

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 65

Public Law 98-21  
98th Congress

An Act

To assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

Apr. 20, 1983  
[H.R. 1900]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Social Security  
Amendments of  
1983.

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1983".

42 USC 1305  
note.

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL  
SECURITY SYSTEM

PART A—COVERAGE

- Sec. 101. Coverage of newly hired Federal employees.
- Sec. 102. Coverage of employees of nonprofit organizations.
- Sec. 103. Duration of agreements for coverage of State and local employees.

PART B—COMPUTATION OF BENEFIT AMOUNTS

- Sec. 111. Shift of cost-of-living adjustments to calendar year basis.
- Sec. 112. Cost-of-living increases to be based on either wages or prices (whichever is lower) when balance in OASDI trust funds falls below specified level.
- Sec. 113. Elimination of windfall benefits for individuals receiving pensions from noncovered employment.
- Sec. 114. Increase in old-age insurance benefit amounts on account of delayed retirement.

PART C—REVENUE PROVISIONS

- Sec. 121. Taxation of social security and tier 1 railroad retirement benefits.
- Sec. 122. Credit for the elderly and the permanently and totally disabled.
- Sec. 123. Acceleration of increases in FICA taxes; 1984 employee tax credit.
- Sec. 124. Taxes on self-employment income; credit against such taxes for years before 1990; deduction of such taxes for years after 1989.
- Sec. 125. Treatment of certain faculty practice plans.
- Sec. 126. Allocations to disability insurance trust fund.

PART D—BENEFITS FOR CERTAIN SURVIVING, DIVORCED, AND DISABLED SPOUSES

- Sec. 131. Benefits for surviving divorced spouses and disabled widows and widowers who remarry.
- Sec. 132. Entitlement to divorced spouse's benefits without regard to entitlement of insured individual to benefits; exemption of divorced spouse's benefits from deduction on account of work.
- Sec. 133. Indexing of deferred surviving spouse's benefits to recent wage levels.
- Sec. 134. Limitation on benefit reduction for early retirement in case of disabled widows and widowers.

PART E—MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS IN UNEXPECTEDLY  
ADVERSE CONDITIONS

- Sec. 141. Normalized crediting of social security taxes to trust funds.
- Sec. 142. Interfund borrowing extension.

97 STAT. 66

PUBLIC LAW 98-21—APR. 20, 1983

Sec. 143. Recommendations by Board of Trustees to remedy inadequate balances in the Social Security Trust Funds.

**PART F—OTHER FINANCING AMENDMENTS**

Sec. 151. Financing of noncontributory military wage credits.  
Sec. 152. Accounting for certain unnegotiated checks for benefits under the social security program.  
Sec. 153. Float periods.  
Sec. 154. Trust fund trustees' reports.

**TITLE II—ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM**

Sec. 201. Increase in retirement age.

**TITLE III—MISCELLANEOUS AND TECHNICAL PROVISIONS**

**PART A—ELIMINATION OF GENDER-BASED DISTINCTIONS**

Sec. 301. Divorced husbands.  
Sec. 302. Remarriage of surviving spouse before age of eligibility.  
Sec. 303. Illegitimate children.  
Sec. 304. Transitional insured status.  
Sec. 305. Equalization of benefits under section 228.  
Sec. 306. Father's insurance benefits.  
Sec. 307. Effect of marriage on childhood disability benefits and on other dependents' or survivors' benefits.  
Sec. 308. Credit for certain military service.  
Sec. 309. Conforming amendments.  
Sec. 310. Effective date of part A.

**PART B—COVERAGE**

Sec. 321. Coverage of employees of foreign affiliates of American employers.  
Sec. 322. Extension of coverage by international social security agreement.  
Sec. 323. Treatment of certain service performed outside the United States.  
Sec. 324. Amount received under certain deferred compensation and salary reduction arrangements treated as wages for FICA taxes.  
Sec. 325. Effect of changes in names of State and local employee groups in Utah.  
Sec. 326. Effective dates of international social security agreements.  
Sec. 327. Codification of Rowan decision with respect to meals and lodging.  
Sec. 328. Treatment of contributions under simplified employee pensions.

**PART C—OTHER AMENDMENTS**

Sec. 331. Technical and conforming amendments to maximum family benefit provisions.  
Sec. 332. Relaxation of insured status requirements for certain workers previously entitled to a period of disability.  
Sec. 333. Protection of benefits of illegitimate children of disabled beneficiaries.  
Sec. 334. One-month retroactivity of widow's and widower's insurance benefits.  
Sec. 335. Nonassignability of benefits.  
Sec. 336. Use of death certificates to prevent erroneous benefit payments to deceased individuals.  
Sec. 337. Public pension offset.  
Sec. 338. Study concerning the establishment of the Social Security Administration as an independent agency.  
Sec. 339. Limitation on payments to prisoners.  
Sec. 340. Requirement of previous United States residency for alien dependents and survivors living outside the United States.  
Sec. 341. Addition of public members to Trust Fund Board of Trustees.  
Sec. 342. Payment schedule by State and local governments.  
Sec. 343. Earnings sharing implementation report.  
Sec. 344. Veterans' Administration reorganization.  
Sec. 345. Social security cards.  
Sec. 346. Budgetary treatment of Trust Fund operations.  
Sec. 347. Liberalization of earnings test.

