provide, before July 1984, a one-time notice to all elderly OASDI beneficiaries who are potentially eligible for SSI payments of the availability of SSI. Also, effective on enactment, similar information on SSI availability is to be included with the standard notice to OASDI beneficiaries of upcoming eligibility for Supplementary Medical Insurance at age 65. The provision results in additional cumulative program costs of $618 million ($460 million Federal and $158 million State) through fiscal year 1988 and additional administrative costs of $32 million through fiscal year 1985.

Prospective Payments for Medicare Inpatient Hospital Services

The new law includes a major change in the method of payment under Medicare for inpatient hospital services. Effective with hospital cost-reporting periods beginning on or after October 1, 1983, for inpatient operating costs, Medicare will pay a fixed amount, determined in advance, for each case, according to one of 467 diagnosis-related groups (DRG's) into which a case is classified. The prospective payments will be considered payment in full; hospitals will be prohibited from charging beneficiaries more than the statutory deductible and coinsurance.

This system replaces the retrospective cost reimbursement system and the cost-per-case limits and rate of increase ceiling created by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). The new prospective payment system will be structured to be "budget neutral" through fiscal year 1985—that is, Medicare inpatient hospital costs incurred under the system will be neither more nor less than projected under the TEFRA provisions.

Hospitals covered. The prospective payment system will apply to all Medicare participating hospitals except psychiatric, long-term care (with an average stay greater than 25 days), children's and rehabilitation hospitals, and hospitals outside the 50 States and the District of Columbia. Rehabilitation and psychiatric units of acute care hospitals are also exempt. These hospitals will continue to be reimbursed under the target rate of increase limits enacted in TEFRA.

Special treatment is provided for hospitals that (because of location, weather, and travel factors) are designated as sole community providers. Payment to these hospitals during the transition period and afterward will be made at the rate specified for the first year of implementation for other hospitals—75 percent of the payment will be based on the hospital's cost experience and 25 percent on the regional DRG rate. The Secretary must also make adjustments, over a 3-year period, for fixed and core staff costs incurred in the event of a 5-percent decrease in workload from a previous year, due to circumstances beyond the hospital's control.

Exceptions and adjustments will also be made, as the Secretary finds appropriate, to account for the special needs of public or other hospitals serving a disproportionately large number of low-income and Medicare Part A patients, hospitals that are national or regional referral centers (including rural hospitals with over 500 beds), hospitals involved extensively in cancer research and treatment, and hospitals in Alaska and Hawaii.

Services covered. Effective October 1, 1983, all nonphysician services provided in an inpatient setting will be paid only as inpatient hospital services under Part A (Hospital Insurance). The Secretary may waive this restriction during the 3-year transition period for hospitals that, before October 1, 1982, allowed direct billing under Part B (Supplementary Medical Insurance) so extensively that immediate implementation of the restriction would threaten the stability of patient care. Part B payments made under such a waiver will be deducted from payments made to the hospital under the prospective system. At the end of the waiver period, the Secretary may provide for Part A payment methods appropriate to the organizational structure of the institution.

Transition period. The prospective payment system will be phased in over a 3-year period by cost-reporting periods that begin on or after October 1, 1983. During this time, payment rates will be a blend of hospital-specific amounts based on hospital cost experience, and national and regional (for nine census divisions) DRG amounts for both urban and rural hospitals:

— In the first cost-reporting period under prospective payment, the Medicare payment per discharge will be 25 percent of the regional DRG rate plus 75 percent of the hospital-specific rate.

— In the second cost-reporting period, the Medicare payment per discharge will be 50 percent of a combination of national and regional DRG rates (25 percent national, 75 percent regional) plus 50 percent of the hospital-specific rate.

— In the third and last cost-reporting period of the system's phasein, the Medicare payment per discharge will be 75 percent of a combination of national and regional rates (50 percent national, 50 percent regional) plus 25 percent of the hospital-specific rate.

Effective with hospital cost-reporting periods beginning on or after October 1, 1986, the Medicare payment will be 100 percent of the national urban or rural DRG rate for each discharge.

Calculation of hospital-specific costs. The portion of the Medicare payment per discharge based on hospital cost experience will be the hospital's payment under the TEFRA rate-of-increase limits, without regard to section 223 limits, penalties, or bonuses and with annual updates for inflation. Adjustments can be made to base-year costs to make them comparable to the inpatient costs under the prospective system. For example, Social Security taxes for nonprofit hospitals whose employees will now be covered under Social Security will be added to base-year costs to reflect additional costs that would have been incurred in the base year if the hospital had been in the Social Security system. The TEFRA provision that reduced Medicare payments to reflect lower payroll costs of hospitals that terminated Social Security coverage for their employees has been repealed.

Calculation of DRG rates. Using the most recent cost-reporting data available, allowable inpatient operating costs per discharge are determined for individual hospitals. The costs are then updated for fiscal year 1983 by the estimated national average rate of inflation in hospital costs. For fiscal year 1984 the hospital per discharge costs will be updated by the projected national hospital market basket rate plus 1 percent. The per discharge costs are then standardized by excluding estimated indirect medical education costs and adjusting for variations in case-mix and area wages. Urban and rural averages are then computed for the United States and the nine census divisions. These standardized average amounts are reduced to offset additional payments for unusually long stay or expensive cases (that is, outliers), and to achieve budget neutrality, if necessary, with projected reimbursement under the TEFRA cost limits. The DRG-specific rates for the United States and the regions are then calculated by applying a weighting factor reflecting the relative hospital resources used for discharges within the various DRG's. Finally, the DRG-specific rates are adjusted to reflect differences in area hospital wages compared with the national average wage level.

Annual increases. For fiscal year 1985, the DRG rates will be increased by the rate of increase in the hospital market basket plus 1 percent. These rates could be reduced for outlier payments and to achieve budget neutrality. Beginning with fiscal year 1986, the annual increase in DRG rates will be determined by the Secretary. The increases must take into account amounts necessary for the "efficient and effective delivery of medically appropriate and necessary care of high quality." The Prospective Payment Assessment Commission (see page 40) will review the annual increase factor and provide its recommendations to the Secretary not later than April 1 of each year. The Secretary will publish the proposed annual increase factor in the **Federal Register** by June 1 and the final annual increase factor by September 1 of each year.

DRG recalibration. The Secretary must adjust the DRG classifications for fiscal year 1986 and at least every 4 years thereafter to reflect changes in treatment patterns, technology, and other factors affecting hospital resource utilization. The Prospective Payment Assessment Commission will consult with the Secretary and make recommendations on the need for adjustments based on its evaluation of new practices, technologies, and treatment modalities. The Commission will also report to Congress on its evaluation of adjustments made by the Secretary.

Atypical cases ("outliers"). Payments in addition to the DRG rate will be made for cases that exceed the mean length of stay for the DRG by a fixed number of days or by a certain number of standard deviations, or at the hospital's request, for cases whose costs exceed a fixed multiple of the appropriate DRG rate or other fixed amount. The additional payment will approximate the marginal costs of care beyond the outlier cutoff criteria (days or dollar amounts). The total proportion of outlier payments cannot be less than 5 percent or more than 6 percent of total DRG-related payments in any year.