**TITLE IV—SUPPLEMENTAL SECURITY INCOME BENEFITS**

Sec. 401. Increase in Federal SSI benefit standard.  
Sec. 402. Adjustments in Federal SSI pass-through provisions.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 67

Sec. 403. SSI eligibility for temporary residents of emergency shelters for the homeless.

Sec. 404. Disregarding of emergency and other in-kind assistance provided by nonprofit organizations.

Sec. 405. Notification regarding SSI.

#### **TITLE V—UNEMPLOYMENT COMPENSATION PROVISIONS**

##### **PART A—FEDERAL SUPPLEMENTAL COMPENSATION**

Sec. 501. Extension of program.

Sec. 502. Number of weeks for which compensation payable.

Sec. 503. Effective date.

Sec. 504. Training.

Sec. 505. Coordination with trade readjustment program.

##### **PART B—PROVISIONS RELATING TO INTEREST AND CREDIT REDUCTIONS**

Sec. 511. Deferral of interest.

Sec. 512. Cap on credit reduction.

Sec. 513. Average employer contribution rate.

Sec. 514. Date for payment of interest.

Sec. 515. Penalty for failure to pay interest.

##### **PART C—MISCELLANEOUS PROVISIONS**

Sec. 521. Treatment of employees providing services to educational institutions.

Sec. 522. Extended benefits for individuals who are hospitalized or on jury duty.

Sec. 523. Voluntary health insurance programs permitted.

Sec. 524. Treatment of certain organizations retroactively determined to be described in section 501(c)(3) of the Internal Revenue Code of 1954.

#### **TITLE VI—PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT HOSPITAL SERVICES**

Sec. 601. Medicare payments for inpatient hospital services on the basis of prospective rates.

Sec. 602. Conforming amendments.

Sec. 603. Reports, experiments, and demonstration projects.

Sec. 604. Effective dates.

Sec. 605. Delay in provision relating to hospital-based skilled nursing facilities.

Sec. 606. Shift in medicare premiums to coincide with cost-of-living increase.

Sec. 607. Section 1122 amendments.

### **TITLE I—PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM**

#### **PART A—COVERAGE**

##### **COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES**

Sec. 101. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following: 42 USC 410.

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

“(A) would be excluded from the term ‘employment’ for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

“(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance

of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);

except that this paragraph shall not apply with respect to—

“(i) service performed as the President or Vice President of the United States,

“(ii) service performed—

“(I) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

“(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

“(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

“(iii) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

“(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

“(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

“(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

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

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

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

5 USC 8331.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 69

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

96 Stat. 560.  
42 USC 410.

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

26 USC 3121.

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

“(A) would be excluded from the term ‘employment’ for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

“(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by law of the United States for employees of the Federal Government (other than for members of the uniformed services);

except that this paragraph shall not apply with respect to—

“(i) service performed as the President or Vice President of the United States,

“(ii) service performed—

“(I) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

“(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

“(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

“(iii) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

“(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

“(v) any other service in the legislative branch of the Federal Government if such service is performed by an

97 STAT. 70

PUBLIC LAW 98-21—APR. 20, 1983

- 5 USC 8331. individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code; “(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—
- “(A) in a penal institution of the United States by an inmate thereof;
- “(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or
- “(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;”.
- 96 Stat. 559. (2) Section 3121(u)(1) of such Code is amended to read as follows:  
26 USC 3121. “(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.”.
- 42 USC 409. (c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof the following new paragraph:  
“For purposes of this title, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term ‘wages’ shall, subject to the provisions of subsection (a) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.”.
- 26 USC 3121. (2) Section 3121(i) of the Internal Revenue Code of 1954 (relating to computation of wages in certain cases) is amended by adding at the end thereof the following new paragraph:  
“(5) SERVICE PERFORMED BY CERTAIN RETIRED JUSTICES AND JUDGES.—For purposes of this chapter, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term ‘wages’ shall, subject to the provisions of subsection (a)(1) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.”.
- Effective date. (d) The amendments made by this section shall be effective with  
26 USC 3121 note. respect to remuneration paid after December 31, 1983.  
Entitlements. (e) Nothing in this Act shall reduce the accrued entitlements to  
42 USC 410 note. future benefits under the Federal Retirement System of current and retired Federal employees and their families.

#### COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

- 42 USC 410. SEC. 102. (a) Section 210(a)(8) of the Social Security Act is amended—
- (1) by striking out “(A)” immediately after “(8)”;
- (2) by striking out “subparagraph” where it first appears and inserting in lieu thereof “paragraph”; and
- (3) by striking out subparagraph (B).
- 26 USC 3121. (b)(1) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended—
- (A) by striking out “(A)” immediately after “(8)”;

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 71

(B) by striking out “subparagraph” where it first appears and inserting in lieu thereof “paragraph”; and

(C) by striking out subparagraph (B).

(2) Section 3121(k) of such Code is repealed.

26 USC 3121.

(3) Section 3121(r) of such Code is amended—

(A) by striking out “subsection (b)(8)(A)” and “section 210(a)(8)(A)” in paragraph (3) and inserting in lieu thereof “subsection (b)(8)” and “section 210(a)(8)”, respectively; and

(B) by striking out paragraph (4).

(c) The amendments made by the preceding provisions of this section shall be effective with respect to service performed after December 31, 1983 (but the provisions of sections 2 and 3 of Public Law 94-563 and section 312(c) of Public Law 95-216 shall continue in effect, to the extent applicable, as though such amendments had not been made).

Effective date.  
26 USC 3121  
note.