Capital expenses. Capital expenses are specifically excluded from the prospective payment system until October 1, 1986. Until that time, they will be reimbursed on a reasonable-cost basis. The Secretary must complete, within 18 months, a review of methods to incorporate capital expenses (including return on equity) into the prospective payment system. The law specifies that, when capital-related costs are brought into the prospective system, no assurances may be given that capital costs obligated on or after implementation of that system will be treated in the same manner as expenditures obligated before the implementation date.

(1) *Return on equity*: Effective for cost-reporting periods beginning on or after the date of enactment, the rate of return on equity for proprietary hospitals will be reduced from 150 percent of the average rate of interest paid by the Federal Treasury on the assets of the Hospital Insurance trust fund to 100 percent of that rate.

(2) *Section 1122 review*: In the absence of further legislation, Medicare payment for capital projects obligated after September 30, 1986, will be subject to the approval of section 1122 agencies. Capital expenditures made by health care facilities will be exempt from section 1122 review if 75 percent of their patients are HMO (Health Maintenance Organization) or CMP (Competitive Medical Plan) enrollees, if the services and facilities are needed to operate efficiently and economically, and if the services are not otherwise readily accessible for one of several specified reasons. In addition, effective upon enactment, the financing of section 1122 reviews would be made from general revenues. Hospitals will be required to make their capital budgets available to the section 1122 or other appropriate agency. States may set their own dollar thresholds for review, not to exceed a maximum of $600,000.

Medical education expenses. The direct costs of approved educational programs are specifically excluded from the prospective payment system and will be paid on the basis of reasonable cost. Adjustments for the indirect costs of medical education under the prospective payment system will be paid at twice the factor used to adjust for such costs by applying the same methodology currently in effect.

Cost reporting. A system of cost reporting for hospitals under the prospective payment system will be maintained during the 3-year transition period and for at least 2 years afterward (until the end of fiscal year 1988).

Administrative and judicial review. Administrative and judicial review is permitted in all cases except for the DRG classifications and weights and the level of the payment necessary to maintain budget neutrality in fiscal years 1984 and 1985. Group appeals may now be made in the judicial district in which the greatest number of such providers is located. Appeals to the Provider Reimbursement Review Board for action for judicial review brought by providers under common ownership or control will have to be brought as a group when the matter involves a common issue.

State cost-control systems.

(1) *State requirements*: The Secretary has the authority to approve Medicare payment under a State cost-control system, if the system meets the four requirements first enacted in the TEFRA legislation plus two additional requirements. To qualify, States systems must

- Apply to substantially all non-acute care hospitals in the State;
- Apply to at least 75 percent of all inpatient revenues or expenses;
- Provide assurances that payors, hospital employees, and patients are treated equitably;
- Provide assurances that the State's system will not result in greater Medicare expenditures over a 3-year period;
- Not preclude HMO's or CMP's from negotiating directly with hospitals concerning payment for inpatient services; and
- Prohibit payments under Part B for nonphysician services provided to inpatients, unless waived in accordance with regulations that the Secretary is required to publish.

The Secretary can neither deny a State's application because it is not based on a DRG payment methodology, nor require that Medicare expenditures under the State system be less than they would have been under the Federal prospective payment system.

(2) *Mandatory approval*: The Secretary must approve State applications that meet the requirements for discretionary approval, plus additional requirements that the system must

- Be operated directly by the State or entity designated by State law;
- Use prospective methodology;
- Provide for hospital reports, as required by the Secretary;
- Provide satisfactory assurances that it will not result in admission practices that will reduce treatment to low income, high cost, or emergency patients;
- Not reduce payments without 60 days notice to the Secretary and to hospitals; and
- Provide satisfactory assurances that, in developing the program, the State has consulted with local officials concerning the impact on public hospitals.

The Secretary must respond to States applying under these conditions within 60 days following submission of the request.

(3) *Existing State programs*: States now operating approved cost-control systems (Maryland, New Jersey, New York, and Massachusetts) will be allowed to continue as long as they meet five requirements for discretionary approval (all but prohibiting payment under Part B for nonphysician inpatient hospital services). The Secretary must modify the demonstration agreements with the States of New York and Massachusetts, if requested by the State or a party to the agreement, so that the demonstrations are not required to keep the State rate of increase in Medicare hospital expenditures at least 1 1/2 percentage points below the national rate of increase. The Secretary must also judge the effectiveness of the existing State systems during the three cost-reporting periods beginning on or after October 1, 1983. For the purpose of the evaluation, States have the option, during the transition, of having the rate of inflation apply in either aggregrate payments or payments per admission or discharge compared with the national rate of increase.

(4) *Reduction in payments*: If the cost of a State system exceeds the amounts that would have been paid under the Federal system over a 3-year period, the Secretary may reduce subsequent payments to hospitals by the amount in excess.

Admissions and Quality Review—Contracts With Peer Review Organizations.

Requirements for PRO agreements. Effective October 1, 1983, hospitals under a prospective payment system (Federal or State) will have to contract for review services with a PRO, if one exists in their areas. Beginning October 1, 1984, hospitals must have a contract with a PRO as a condition for Medicare payment. If there is no PRO in the area, the hospital will not receive payment. Hospitals that have contracted with a PRO that is subsequently terminated by the Secretary will not be penalized for 6 months while the Secretary contracts with a new PRO. The 12-month waiting period for intermediaries to qualify as PRO's will begin on the date the Secretary enters into contracts on or before October 1, 1983, whichever is earlier.

(1) *PRO review functions*: The specified functions of a PRO include reviewing: (a) the validity of diagnostic information provided by hospitals; (b) the completeness, adequacy, and quality of care provided; (c) the appropriateness of admissions and discharges; and (d) the appropriate-

ness of care for which outlier payments are made.

(2) *Payments to PRO's*: PRO review is considered a Part A hospital cost, but the PRO will be paid directly by the Secretary on the basis of a rate per review. The Secretary will determine the review rate, which can be no less than the fiscal year 1982 review rate for both direct and administrative costs, adjusted for inflation. PRO funding will come from the trust fund and will not be subject to appropriations.

(3) *Penalties*: Based on PRO findings, the Secretary may deny payment for unnecessary or multiple admissions, or require hospitals to take necessary action to correct medical or other practices.

Studies, demonstrations, and reports. The Secretary is required to study and report to Congress on the following:

- *Capital-related costs*: The method by which capital costs, such as return on equity, associated with inpatient hospital services can be included in the prospective payment system. Due date: 18 months following enactment.

- *Annual impact report*: The impact in the previous year of the prospective payment methodology on providers, beneficiaries, and other payors of hospital care, and the impact of computing DRG rates by census division, rather than on a national basis. The report must include recommendations for appropriate legislative changes. Due date: by the end of each year for 1984 through 1987.

- *Skilled-nursing facilities:*
  — The impact of hospital prospective payments systems on skilled-nursing facilities (SNF's) and recommendations concerning SNF's. Due date: by the end of 1983.
  — Requires the Secretary to conduct demonstrations with hospitals in areas with critical shortages of SNF's to study the feasibility of providing alternative systems of care or methods of payment.
  — The effect of a single limit of SNF reimbursement on hospital-based SNF's, given the differences (if any) in the patient populations served by such facilities and by community-based SNF's. Due date: by December 31, 1983.

- *Inpatient physicians' services*: Requires the Secretary, during fiscal year 1984, to begin the collection of data necessary to compute, by DRG's, the amount of physician charges for services furnished to hospital inpatients classified in those DRG's. The report to Congress must include recommendations on the advisability and feasibility of determining payments for inpatient physicians' services on a DRG-type classification. Due date: 1985.

- *Urban/rural rates*: The feasibility and impact of eliminating or phasing out separate urban and rural DRG rates. Due date: at the end of 1985 as part of the 1985 annual impact report.

- *Prospective payment for exempted hospitals*: The feasibility and methodology by which hospitals not included in the prospective payment system can be paid on a prospective basis for inpatient services. Due date: at the end of 1985 as part of the 1985 annual report.

- *Payments for outliers and modifications to the DRG's*: Appropriateness of factors used to compensate hospitals for outlier cases, and the feasibility and advisability of modifying the DRG's by the application of severity of illness, intensity of care, or other factors. Due date: at the end of 1985 as part of the 1985 annual report.

- *All payor system*: The feasibility and desirability of all inpatient hospital payors participating in a prospective payment system, including consideration of cost-shifting to nonfederal payors and the impact on health insurance costs and premiums paid by employers and employees. Due date: At the end of 1985 as part of the 1985 annual report.

- *Impact on admissions*: Adjustment in the DRG rates or requiring pre-admission certification in order to minimize the incentive to increase admissions. Due date: at the end of 1985 as part of the 1985 annual report.

- *Impact of State systems*: The overall impact of State hospital payment systems approved under the Social Security Act on the Medicare and Medicaid programs, on payments and premiums under private health insurance plans, and on tax expenditures. Due date: at the end of 1986 as part of the 1986 annual report.

- *Sole community providers*: Requires the Secretary to study and make legislative recommendations on an equitable method of reimbursing sole community providers, taking into account their unique vulnerability to substantial variations in occupancy. Due date: by April 1, 1985.

- *Information transfer between Parts A and B*: Examine ways to coordinate an information transfer between Parts A and B of Medicare, particularly where a denial of coverage is made in the reimbursement to the admitting physician(s). Due date: by April 1, 1985.

- *Uncompensated care costs*: The appropriate treatment of uncompensated care costs and adjustments that might be appropriate for large teaching hospitals in rural areas. Due date: by April 1, 1985.

- *Making hospital cost information available*: The advisability of hospitals making information available on the cost of care to patients financed by public and private payors. Due date: April 1, 1985.
- *The territories and Puerto Rico*: A methodology for including hospitals located outside of the 50 States and the District of Columbia under a prospective payment system. Due date: by April 1, 1984.

Prospective Payment Assessment Commission. The Director of the Congressional Office of Technology Assessment (OTA) will arrange for appointment of a 15-member commission of independent experts by April 1, 1984, for a term of 3 years. Initial terms may be shorter so that the terms of no more than seven members expire in any year. The membership must provide expertise and experience in the provision and financing of health care. Subject to the review of OTA, the commission may hire staff, seek assistance and support from Federal agencies (including access to relevant information), award grants or contracts (including those for original research and experimentation, including clinical research), and prescribe necessary rules and regulations for its internal organization and operation. The commission shall

- Review and provide recommendations to the Secretary on DRG recalibrations for fiscal year 1986 and at least every 4 years thereafter;
- Review and provide recommendations to the Secretary on the annual increase factor beginning with fiscal year 1986;
- In order to make recommendations on DRG recalibrations, collect and assess information on the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures and services (including regional variation in medical practice), lengths of hospitalization and other patient-care data, with special attention to treatment patterns for costly or inappropriate care not conducive to increasing quality.

Necessary appropriations will be made from the Medicare trust funds (85 percent from the Hospital Insurance trust fund and 15 percent from the Supplementary Medical Insurance trust fund) to fund the commission's activities. The OTA has unrestricted and immediate access to all deliberations, records, and data of the commission and must report annually to Congress on the functions and progress of the commission and on the status of the assessment of medical procedures and services.

Other Medicare provisions.

Delay of single reimbursement limit for skilled-nursing facilities: The effective date for the single reimbursement limit for hospital-based and community based SNF's is delayed to cost-reporting periods beginning on or after October 1, 1983.

Shift in Medicare premiums to coincide with cost-of-living increase: The Part A and Part B premiums will remain at the June 1983 amounts through December 1983, after which premium adjustments will be made on a calendar year basis. The provision requiring that the Part B premium equal at least half of the actuarial rate for aged enrollees will terminate in January 1986 instead of July 1985. The Secretary will promulgate new actuarial premiums during the September before the calendar year in which the premiums will be effective. The actuarial assumptions and other bases for arriving at an adequate premium amount will be issued at the same time.

On Lok demonstration: Within 30 days following enactment, the Secretary must approve, with appropriate terms and conditions, the applications of the On Lok Senior Health Services (dated July 2, 1982), and the California Department of Health Services (dated November 1, 1982), for a 36-month waiver of certain Medicare and Medicaid requirements to carry out a demonstration project for capitated reimbursement of comprehensive long-term services.

Unemployment Compensation Provisions

This provision modifies and extends for 6 months the Federal Supplemental Compensation program, which was due to expire March 31, 1983. This program provides additional weeks of federally financed Unemployment Compensation benefits to jobless workers who have exhausted all other State and Federal unemployment benefits.

III. Financial Implications of OASDI and Medicare Provisions

The enactment of the OASDI and Medicare provisions of the Social Security Amendments of 1983 (Public Law 98-21) substantially restores the financial integrity of the OASDI system in both the short- and the long-range and improves the financial status of the Hospital Insurance program (Part A of Medicare).[21]

[21] The estimates used in this article are the same as those used during congressional consideration of the 1983 amendments. The economic and demographic assumptions are similar to those used subsequently in the 1983 Reports of the Boards of Trustees of the OASI, DI, and HI Trust Funds, except that the estimates used in the Trustees Reports, issued June 24, 1983, were updated to reflect actual experience in the early part of 1983.

The 1982 Annual Reports of the Boards of Trustees of the OASI, DI, and HI trust funds showed that both the OASDI and the HI programs faced serious financing difficulties and that, without remedial legislation, the OASI trust fund would be unable to make timely benefit payments after June 1983.[22] Over the long range (75 years), the OASDI program was estimated to have a deficit of 1.82 percent of taxable payroll (6.47 percent under the more pessimistic Alternative III assumptions). The Hospital Insurance trust fund was expected to decline in the near term and to be depleted in 1987 under the Alternative II-B assumptions (1986 under Alternative III); the 25-year deficit for the HI program was estimated at 2.07 percent of payroll (3.73 percent under the Alternative III assumptions).

In its 1982 Report, the Boards of Trustees of the OASI and DI trust funds noted that the National Commission on Social Security Reform (NCSSR) was expected to make its report by the end of the year and therefore made no separate recommendations for remedial legislation. In addition, the Board of Trustees of the HI trust fund recommended enactment of the administration's package of legislative proposals to help curtail the rapid growth of the cost of the Hospital Insurance program, which was partially accomplished, and only on a temporary basis, in the 1982 Tax Equity and Fiscal Responsibility Act (TEFRA).