26 USC 3121  
note.

(d) The period for which a certificate is in effect under section 3121(k) of the Internal Revenue Code of 1954 may not be terminated under paragraph (1)(D) or (2) thereof on or after March 31, 1983; but no such certificate shall be effective with respect to any service to which the amendments made by this section apply.

26 USC 3121  
note.  
*Supra.*

(e)(1) If any individual—

42 USC 414 note.

(A) on January 1, 1984, is age 55 or over, and is an employee of an organization described in section 210(a)(8)(B) of the Social Security Act (A) which does not have in effect (on that date) a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and (B) to the employees of which social security coverage is extended on January 1, 1984, solely by reason of the enactment of this section, and

42 USC 410.

(B) after December 31, 1983, acquires the number of quarters of coverage (within the meaning of section 213 of the Social Security Act) which is required for purposes of this subparagraph under paragraph (2),

42 USC 413.

then such individual shall be deemed to be a fully insured individual (as defined in section 214 of the Social Security Act) for all of the purposes of title II of such Act.

42 USC 414.

(2) The number of quarters of coverage which is required for purposes of subparagraph (B) of paragraph (1) shall be determined as follows:

In the case of an individual who on January 1, 1984, is—	The number of quarters of coverage so required shall be—
age 60 or over.....	6
age 59 or over but less than age 60 .....	8
age 58 or over but less than age 59 .....	12
age 57 or over but less than age 58 .....	16
age 55 or over but less than age 57 .....	20.

**DURATION OF AGREEMENTS FOR COVERAGE OF STATE AND LOCAL  
EMPLOYEES**

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

42 USC 418.

**“Duration of Agreement**

“(g) No agreement under this section may be terminated, either in its entirety or with respect to any coverage group, on or after the date of the enactment of the Social Security Amendments of 1983.”.

97 STAT. 72

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 418 note.  
42 USC 418.

(b) The amendment made by subsection (a) shall apply to any agreement in effect under section 218 of the Social Security Act on the date of the enactment of this Act, without regard to whether a notice of termination is in effect on such date, and to any agreement or modification thereof which may become effective under such section 218 after that date.

#### PART B—COMPUTATION OF BENEFIT AMOUNTS

##### SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR YEAR BASIS

42 USC 415. SEC. 111. (a)(1) Section 215(i)(2)(A)(ii) of the Social Security Act is amended by striking out “June” and inserting in lieu thereof “December”.

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out “May” and inserting in lieu thereof “November”.

(3) Section 215(i)(2)(B) of such Act is amended by striking out “May” each place it appears and inserting in lieu thereof in each instance “November”.

42 USC 403. (4) Section 203(f)(8)(A) of such Act is amended by striking out “June” and inserting in lieu thereof “December”.

42 USC 430. (5) Section 230(a) of such Act is amended by striking out “June” and inserting in lieu thereof “December”.

(6) Section 215(i)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out “June” in subparagraph (A)(ii) and inserting in lieu thereof “December”, and by striking out “May” each place it appears in subparagraph (B) and inserting in lieu thereof in each instance “November”.

42 USC 402.  
95 Stat. 1660. (7) Section 202(m) of such Act (as it applies in certain cases by reason of section 2 of Public Law 97-123) is amended by striking out “May” and inserting in lieu thereof “November”.

42 USC 402 note. (8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1982.

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

(2) Section 215(i)(1)(A) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out “March 31” and inserting in lieu thereof “September 30” and by striking out “1974” and inserting in lieu thereof “1982”.

42 USC 415 note. (3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1983.

(c) Section 215(i)(4) of such Act is amended by inserting “, and as amended by section 111 (a)(6) and (b)(2) of the Social Security Amendments of 1983,” after “as in effect in December 1978” the first place it appears.

42 USC 415 note. (d) Notwithstanding any provision to the contrary in section 215(i) of the Social Security Act, the “base quarter” (as defined in paragraph (1)(A)(i) of such section) in the calendar year 1983 shall be a “cost-of-living computation quarter” within the meaning of paragraph (1)(B) of such section (and shall be deemed to have been determined by the Secretary of Health and Human Services to be a “cost-of-living computation quarter” under paragraph (2)(A) of such



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 73

section) for all of the purposes of such Act as amended by this section and by other provisions of this Act, without regard to the extent by which the Consumer Price Index has increased since the last prior cost-of-living computation quarter which was established under such paragraph (1)(B).

(e) Section 403(b) of the Omnibus Reconciliation Act of 1982 (Public Law 97-253) is amended to read as follows:

96 Stat. 802.  
38 USC 3023  
note.

“(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) shall apply with respect to amounts payable for periods beginning after May 31, 1983.

“(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 of title 38, United States Code.”.

Effective date.

COST-OF-LIVING INCREASES TO BE BASED ON EITHER WAGES OR PRICES (WHICHEVER IS LOWER) WHEN BALANCE IN OASDI TRUST FUNDS FALLS BELOW SPECIFIED LEVEL

SEC. 112. (a) Section 215(i)(1) of the Social Security Act is amended—

42 USC 415.

(1) by striking out “in which” in subparagraph (B) and all that follows down through the first semicolon in such subparagraph and inserting in lieu thereof “with respect to which the applicable increase percentage is 3 percent or more;”;

(2) by striking out “and” at the end of subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (H); and

(4) by inserting after subparagraph (B) the following new subparagraphs:

“(C) the term ‘applicable increase percentage’ means—

Definitions.

“(i) with respect to a base quarter or cost-of-living computation quarter in any calendar year before 1984, or in any calendar year after 1983 and before 1989 for which the OASDI fund ratio is 15.0 percent or more, or in any calendar year after 1988 for which the OASDI fund ratio is 20.0 percent or more, the CPI increase percentage; and

“(ii) with respect to a base quarter or cost-of-living computation quarter in any calendar year after 1983 and before 1989 for which the OASDI fund ratio is less than 15.0 percent, or in any calendar year after 1988 for which the OASDI fund ratio is less than 20.0 percent, the CPI increase percentage or the wage increase percentage, whichever (with respect to that quarter) is the lower;

“(D) the term ‘CPI increase percentage’, with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for that quarter (as prepared by the Department of Labor) exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost-of-living computation quarter under subparagraph (B);

“(E) the term ‘wage increase percentage’, with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-

97 STAT. 74

PUBLIC LAW 98-21—APR. 20, 1983

tenth of 1 percent) by which the SSA average wage index for the year immediately preceding such calendar year exceeds such index for the year immediately preceding the most recent prior calendar year which included a base quarter under subparagraph (A)(ii) or, if later, which included a cost-of-living computation quarter;

“(F) the term ‘OASDI fund ratio’, with respect to any calendar year, means the ratio of—

42 USC 401.

“(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Fund from the Federal Hospital Insurance Trust Fund under section 201(l), to

“(ii) the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account;

“(G) the term ‘SSA average wage index’, with respect to any calendar year, means the average of the total wages reported to the Secretary of the Treasury or his delegate as determined for purposes of subsection (b)(3)(A)(ii); and”.

42 USC 415.

(b) Section 215(i)(2)(A)(ii) of such Act is amended by striking out “by the same percentage” and all that follows down through the semicolon, in the sentence immediately following subdivision (III), and inserting in lieu thereof “by the applicable increase percentage;”.

(c) Section 215(i) of such Act is further amended by adding at the end thereof the following new paragraph:

“(5)(A) If—

“(i) with respect to any calendar year the ‘applicable increase percentage’ was determined under clause (ii) of paragraph (1)(C) rather than under clause (i) of such paragraph, and the increase becoming effective under paragraph (2) in such year was accordingly determined on the basis of the wage increase percentage rather than the CPI increase percentage (or there was no such increase becoming effective under paragraph (2) in that year because the wage increase percentage was less than 3 percent), and

“(ii) for any subsequent calendar year in which an increase under paragraph (2) becomes effective the OASDI fund ratio is greater than 32.0 percent,

then each of the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii), as increased under paragraph (2) effective with the month of December in such subsequent calendar year, shall be further increased (effective with such month) by an additional percentage, which shall be determined under subparagraph (B) and shall apply as provided in subparagraph (C).

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 75

“(B) The applicable additional percentage by which the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii) are to be further increased under subparagraph (A) in the subsequent calendar year involved shall be the amount derived by—

“(i) subtracting (I) the compounded percentage benefit increases that were actually paid under paragraph (2) and this paragraph from (II) the compounded percentage benefit increases that would have been paid if all increases under paragraph (2) had been made on the basis of the CPI increase percentage,

“(ii) dividing the difference by the sum of the compounded percentage in subdivision (I) and 100 percent, and

“(iii) multiplying such quotient by 100 and rounding to the nearest one-tenth of 1 percent, with the compounded increases referred to in subdivisions (I) and (II) being measured—

“(iv) in the case of amounts described in subdivision (I) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which monthly benefits described in such subdivision were first increased on the basis of the wage increase percentage and ending with such subsequent calendar year, and

“(v) in the case of amounts described in subdivisions (II) and (III) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which the individual whose primary insurance amount is increased under such subdivision (II) initially became eligible for an old-age or disability insurance benefit, or died before becoming so eligible, and ending with such subsequent calendar year;

except that if the Secretary determines in any case that the application (in accordance with subparagraph (C)) of the additional percentage as computed under the preceding provisions of this subparagraph would cause the OASDI fund ratio to fall below 32.0 percent in the calendar year immediately following such subsequent year, he shall reduce such applicable additional percentage to the extent necessary to ensure that the OASDI fund ratio will remain at or above 32.0 percent through the end of such following year.

“(C) Any applicable additional percentage increase in an amount described in subdivision (I), (II), or (III) of paragraph (2)(A)(ii), made under this paragraph in any calendar year, shall thereafter be treated for all the purposes of this Act as a part of the increase made in such amount under paragraph (2) for that year.”

(d)(1) Section 215(i)(2)(C) of such Act is amended by adding at the end thereof the following new clause:

42 USC 415.

“(iii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year and the SSA wage index for the preceding calendar year before November 1 of the current calendar year, based upon the most recent data then available, and shall include a statement of such fund ratio and wage index (and of the effect such ratio and the level of such index may have upon benefit increases under this subsection) in any notification made under clause (ii) and any determination published under subparagraph (D).”

(2) Section 215(i)(4) of such Act (as amended by section 111(c) of this Act) is further amended by striking out “section 111 (a)(6) and (b)(2)” and inserting in lieu thereof “sections 111(a)(6), 111(b)(2), and 112”.

97 STAT. 76

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 415 note. (e) The amendments made by the preceding provisions of this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1983.