In February 1983, revised cost estimates, using 1983 assumptions, were prepared for use in evaluating the financial status of then-current law, the financial implications of the NCSSR recommendations, and the legislation being developed in the Congress. These estimates confirmed the inability of the OASI trust fund to make timely benefit payments beyond June 1983 and showed an OASDI revenue/expenditure shortfall of some \$115-\$120 billion under Alternative II-B (\$195-\$200 billion under Alternative III) for the remainder of the 1980's. The long-range deficit of the OASDI program was shown to be 2.09 percent of taxable payroll under Alternative II-B assumptions. The increase over the deficit as estimated in 1982 was due largely to the assumed lower fertility and higher unemployment rates, the later valuation date, and the inclusion of a factor for withdrawals from coverage (which additional costs were partially offset by lower assumed disability incidence rates).

On the basis of these 1983 assumptions, the NCSSR proposals were expected to produce some \$164.6 billion, cumulatively, for 1983-89 under the Alternative II-B assumptions (\$180.0 billion under Alternative III). Over the long term, the NCSSR bipartisan package was estimated to reduce the deficit by 1.41 percent of payroll, with the remaining deficit of 0.68 percent of payroll, under Alternative II-B assumptions, to be met through increased taxes, changes in retirement age, or other measures.

For the Hospital Insurance part of Medicare, the estimates prepared in February 1983 reflected not only the effect of the 1983 assumptions but also the changes enacted in the 1982 TEFRA. With these changes, and with assumed repayment over the period 1985-87 of prior loans to the OASI trust fund, the HI trust fund was expected to begin operating on very low reserves in 1985 and to be exhausted in 1988. If, in addition, it was assumed that the OASDI proposals of the NCSSR would be extended to HI and savings from the prospective reimbursement provisions in TEFRA would continue beyond the "sunset" date of October 1985, the HI trust fund was expected to remain in a stronger position for the next 5 years, but still to be depleted by 1990 (under the Alternative II-B assumptions).

Estimates for the OASDHI programs are customarily shown on the basis of several alternative sets of economic and demographic assumptions. The assumptions range from "optimistic" (Alternative I) to "intermediate" (Alternatives II-A and II-B) to "pessimistic" (Alternative III). The intermediate II-B assumptions are considered to be the most realistic of the four sets of assumptions. Both the intermediate II-B assumptions and the pessimistic Alternative III assumptions were used extensively during the development of the recommendations of the National Commission on Social Security Reform and the ensuing legislation.

Under the Alternative II-B assumptions, the economy is assumed to experience a gradual recovery from the 1981-82 recession, with moderate but steady growth thereafter. The Alternative III assumptions incorporate a slow recovery in 1983 and slow but steady growth thereafter.

OASDI

Short range. Under the economic assumptions used for the 1983 Alternative II-B estimates, Public Law 98-21 is shown to provide a total of \$166.2 billion during the period 1983-89 in additional revenues or reduced expenditures. Table 1 shows the revenue and benefit effects of the various OASDI provisions of Public Law 98-21. Of the total for the period 1983-89, the delay in the COLA and the shifts in the Social Security tax schedule for employees and employers each account for about \$39.4 billion; \$26.6 billion comes from the income taxation of benefits of higher-income beneficiaries and about \$21.8 billion is due to the proposed extensions of Social Security coverage; the major elements of the remaining \$39 billion are the tax increases for the

[22] A provision enacted in December 1981 authorized borrowing among the OASI, DI, and HI trust funds through December 31, 1982, including the borrowing of funds sufficient to meet benefit expenditures for no more than the first 6 months of 1983. Under this provision the OASI trust fund received a total of \$5.1 billion from the DI trust fund and \$12.4 billion from the HI trust fund as of the end of 1982 and it was expected that the OASI benefits could be paid on a timely basis only through June 1983. This projection was true under all sets of assumptions used in the 1982 Trustees' Reports. See John A. Svahn, "Restoration of Certain Minimum Benefits," **op. cit.**

Table 1.—Estimated changes in OASDI tax income, general fund transfers, and benefit payments resulting from provisions in Public Law 98-21, under 1983 Alternative II-B assumptions, calendar years 1983-89

[In billions]

Provision	Calendar year							Total, 1983-89
	1983	1984	1985	1986	1987	1988	1989	
Total for all changes	$22.8	$19.2	$13.9	$15.3	$18.0	$35.8	$41.2	$166.2
Increase tax rate on covered wages and salaries	...	8.6	0.3	...	...	14.5	16.0	39.4
Increase tax rate on covered self-employment earnings	...	1.1	3.1	3.0	3.2	3.7	4.4	18.5
Total for new coverage	...	1.5	2.2	3.0	3.9	5.0	6.1	21.8
Cover all Federal elected officials and political appointees	...	(1)	(1)	(1)	(1)	(1)	(1)	.1
Cover new Federal employees	...	.2	.7	1.2	1.8	2.4	3.1	9.3
Cover all nonprofit employees	...	1.3	1.5	1.8	2.1	2.6	3.0	12.4
Prohibit State and local government terminations	...	.1	.2	.4	.6	.8	1.1	3.2
Accelerate collection of State and local taxes	...	.6	(1)	(1)	.1	.1	.1	1.0
Modify general fund reimbursement methods for military service credits	18.4	−.4	−.4	−.3	−.4	−.4	−.4	16.1
Provide general fund transfers for unnegotiated checks	1.3	.1	.1	.1	.1	.1	.1	1.6
Delay benefit increases 6 months	3.2	5.2	5.4	5.5	6.2	6.7	7.3	39.4
Limit benefit increases to lesser of wage or price increase, under certain conditions	...	...	(2)	(2)	(2)	(2)	(2)	(2)
Continue benefits on remarriage	...	(3)	(3)	(3)	(3)	(3)	(3)	−.1
Modify indexing of deferred survivor benefits	...	...	(3)	(3)	(3)	(3)	(3)	(3)
Raise disabled widow(er)'s benefits to 71.5 percent of PIA	...	−.2	−.2	−.2	−.2	−.3	−.3	−1.4
Pay divorced spouses whether or not worker has retired	...	...	(3)	(3)	(3)	(3)	(3)	−.1
Replace 90-percent factor in benefit formula with variable percentage, for individuals receiving pensions from noncovered employment	...	...	...	(4)	(4)	(4)	.1	.1
Offset spouses' benefits by up to two-thirds of noncovered government pension	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Expand use of death certificates to stop benefits	(4)	(4)	(4)	(4)	(4)	(4)	(4)	.1
Impose 5-year residency requirement for certain aliens	...	...	(4)	(4)	(4)	(4)	(4)	.1
Tax one-half of benefits for high-income beneficiaries	...	2.6	3.2	3.9	4.7	5.6	6.7	26.6
All other miscellaneous and technical changes	(3)	(3)	(3)	(3)	(3)	(3)	(3)	−.1

1 Net additional taxes of less than $50 million.

2 Although it is not expected that this provision would "trigger" (that is, actually take effect) under the Alternative II-B assumptions, relatively small variation from these assumptions could cause it to trigger. Under Alternative III assumptions it would take effect with respect to the benefit increases for December 1984 and December 1985.

3 Additional benefits of less than $50 million.

4 Reduction in benefits of less than $50 million.

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

self-employed and the general revenue reimbursement for military service credits. Using Alternative III assumptions the total in additional revenues and reduced expenditures is higher—about $220.7 billion—but so, of course, is the need.

With these additional revenues and expenditure reductions, the short-range financial soundness of the OASDI program is restored under both the Alternative II-B and III assumptions. Tables 2 and 3 show the progress of the OASI, DI, HI, and combined funds over the period 1982-92 under each set of economic assumptions. The combined OASI and DI trust funds maintain their position relative to annual expenditures over the next 5 years under the 1983 Alternative II-B assumptions and decline relative to expenditures if experience proves closer to the Alternative III assumptions. After 1988, under both sets of 1983 assumptions, the combined funds are expected to grow relative to expenditures.

During the period 1983-88, the ratios of trust fund assets to expenditures are significantly affected by repayment under the interfund borrowing provisions and by the normalized tax accounting procedures adopted in Public Law 98-21. For example, under the Alternative II-B assumptions, if there were no normalization procedure, OASDI assets would represent only about 15 percent of annual contributions over this period. However, as tables 2 and 3 show, the combined trust fund ratio is expected to range from 22 percent to 24 percent under Alternative II-B and 20 percent to 16 percent under Alternative III. The drop in the ratio to 16 percent at the beginning of 1988 under Alternative III is due to the full repayment, in 1987, of the monies borrowed from the HI trust fund.

Also, under the Alternative III assumptions, the stabilizer provision of Public Law 98-21 would take effect in the short range. Under the Alternative III assumptions, this provision would limit the OASDI benefit increases for December 1984 and December 1985. This result would occur because (1) the OASDI "trigger ratio" of less than 15 percent (excluding borrowed funds) would be reached and (2) the assumed increases in average wages are less than the assumed increases in prices.[23]

23 The OASDI benefit increases for 1984 and 1985 (4.3 percent and 6.8 percent, respectively, under these 1983 assumptions) are based on assumed average wage increases in 1983 and 1984, respectively. The higher corresponding Consumer Price Index increases, which would otherwise determine the benefit increases, are assumed to be 7.8 percent and 7.4 percent, respectively. All persons eligible for benefits for December 1990 would receive at least the assumed increase of 5.0 percent; however, under the "catch-up" provision, those beneficiaries who were also eligible for December of both years 1984 and 1985, and those who were eligible for December 1985 but not for December 1984, would receive total benefit increases of 9.1 percent and 5.6 percent, respectively.

Table 2.—Estimated operations of the combined OASI and DI trust funds and of the HI trust fund under the OASDHI program as amended by Public Law 98-21, under the **1983 Alternative II-B assumptions**, calendar years 1982-92

[Amounts in billions]

Calendar year	Income			Outgo			Interfund borrowing transfers [1]		Net increase in funds			Funds at end of year			Assets at beginning of year as percentage of outgo during year [2]		
	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	Total
1982	$147.9	$38.0	$185.9	$160.1	$36.1	$196.3	$12.4	−$12.4	$0.2	−$10.6	−$10.3	$24.8	$8.2	$32.9	15	52	22
1983	171.9	44.7	216.6	169.4	41.1	210.5	...	...	2.6	3.6	6.1	27.4	11.7	39.1	15	20	16
1984	182.4	45.9	228.3	180.5	46.8	227.4	−.3	.3	1.6	−.6	1.0	29.0	11.1	40.1	22	25	23
1985	202.5	52.2	254.7	197.5	53.0	250.4	...	...	5.0	−.7	4.3	34.0	10.4	44.4	22	21	22
1986	221.3	60.2	281.5	216.4	59.9	276.3	−1.6	1.6	3.4	1.9	5.3	37.4	12.3	49.7	23	17	22
1987	241.4	65.2	306.6	234.5	67.5	302.0	−2.3	2.3	4.6	(3)	4.6	42.0	12.3	54.3	23	18	22
1988	278.5	69.8	348.3	235.6	75.9	329.5	−8.2	8.2	16.7	2.2	18.9	58.7	14.5	73.2	24	16	22
1989	304.6	74.4	379.0	272.9	85.5	358.4	...	...	31.6	−11.1	20.6	90.3	3.4	93.7	29	17	26
1990	336.5	78.7	415.1	292.9	95.1	388.0	...	...	43.6	−16.4	27.2	133.9	−13.0	120.9	39	4	30
1991	363.9	82.7	446.6	312.8	104.9	417.8	...	...	51.1	−22.2	28.9	185.0	−35.2	149.8	51	−12	35
1992	393.0	86.8	479.7	332.5	116.1	448.6	...	...	60.4	−29.3	31.1	245.4	−64.5	180.9	64	−30	39

[1] Positive figures represent amounts borrowed by trust fund or recoveries of prior loans to other trust funds; negative figures represent amounts loaned by trust fund or repayments of prior loans from other trust funds.

[2] Assets at beginning of year are defined for the OASI and DI trust funds as assets at end of prior year plus respective OASI and DI advance tax transfers for January.

[3] Between $0 and $50 million.

Note: Based on this set of assumptions, the HI trust fund would be depleted in 1990. Subsequent HI operations as shown above are theoretical.

Table 3.—Estimated operations of combined OASI and DI trust funds and of HI trust fund under the OASDHI program as amended by Public Law 98-21, under **1983 Alternative III assumptions**, calendar years 1982-92

[Amounts in billions]

Calendar year	Income			Outgo			Interfund borrowing transfers [1]		Net increase in funds			Funds at end of year			Assets at beginning of year as a percentage of outgo during year [2]		
	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	Total
1982	$147.9	$38.0	$185.9	$160.1	$36.1	$196.3	$12.4	−$12.4	$0.2	−$10.6	−$10.3	$24.8	$8.2	$32.9	15	52	22
1983	171.2	44.5	215.8	169.4	41.1	210.6	...	...	1.8	3.4	5.2	26.6	11.6	38.1	15	20	16
1984	179.0	45.1	224.1	181.0	47.0	228.0	...	...	−2.1	−1.9	−3.9	24.5	9.7	34.2	22	25	22
1985	197.3	50.9	248.3	194.4	53.8	248.2	...	...	2.9	−2.9	.1	27.5	6.8	34.2	20	18	19
1986	216.6	58.8	275.4	213.8	62.1	275.9	...	...	2.8	−3.3	−.5	30.3	3.4	33.7	20	11	18
1987	236.7	63.4	300.1	233.7	71.3	305.0	−12.4	12.4	−9.5	4.5	−5.0	20.8	8.0	28.8	20	5	17
1988	272.9	67.4	340.3	254.7	81.7	336.4	...	...	18.2	−14.3	3.9	39.0	−6.3	32.7	16	10	14
1989	298.7	71.4	370.1	275.8	93.8	369.6	...	...	22.9	−22.4	.5	61.9	−28.7	33.2	22	−7	15
1990	330.5	74.7	405.2	297.8	106.4	404.2	...	...	32.7	−31.7	.9	94.6	−60.5	34.1	29	−27	14
1991	358.8	77.8	436.5	320.3	120.1	440.4	...	...	38.4	−42.3	−3.9	133.0	−102.8	30.2	37	−50	14
1992	389.0	80.6	469.6	353.5	135.9	489.4	...	...	35.6	−55.3	−19.7	168.6	−158.1	10.5	45	−76	12

[1] Positive figures represent amounts borrowed by trust fund or recoveries of prior loans to other trust funds; negative figures represent amounts loaned by trust fund or repayments of prior loans from other trust funds.