42 USC 401.

42 USC 415 note.

(f) Notwithstanding anything to the contrary in section 215(i)(1)(F) of the Social Security Act (as added by subsection (a)(4) of this section), the combined balance in the Trust Funds which is to be used in determining the "OASDI fund ratio" with respect to the calendar year 1984 under such section shall be the estimated combined balance in such Funds as of the close of that year (rather than as of its beginning), including the taxes transferred under section 201(a) on the first day of the year following that year.

42 USC 401.

ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS RECEIVING  
PENSIONS FROM NONCOVERED EMPLOYMENT

42 USC 415.

SEC. 113. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

"(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

"(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

45 USC 231t.

42 USC 410.

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (C), but excluding a payment under the Railroad Retirement Act of 1974 or 1937) which is based in whole or in part upon his or her earnings for service which did not constitute 'employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(5) referred to as 'noncovered service'), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) with respect to the initial month in which the individual becomes eligible for such benefits.

"(B)(i) If paragraph (1) of this subsection would apply to such an individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under paragraph (1) of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i))

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 77

and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

“(ii) For purposes of clause (i), the percent specified in this clause is—

“(I) 80.0 percent with respect to individuals who initially become eligible for old-age or disability insurance benefits in 1986;

“(II) 70.0 percent with respect to individuals who so become eligible in 1987;

“(III) 60.0 percent with respect to individuals who so become eligible in 1988;

“(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

“(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

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

“(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivors benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(5)) by the amount of such reduction.

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

“(iv) For purposes of this paragraph, the term ‘periodic payment’ includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

“Periodic payment.”

“(D) This paragraph shall not apply in the case of an individual who has 30 years or more of coverage (as defined in paragraph (1)(C)(ii)). In the case of an individual who has more than 25 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (B)(ii) shall (if such percent is smaller than the percent specified in whichever of the following clauses applies) be deemed to be—

“(i) 80 percent, in the case of an individual who has 29 of such years of coverage;

“(ii) 70 percent, in the case of an individual who has 28 of such years;

“(iii) 60 percent, in the case of an individual who has 27 of such years; and

“(iv) 50 percent, in the case of an individual who has 26 of such years.

“(E) This paragraph shall not apply in the case of an individual who on January 1, 1984—

Limitations.

“(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983; or

Ante, p. 67.

97 STAT. 78

PUBLIC LAW 98-21—APR. 20, 1983

*Ante*, p. 71.

“(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.”

42 USC 415.

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

“(5) In the case of an individual whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)(ii) of that subsection, who—

“(A) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986, and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

“(B) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,

45 USC 231t.

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subsection (a)(7)(C), but excluding a payment under the Railroad Retirement Act of 1974 or 1937) which is based (in whole or in part) upon his or her earnings in noncovered service, the primary insurance amount of such individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

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

“(ii) one-half of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(C)) which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which that individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits.

This paragraph shall not apply in the case of any individual to whom subsection (a)(7) would not apply by reason of subparagraph (E) or the first sentence of subparagraph (D) thereof.”

42 USC 415.

(c) Section 215(f) of such Act is amended by adding at the end thereof the following new paragraph:

“(9)(A) In the case of an individual who becomes entitled to a periodic payment determined under subsection (a)(7)(A) (including a payment determined under subsection (a)(7)(C)) in a month subsequent to the first month in which he or she becomes entitled to an old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed (notwithstanding paragraph (4) of this subsection), in accordance with either such subsection or subsection (d)(5),

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 79

as may be applicable, effective with the first month of his or her concurrent entitlement to such benefit and such periodic payment.

“(B) If an individual’s primary insurance amount has been computed under subsection (a)(7) or (d)(5), and it becomes necessary to recompute that primary insurance amount under this subsection—

“(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (except in the case of the individual’s death), such increase shall be determined as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5), or

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

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

42 USC 402.

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

SEC. 114. (a) Section 202(w)(1)(A) of the Social Security Act is amended to read as follows:

42 USC 402.

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

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

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

“(A)  $\frac{1}{2}$  of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year before 1979;

“(B)  $\frac{1}{4}$  of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year after 1978 and before 1987;

“(C) in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 1986 and before 2005, a percentage equal to the applicable percentage in effect under this paragraph for persons who first became eligible for an old-age insurance benefit in the preceding calendar year (as increased pursuant to this subparagraph), plus  $\frac{1}{24}$  of 1 percent if the calendar year in which that particular individual first becomes eligible for such benefit is not evenly divisible by 2; and

“(D)  $\frac{3}{4}$  of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 2004.”

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

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

Effective date.  
42 USC 402 note.

97 STAT. 80

PUBLIC LAW 98-21—APR. 20, 1983

**PART C—REVENUE PROVISIONS**

**SEC. 121. TAXATION OF SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.**

(a) **GENERAL RULE.**—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to amounts specifically included in gross income) is amended by redesignating section 86 as section 87 and by inserting after section 85 the following new section:

26 USC 86.

**“SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.**

**“(a) IN GENERAL.**—Gross income for the taxable year of any taxpayer described in subsection (b) includes social security benefits in an amount equal to the lesser of—

**“(1) one-half of the social security benefits received during the taxable year, or**

**“(2) one-half of the excess described in subsection (b)(1).**

**“(b) TAXPAYERS TO WHOM SUBSECTION (a) APPLIES.—**

**“(1) IN GENERAL.**—A taxpayer is described in this subsection if—

**“(A) the sum of—**

**“(i) the modified adjusted gross income of the taxpayer for the taxable year, plus**

**“(ii) one-half of the social security benefits received during the taxable year, exceeds**

**“(B) the base amount.**

**“(2) MODIFIED ADJUSTED GROSS INCOME.**—For purposes of this subsection, the term ‘modified adjusted gross income’ means adjusted gross income—