[2] Assets at beginning of year are defined for the OASI and DI trust funds as assets at end of prior year plus respective OASI and DI advance tax transfers for January.

Note: Based on this set of assumptions, the HI trust fund would be depleted in 1988. Subsequent HI operations as shown above are theoretical.

As a result of the benefit increase limitations that would occur under Alternative III and the 1988 tax rate increase, OASDI assets would begin to accumulate in 1988. By the beginning of 1991, the assets ratio would exceed 32 percent and the "catch up" part of the stabilizer provision would become effective. Thus, the December 1991 benefit increase would be augmented for those affected by the 1984 and 1985 benefit increase limitations. Their benefit levels could be completely "caught up" by the additional benefit increase in December 1991 without drawing the trust fund ratio below 32 percent in the following year.

Long range. The Social Security Amendments of 1983 reduce the long-range cost (or increase the income) of the OASDI program by an estimated 2.09 percent of taxable payroll with the result that, under the 1983 Alternative II-B assumptions, the OASDI program is estimated to be in exact actuarial balance. This estimated long-range balance is comprised of an estimated balance of −0.03 percent of taxable payroll for OASI and +0.03 percent of taxable payroll for DI. The estimated long-range effects of the individual provisions of Public Law 98-21 are shown in table 4. These long-range projections are in marked contrast to those of the last decade, which indicated substantial deficits over the 75-year projection period.

Table 5 shows the average cost rates, income rates, and actuarial balance over the long range under Public

Table 4.—Estimated long-range OASDI cost effect of the Social Security Amendments of 1983

Section	Provision	Effect as percent of payroll		
		OASI	DI	OASDI
	Present Law:			
	Average cost rate	13.04	1.34	14.38
	Average tax rate	10.13	2.17	12.29
	Actuarial balance	−2.92	+.83	−2.09
	Changes included in titles I and III of the amendments: [1]			
101	Cover new Federal employees	+.26	+.02	+.28
102	Cover all nonprofit employees	+.09	+.01	+.10
103	Prohibit State and local terminations	+.06	+.00	+.06
111	Delay benefit increases 6 months	+.28	+.03	+.30
112	Stabilize trust fund ratio	...	...	...
113	Eliminate "windfall" benefits	+.04	+.00	+.04
114	Raise delayed retirement credits	−.10	...	−.10
121	Tax one-half of benefits	+.56	+.05	+.61
123	Accelerate tax rate increase	+.03	...	+.03
124	Increase tax rate on self-employment	+.17	+.02	+.19
124	Adjust self-employment income	−.02	−.00	−.03
126	Change DI rate allocation	+.81	−.81	...
131	Continue benefits on remarriage	−.00	−.00	−.00
132	Pay divorced spouse of nonretired	−.01	−.00	−.01
133	Modify indexing of survivor's benefits	−.05	...	−.05
134	Raise disabled widow's benefits	−.01	...	−.01
151	Modify military credits financing	+.01	+.00	+.01
152	Credit unnegotiated checks	+.00	+.00	+.00
324	Tax certain salary reduction plans	+.03	+.00	+.03
337	Modify public pension offset	−.00	−.00	−.00
340	Suspend auxiliary benefits for certain aliens	+.00	+.00	+.00
348	Modify earnings test for those aged 65 and over [2]	−.01	...	−.01
	All other provisions of titles I and III	−.00	−.00	−.00
	Subtotal for the effect of the above provisions [3]	+2.07	−.68	+1.38
	Remaining deficit after the above provisions	−.85	+.15	−.71
	Additional change relating to long-term financing (title II of the amendments): [4]			
	Raise normal retirement age to 67	+.83	−.12	+.71
	Total effect of all of the provisions [5]	+2.89	−.80	+2.09
	After the amendments:			
	Actuarial balance	−.03	+.03	−.00
	Average income rate	11.47	1.42	12.89
	Average cost rate	11.50	1.39	12.89

[1] The values for each of the individual provisions listed from title I and title III represent the effect over present law and do not take into account interaction with other provisions with the exception of section 348.

[2] Estimates for modifying the earnings test take into account interaction with section 114, which raises delayed retirement credits.

[3] The values in the subtotal for all provisions included in title I and title III take into account the estimated interactions among these provisions.

[4] The values for each of the provisions of title II take into account interaction with the provisions included in title I and title III.

[5] The values for the total effect of the amendments take into account interactions among all of the provisions.

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

Law 98-21 and under prior law. As shown in the table, the long-range average OASDI cost rate is projected at 12.89 percent of taxable payroll, down by 1.49 percent of taxable payroll from the level projected before the amendments. The long-range average OASDI income rate (here defined as the OASDI combined employee-employer tax rate plus the value of revenues from the taxation of benefits expressed as a percentage of taxable payroll) is now projected at 12.89 percent of taxable payroll, up by 0.60 percent of taxable payroll from the level projected before enactment of Public Law 98-21.

The concept of actuarial balance must be used with caution. The use of a single measure to describe the system over a period of many years may mask adverse patterns within that period or problems that emerge soon thereafter. The addition or deletion of a few years to the time period could change a surplus into a deficit or vice versa. In addition, while early deficits followed by later surpluses could result in a positive actuarial balance, the trust fund could be depleted before the annual surpluses occur. Conversely, while early surpluses followed by later deficits could result in a positive actuarial balance, the trust fund that would be built up in the early years could eventually be depleted at some point beyond the end of the 75-year projection period, leaving the program in the situation of being unable to pay benefits at that time. Thus, it is important to note the year-by-year patterns of income and outgo.

Medicare

Hospital Insurance. As shown in table 6, Public Law 98-21 is also expected to have a favorable effect on the

Table 5.—Estimated long-range OASDI annual cost rate, income rate, and actuarial balance under the OASDI program as amended by Public Law 98-21

[Percent of taxable payroll]

Year	Cost rate			Income rate			Actuarial balance [1]		
	OASI	DI	OASDI	OASI	DI	OASDI	OASI	DI	OASDI
1983	10.74	1.26	12.00	[2] 10.83	[2] 1.42	[2] 12.25	+0.09	+0.17	+0.26
1984	10.24	1.13	11.37	10.58	1.02	11.59	+.33	−.11	+.22
1985	10.25	1.08	11.34	10.59	1.02	11.61	+.33	−.06	+.27
1986	10.34	1.06	11.40	10.61	1.02	11.63	+.26	−.04	+.22
1987	10.32	1.03	11.35	10.62	1.02	11.65	+.30	−.01	+.29
1988	10.32	1.02	11.34	11.30	1.08	12.39	+.98	+.07	+1.05
1989	10.28	1.00	11.28	11.33	1.09	12.41	+1.05	+.08	+1.13
1990	10.29	1.00	11.29	11.49	1.23	12.72	+1.21	+.23	+1.44
1991	10.23	1.00	11.23	11.52	1.23	12.75	+1.29	+.23	+1.52
1992	10.15	1.00	11.16	11.55	1.23	12.79	+1.40	+.23	+1.63
1993	10.02	1.00	11.02	11.56	1.24	12.80	+1.54	+.24	+1.78
1994	9.89	.99	10.86	11.57	1.24	12.80	+1.70	+.25	+1.94
1995	9.72	.98	10.80	11.57	1.24	12.80	+1.85	+.25	+2.10
1996	9.55	.98	10.53	11.56	1.24	12.80	+2.01	+.26	+2.27
1997	9.32	.97	10.36	11.56	1.24	12.80	+2.17	+.27	+2.43
1998	9.27	.99	10.26	11.56	1.24	12.80	+2.29	+.25	+2.54
1999	9.15	1.01	10.16	11.56	1.24	12.79	+2.40	+.23	+2.63
2000	9.04	1.03	10.07	11.33	1.46	12.79	+2.29	+.43	+2.72
2001	8.93	1.06	10.00	11.33	1.46	12.79	+2.39	+.40	+2.78
2002	8.87	1.10	9.97	11.33	1.46	12.79	+2.46	+.36	+2.83
2003	8.80	1.14	9.94	11.33	1.46	12.79	+2.53	+.32	+2.86
2004	8.75	1.18	9.93	11.33	1.47	12.80	+2.58	+.29	+2.87
2005	8.72	1.22	9.93	11.33	1.47	12.80	+2.61	+.25	+2.86
2006	8.71	1.26	9.97	11.33	1.47	12.80	+2.62	+.21	+2.84
2007	8.73	1.29	10.02	11.34	1.47	12.81	+2.60	+.18	+2.78
2010	8.95	1.40	10.35	11.35	1.48	12.83	+2.40	+.08	+2.48
2015	9.95	1.51	11.46	11.40	1.48	12.89	+1.45	−.03	+1.43
2020	11.25	1.58	12.83	11.47	1.49	12.96	+.22	−.10	+.13
2025	12.44	1.64	14.08	11.54	1.49	13.03	−.90	−.15	−1.03
2030	13.27	1.57	14.84	11.59	1.49	13.09	−1.68	−.08	−1.75
2035	13.68	1.53	15.22	11.63	1.49	13.12	−2.05	−.04	−2.10
2040	13.65	1.55	15.20	11.65	1.49	13.14	−2.00	−.06	−2.06
2045	13.61	1.58	15.19	11.66	1.50	13.16	−1.95	−.09	−2.03
2050	13.69	1.58	15.27	11.67	1.50	13.16	−2.03	−.08	−2.10
2055	13.82	1.54	15.39	11.67	1.50	13.17	−2.15	−.07	−2.22
2060	13.88	1.55	15.43	11.68	1.50	13.17	−2.20	−.06	−2.26
25-year averages:									
1983-2007	9.63	1.07	10.70	11.28	1.27	12.55	+1.65	+.20	+1.85
2008-32	11.17	1.54	12.71	11.47	1.49	12.93	+.30	+.05	+.25
2033-57	13.69	1.56	15.25	11.66	1.50	13.15	−2.63	−.07	−2.10
75-year average:									
1983-2057	11.50	1.39	12.89	11.47	1.42	12.89	−.03	+.03	−.00

[1] A positive balance indicates a surplus; a negative balance indicates a deficit.
[2] In 1983 only, income rates include lump-sum reimbursement for costs attributable to wage credits for military service performed before 1957.

Note: The above estimates are based on the 1983 Alternative II-B assumptions.

HI program in terms of increased revenues and/or reduced expenditures of some $33.6 billion over the period 1983-89 under the 1983 Alternative II-B assumptions. Moreover, the prospective payment provisions of Public Law 98-21 have made the outlays of the Hospital Insurance program potentially less vulnerable to excessive rates of growth in hospital care costs by providing the Secretary of Health and Human Services with some discretion over the level of payments to hospitals. The projected operations of the HI trust fund over the period 1982-92 under both Alternative II-B and Alternative III assumptions are shown in tables 2 and 3. As the tables show, the projected reductions in HI expenditures and increases in HI revenues, together with the repayment to the HI trust fund of the amounts borrowed by OASI, would not be sufficient to prevent the depletion of the HI trust fund in 1990 (1988 under the less favorable Alternative III assumptions). (In fact, under the Alternative III assumptions, depletion would occur in 1987 were it not for the fact that repayment of the interfund loans made previously to the OASI trust fund can be made in 1987, rather than waiting until 1988-89 as permitted under Public Law 98-21.)

Specifically, the Hospital Insurance trust fund bal-

Table 6.—Estimated changes in HI tax income, general fund transfers, or benefit outgo, under Public Law 98-21, based on 1983 Alternative II-B assumptions

[In billions]

Provision	Calendar year							Total, 1983-89
	1983	1984	1985	1986	1987	1988	1989	
Total for HI changes	$3.3	$0.8	$1.9	$4.1	$5.9	$7.8	$9.8	$33.6
Provide for prospective hospital reimbursement [1]	...	...	.2	2.0	3.6	5.2	7.0	18.0
Delay single reimbursement rate for nursing facilities	(2)	(2)	...	...	...	...	...	(2)
Reduce allowable return on equity	(3)	.1	.1	.1	.1	.1	.2	.7
Increase tax rate on covered self-employment earnings	...	.4	1.3	1.5	1.6	1.7	1.8	8.3
Cover all Federal elected officials and political appointees	...	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Cover all nonprofit employees	...	.3	.4	.5	.5	.6	.7	3.0
Prohibit State and local government terminations	...	(4)	.1	.1	.1	.2	.3	.8
Accelerate collection of State and local taxes	...	.2	(4)	(4)	(4)	(4)	(4)	.2
Modify general fund reimbursement methods for military service credits	3.3	−.1	−.1	−.1	−.1	−.1	−.1	2.5

[1] Savings attributable to prospective payments were computed as the additional savings that would be generated in fiscal year 1986 and later by eliminating the October 1985 sunset provision on the hospital rate-of-increase limits of section 101(b) of the Tax Equity and Fiscal Responsibility Act. The prospective payment legislation as passed by Congress does not mandate a system that would necessarily generate this level of savings. Instead, the level of prospective payment rates is left to the discretion of the Secretary of HHS.

[2] Additional benefits of less than $50 million.

[3] Reduction in provider reimbursement of less than $50 million.

[4] Net additional tax income of less than $50 million.

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

ance at the beginning of 1982 was 52 percent of the expenditures in 1982. Almost entirely because of the exclusion of the $12.4 billion transferred from the HI trust fund to the OASI trust fund in 1982 under the interfund borrowing authority, the trust fund ratio fell to only 20 percent by the beginning of 1983. The fund is expected to rise to 25 percent of annual expenditures by the beginning of 1984, as a result of the provision in Public Law 98-21 that changes the financing basis of noncontributory wage credits for military service under the HI program as well as the OASDI program.

Based on the Alternative II-B assumptions (table 2), the trust fund ratio falls to about 17 percent by the beginning of 1985. After 1985, the fund stops declining and remains at about the same relative level through 1988, largely because of the assumed repayment during 1986-88 of the $12.1 billion outstanding balance of the $12.4 billion loaned from HI to OASI in 1982. (About $0.3 billion of the loan is assumed to have been repaid in 1984.) After the assumed completion of the loan repayment in 1988, the HI trust fund is estimated to decline rapidly and to become depleted in 1990, based on the Alternative II-B assumptions.