26 USC 221, 911,  
931, 933.

**“(A) determined without regard to this section and sections 221, 911, 931, and 933, and**

**“(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.**

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

**“(1) except as otherwise provided in this subsection, \$25,000,**

**“(2) \$32,000, in the case of a joint return, and**

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

26 USC 143.

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

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

**“(d) SOCIAL SECURITY BENEFIT.—**

**“(1) IN GENERAL.**—For purposes of this section, the term ‘social security benefit’ means any amount received by the taxpayer by reason of entitlement to—

42 USC 401.

**“(A) a monthly benefit under title II of the Social Security Act, or**

**“(B) a tier 1 railroad retirement benefit.**

42 USC 403.

For purposes of the preceding sentence, the amount received by any taxpayer shall be determined as if the Social Security Act did not contain section 203(i) thereof.

**“(2) ADJUSTMENT FOR REPAYMENTS DURING YEAR.—**



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 81

**“(A) IN GENERAL.**—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the taxpayer (whether or not such benefit was received during the taxable year).

**“(B) DENIAL OF DEDUCTION.**—If (but for this subparagraph) any portion of the repayments referred to in subparagraph (A) would have been allowable as a deduction for the taxable year under section 165, such portion shall be allowable as a deduction only to the extent it exceeds the social security benefits received by the taxpayer during the taxable year (and not repaid during such taxable year).

**“(3) WORKMEN’S COMPENSATION BENEFITS SUBSTITUTED FOR SOCIAL SECURITY BENEFITS.**—For purposes of this section, if, by reason of section 224 of the Social Security Act (or by reason of section 3(a)(1) of the Railroad Retirement Act of 1974), any social security benefit is reduced by reason of the receipt of a benefit under a workmen’s compensation act, the term ‘social security benefit’ includes that portion of such benefit received under the workmen’s compensation act which equals such reduction.

42 USC 424a.  
45 USC 231b.

**“(4) TIER 1 RAILROAD RETIREMENT BENEFIT.**—For purposes of paragraph (1), the term ‘tier 1 railroad retirement benefit’ means a monthly benefit under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974.

45 USC 231b,  
231c.

**“(e) LIMITATION ON AMOUNT INCLUDED WHERE TAXPAYER RECEIVES LUMP-SUM PAYMENT.**—

**“(1) LIMITATION.**—If—

**“(A)** any portion of a lump-sum payment of social security benefits received during the taxable year is attributable to prior taxable years, and

**“(B)** the taxpayer makes an election under this subsection for the taxable year, then the amount included in gross income under this section for the taxable year by reason of the receipt of such portion shall not exceed the sum of the increases in gross income under this chapter for prior taxable years which would result solely from taking into account such portion in the taxable years to which it is attributable.

**“(2) SPECIAL RULES.**—

**“(A) YEAR TO WHICH BENEFIT ATTRIBUTABLE.**—For purposes of this subsection, a social security benefit is attributable to a taxable year if the generally applicable payment date for such benefit occurred during such taxable year.

**“(B) ELECTION.**—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such election, once made, may be revoked only with the consent of the Secretary.

**“(f) TREATMENT AS PENSION OR ANNUITY FOR CERTAIN PURPOSES.**—For purposes of—

**“(1)** section 43(c)(2) (defining earned income),

26 USC 43.

**“(2)** section 219(f)(1) (defining compensation),

26 USC 219.

**“(3)** section 221(b)(2) (defining earned income), and

26 USC 221.

**“(4)** section 911(b)(1) (defining foreign earned income),

26 USC 911.

any social security benefit shall be treated as an amount received as a pension or annuity.”

97 STAT. 82

PUBLIC LAW 98-21—APR. 20, 1983

(b) **INFORMATION REPORTING.**—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

26 USC 6050F.

**“SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.**

**“(a) REQUIREMENT OF REPORTING.**—The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

**“(1) the—**

**“(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year,**

**“(B) aggregate amount of social security benefits repaid by such individual during such calendar year, and**

42 USC 424a.

45 USC 231b.

**“(C) aggregate reductions under section 224 of the Social Security Act (or under section 3(a)(1) of the Railroad Retirement Act of 1974) in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a workmen’s compensation act, and**

**“(2) the name and address of such individual.**

**“(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

**“(1) the name of the agency making the payments, and**

**“(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual as shown on such return.**

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

**“(c) DEFINITIONS.**—For purposes of this section—

**“(1) APPROPRIATE FEDERAL OFFICIAL.**—The term ‘appropriate Federal official’ means—

**“(A) the Secretary of Health and Human Services in the case of social security benefits described in section 86(d)(1)(A), and**

*Ante*, p. 80.

**“(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).**

**“(2) SOCIAL SECURITY BENEFIT.**—The term ‘social security benefit’ has the meaning given to such term by section 86(d)(1).”

**(c) TREATMENT OF NONRESIDENT ALIENS.**—

26 USC 871.

**(1) AMENDMENT OF SECTION 871 (a).**—Subsection (a) of section 871 of such Code (relating to tax on income not connected with United States business) is amended by adding at the end thereof the following new paragraph:

**“(3) TAXATION OF SOCIAL SECURITY BENEFITS.**—For purposes of this section and section 1441—

**“(A) one-half of any social security benefit (as defined in section 86(d)) shall be included in gross income, and**

**“(B) section 86 shall not apply.”**

26 USC 1441.

**(2) AMENDMENT OF SECTION 1441.**—Section 1441 of such Code (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new subsection:

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 83

“(g) CROSS REFERENCE.—

“For provision treating one-half of social security benefits as subject to withholding under this section, see section 871(a)(3).”

(3) DISCLOSURE OF INFORMATION TO SOCIAL SECURITY ADMINISTRATION OR RAILROAD RETIREMENT BOARD.—

(A) IN GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end thereof the following new paragraph: 26 USC 6103.

“(6) WITHHOLDING OF TAX FROM SOCIAL SECURITY BENEFITS.—Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d)).”

26 USC 1441.  
*Ante*, p. 80.

(B) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by inserting “(h)(6),” after “(h)(2),” in the material preceding subparagraph (A) and in subparagraph (F)(ii), thereof. 26 USC 6103.

(C) DISCLOSURE BY FINANCIAL INSTITUTIONS.—Section 1113 of the Right to Financial Privacy Act of 1978 (92 Stat. 3706; 12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

“(k)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of the Treasury, the Social Security Administration, or the Railroad Retirement Board, where the disclosure of such information is necessary to, and such information is used solely for the purpose of, the proper administration of section 1441 of the Internal Revenue Code of 1954, title II of the Social Security Act, or the Railroad Retirement Act of 1974.

Information disclosure.

“(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer’s name and address to the Department of the Treasury, the Social Security Administration, or the Railroad Retirement Board and shall be barred from redisclosure by the financial institution or its agents.”

26 USC 1441; 42 USC 401; 45 USC 231t.

(d) SOCIAL SECURITY BENEFITS TREATED AS UNITED STATES SOURCED.—Subsection (a) of section 861 of such Code (relating to income from sources within the United States) is amended by adding at the end thereof the following new paragraph:

26 USC 861.

“(8) SOCIAL SECURITY BENEFITS.—Any social security benefit (as defined in section 86(d)).”

*Ante*, p. 80.  
42 USC 401 note.

(e) TRANSFERS TO TRUST FUNDS.—

(1) IN GENERAL.—There are hereby appropriated to each payor fund amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1954 which is attributable to the application of sections 86 and 871(a)(3) of such Code (as added by this section) to payments from such payor fund.

26 USC 1 *et seq.*  
*Ante*, p. 80.

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

(3) **DEFINITIONS.**—For purposes of this subsection—

(A) **PAYOR FUND.**—The term “payor fund” means any trust fund or account from which payments of social security benefits are made.

*Ante*, p. 80.

(B) **SOCIAL SECURITY BENEFITS.**—The term “social security benefits” has the meaning given such term by section 86(d)(1) of the Internal Revenue Code of 1954.

(4) **REPORTS.**—The Secretary of the Treasury shall submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board on—

(A) the transfers made under this subsection during the year, and the methodology used in determining the amount of such transfers and the funds or account to which made, and

(B) the anticipated operation of this subsection during the next 5 years.

(f) **TECHNICAL AMENDMENTS.**—

26 USC 85.

(1) Subsection (a) of section 85 of such Code is amended by striking out “this section,” and inserting in lieu thereof “this section, section 86,”.

96 Stat. 2375.  
26 USC 128.

(2) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out “85,” and inserting in lieu thereof “85, 86,”.

(3) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 86 and inserting in lieu thereof the following:

“Sec. 86. Social security and tier 1 railroad retirement benefits.

“Sec. 87. Alcohol fuel credit.”

(4) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

“Sec. 6050F. Returns relating to social security benefits.”

26 USC 86 note.

(g) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

*Ante*, p. 80.

(2) **TREATMENT OF CERTAIN LUMP-SUM PAYMENTS RECEIVED AFTER DECEMBER 31, 1983.**—The amendments made by this section shall not apply to any portion of a lump-sum payment of social security benefits (as defined in section 86(d) of the Internal Revenue Code of 1954) received after December 31, 1983, if the generally applicable payment date for such portion was before January 1, 1984.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 85

**SEC. 122. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.**

(a) **GENERAL RULE.**—Section 37 of the Internal Revenue Code of 1954 (relating to credit for the elderly) is amended to read as follows: 26 USC 37.

**“SEC. 37. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.**

“(a) **GENERAL RULE.**—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

“(b) **QUALIFIED INDIVIDUAL.**—For purposes of this section, the term ‘qualified individual’ means any individual—

“(1) who has attained age 65 before the close of the taxable year, or

“(2) who retired on disability before the close of the taxable year and who, when he retired, was permanently and totally disabled.

“(c) **SECTION 37 AMOUNT.**—For purposes of subsection (a)—

“(1) **IN GENERAL.**—An individual's section 37 amount for the taxable year shall be the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (d).

“(2) **INITIAL AMOUNT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the initial amount shall be—

“(i) \$5,000 in the case of a single individual, or a joint return where only one spouse is a qualified individual,

“(ii) \$7,500 in the case of a joint return where both spouses are qualified individuals, or

“(iii) \$3,750 in the case of a married individual filing a separate return.