On the basis of the Alternative III assumptions (table 3), the fund declines steadily through 1986, then rises in 1987 because of the assumed complete repayment of the $12.4 billion loan in 1987. The fund is then depleted in 1988, based on Alternative III assumptions.

Although the 1983 amendments extended the authority for interfund borrowing through 1987, no interfund loans would be required through that year under either set of assumptions. The estimated depletion of the HI trust fund occurs after the expiration of the interfund borrowing authority and after the assumed completion of repayment of the loans made from the HI trust fund in 1982.

Long-range estimates for the HI program as amended by Public Law 98-21 (table 7) show that, on the basis of the Alternative II-B assumptions, expenditures exceed income in each of the 25 years in the projection period. The average deficit over the 25-year period is 1.35 percent of taxable payroll under the amended program—a reduction of 0.78 percent of taxable payroll from the 2.13 percent average deficit under the program as in effect before the enactment of the 1983 amendments. Thus, the deficit of the HI program was reduced by more than one-third. However, the average long-range deficit of the HI program is still very high, representing one-third of the total long-range cost of the program.

Supplementary Medical Insurance. The Supplementary Medical Insurance (SMI) part of the Medicare program is financed on the basis of premiums paid by aged and disabled persons who are enrolled in the program and by contributions from the general revenues of the Treasury. Increases in the SMI premium (now $12.20 per month), are calculated annually on the basis of estimated increases in program costs for the aged and are timed to go into effect at the same time as the OASDI COLA. Under Public Law 98-21 the annual premium increase previously scheduled for July of each year is shifted forward to January. The amount of the increase will be promulgated in September of each year, beginning with 1983, to take effect the following January. The new premium amount will presumably be larger than the figure of $13.50 per month previously promulgated for July 1983 under the old law, because of the later time period being covered.

Table 7.—Estimated long-range HI annual cost rate, annual income rate, and actuarial balance under the Social Security program as amended by Public Law 98-21

[Percent of taxable payroll]

Year	Cost rate [1]	Income rate [2]	Difference [3]
1983	2.78	2.60	−0.18
1984	2.79	2.60	−.19
1985	2.89	2.70	−.19
1986	3.01	2.90	−.11
1987	3.14	2.90	−.24
1988	3.27	2.90	−.37
1989	3.42	2.90	−.52
1990	3.54	2.90	−.64
1991	3.67	2.90	−.77
1992	3.80	2.90	−.90
1993	3.92	2.90	−1.02
1994	4.06	2.90	−1.16
1995	4.20	2.90	−1.30
1996	4.34	2.90	−1.44
1997	4.46	2.90	−1.56
1998	4.60	2.90	−1.70
1999	4.71	2.90	−1.81
2000	4.83	2.90	−1.93
2001	4.96	2.90	−2.06
2002	5.10	2.90	−2.20
2003	5.30	2.90	−2.40
2004	5.39	2.90	−2.49
2005	5.55	2.90	−2.65
2006	5.73	2.90	−2.85
2007	5.91	2.90	−3.01
25-year average:			
1983-2007	4.22	2.87	−1.35
Under old law:			
1983-2007	5.00	2.87	−2.13

[1] Defined as the annual expenditures of the program, expressed as a percentage of the effective taxable payroll. It does not include additional amounts that would be needed to maintain the trust fund balance at an adequate level.

[2] The combined employee-employer tax rate. The provision for taxation of benefits—which is an additional source of income for the OASDI program—does not apply to the HI program.

[3] A positive figure indicates a surplus; a negative balance indicates a deficit.

Note: The above estimates are based on the 1983 Alternative II-B assumptions.

Appendix A:

Provisions of the Administration's Social Security Reform Proposal Announced May 12, 1981 *

(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.

* Based on **HHS Fact Sheet**, May 12, 1981.

(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).

(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 for the person to qualify for Social Security Disability Insurance 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 Insurance 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 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 persons 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.

Appendix B:

Excerpt from Executive Order 12335 Establishing the National Commission on Social Security Reform, December 16, 1981 †

Section 1. Establishment. (a) There is established the National Commission on Social Security Reform. The Commission shall be composed of 15 members appointed or designated by the President and selected as follows:

(1) Five members selected by the President from among officers or employees of the Executive Branch, private citizens of the United States, or both. Not more than three of the members selected by the President shall be members of the same political party;

(2) Five members selected by the Majority Leader of the Senate from among members of the Senate, private citizens of the United States, or both. Not more than three of the members selected by the Majority Leader shall be members of the same political party;

(3) Five members selected by the Speaker of the House of Representatives from among members of the House, private citizens of the United States, or both. Not more than three of the members selected by the Speaker shall be members of the same political party.

(b) The President shall designate a Chairman from among the members of the Commission.

Section 2. Functions. (a) The Commission shall review relevant analyses of the current and long-term financial condition of the Social Security trust funds; identify problems that may threaten the long-term solvency of such funds, analyze potential solutions to such problems that will both assure the financial integrity of the Social Security system and the provision of appropriate benefits; and provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(b) The Commission shall make its report to the President by December 31, 1982.

† Source: **Weekly Compilation of Presidential Documents**, Monday, December 21, 1981, vol. 17, No. 51, page 1376.

Appendix C:

Membership of the National Commission on Social Security Reform

Named by the President to the Commission were:

Alan Greenspan (chairman), former chairman of the Council of Economic Advisors in the Ford Administration.

Robert A. Beck, chairman of the board, Prudential Insurance Company of America.

Mary Falvey Fuller, vice president for finance, Shaklee Corporation, San Francisco; member of the 1979 Advisory Council on Social Security.

Alexander B. Trowbridge, president, National Association of Manufacturers.

Joe D. Waggonner, Jr., consultant, Bossier Bank & Trust Company, Plain Dealing, La.; former Democratic Representative from Louisiana.

The following members were named by Speaker Thomas P. O'Neill, Jr., of the U.S. House of Representatives in consultation with House Minority Leader Robert H. Michel:

Representative Bill Archer (R., Tex.), ranking minority member, Subcommittee on Social Security, Committee on Ways and Means.

Robert M. Ball, former Commissioner of Social Security.

Representative Barber B. Conable, Jr. (R., N.Y.), ranking minority member, Committee on Ways and Means.

Martha Keys, former Democratic Representative from Kansas.

Representative Claude Pepper (D., Fla.), chairman, House Select Committee on Aging.

Named by Senate Majority Leader Howard H. Baker, Jr., in consultation with Senate Minority Leader Robert C. Byrd were:

Senator William L. Armstrong (R., Colo.), chairman, Social Security Subcommittee, Senate Finance Committee.

Senator Robert J. Dole (R., Kans.), chairman of the Senate Finance Committee.

Senator John Heinz (R., Pa.), member of the Senate Finance Committee.

Lane Kirkland, president of the AFL-CIO.

Senator Daniel Patrick Moynihan (D., N.Y.), ranking minority member, Social Security Subcommittee, Senate Finance Committee.