“(B) **LIMITATION IN CASE OF INDIVIDUALS WHO HAVE NOT ATTAINED AGE 65.**—

“(i) **IN GENERAL.**—In the case of a qualified individual who has not attained age 65 before the close of the taxable year, except as provided in clause (ii), the initial amount shall not exceed the disability income for the taxable year.

“(ii) **SPECIAL RULES IN CASE OF JOINT RETURN.**—In the case of a joint return where both spouses are qualified individuals and at least one spouse has not attained age 65 before the close of the taxable year—

“(I) if both spouses have not attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of such spouses' disability income, or

“(II) if one spouse has attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of \$5,000 plus the disability income for the taxable year of the spouse who has not attained age 65 before the close of the taxable year.

“(iii) **DISABILITY INCOME.**—For purposes of this subparagraph, the term ‘disability income’ means the aggregate amount includable in the gross income of the individual for the taxable year under section 72 or 26 USC 72.

97 STAT. 86

PUBLIC LAW 98-21—APR. 20, 1983

26 USC 105.

105(a) to the extent such amount constitutes wages (or payments in lieu of wages) for the period during which the individual is absent from work on account of permanent and total disability.

“(3) REDUCTION.—

“(A) IN GENERAL.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity or as a disability benefit—

“(i) which is excluded from gross income and payable under—

42 USC 401.

“(I) title II of the Social Security Act,

45 USC 231t.

“(II) the Railroad Retirement Act of 1974, or

“(III) a law administered by the Veterans’ Administration, or

“(ii) which is excluded from gross income under any provision of law not contained in this title.

No reduction shall be made under clause (i)(III) for any amount described in section 104(a)(4).

26 USC 104.

“(B) TREATMENT OF CERTAIN WORKMEN’S COMPENSATION BENEFITS.—For purposes of subparagraph (A), any amount treated as a social security benefit under section 86(d)(3) shall be treated as a disability benefit received under title II of the Social Security Act.

“(d) LIMITATIONS.—

“(1) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

“(A) \$7,500 in the case of a single individual,

“(B) \$10,000 in the case of a joint return, or

“(C) \$5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over \$7,500, \$10,000, or \$5,000, as the case may be.

“(2) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

26 USC 143.

“(2) MARITAL STATUS.—Marital status shall be determined under section 143.

“(3) PERMANENT AND TOTAL DISABILITY DEFINED.—An individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 87

existence thereof in such form and manner, and at such times, as the Secretary may require.

“(f) **NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.**—No credit shall be allowed under this section to any nonresident alien.”

(b) **REPEAL OF EXCLUSION FOR CERTAIN DISABILITY PAYMENTS.**— Subsection (d) of section 105 of such Code (relating to certain disability payments) is hereby repealed. 26 USC 105.

(c) **CONFORMING AMENDMENTS.**—

(1) Sections 41(b)(2), 44A(b)(2), 46(a)(4)(B), 53(a)(2), and 904(g) of such Code are each amended by striking out “relating to credit for the elderly” and inserting in lieu thereof “relating to credit for the elderly and the permanently and totally disabled”. 26 USC 41, 44A, 46, 53, 904.

(2) Subsection (a) of section 85 of such Code is amended by striking out “, section 105(d),”. 26 USC 85.

(3) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out “105(d),”. 96 Stat. 2375. 26 USC 128.

(4) Paragraph (3) of section 403(b) of such Code is amended by striking out “sections 105(d) and 911” and inserting in lieu thereof “section 911”. 26 USC 403.

(5) Clause (i) of section 415(c)(3)(C) of such Code is amended by striking out “section 105(d)(4)” and inserting in lieu thereof “section 37(e)(3)”. 96 Stat. 532. 26 USC 415.

(6) Paragraph (6) of section 7871(a) of such Code is amended by striking out subparagraph (A), and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively. 96 Stat. 2608. 26 USC 7871.

(7) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

“Sec. 37. Credit for the elderly and the permanently and totally disabled.”

(d) **EFFECTIVE DATE.**—

26 USC 37 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) **TRANSITIONAL RULE.**—If an individual’s annuity starting date was deferred under section 105(d)(6) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this section), such deferral shall end on the first day of such individual’s first taxable year beginning after December 31, 1983. *Supra.*

**SEC. 123. ACCELERATION OF INCREASES IN FICA TAXES; 1984 EMPLOYEE TAX CREDIT.**

(a) **ACCELERATION OF INCREASES IN FICA TAXES.**—

(1) **TAX ON EMPLOYEES.**—Subsection (a) of section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following: 26 USC 3101.

<b>“In cases of wages received during:</b>	<b>The rate shall be:</b>
1984, 1985, 1986, or 1987.....	5.7 percent
1988 or 1989.....	6.06 percent
1990 or thereafter.....	6.2 percent.”

97 STAT. 88

PUBLIC LAW 98-21—APR. 20, 1983

26 USC 3111.

(2) **EMPLOYER TAX.**—Subsection (a) of section 3111 of such Code is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

<b>"In cases of wages paid during:</b>	<b>The rate shall be:</b>
1984, 1985, 1986, or 1987.....	5.7 percent
1988 or 1989.....	6.06 percent
1990 or thereafter.....	6.2 percent."

26 USC 3101 note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to remuneration paid after December 31, 1983.  
(b) **1984 EMPLOYEE TAX CREDIT.**—

(1) **IN GENERAL.**—Chapter 25 of such Code is amended by adding at the end thereof the following new section:

26 USC 3510.

**"SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EMPLOYEE TAXES AND RAILROAD RETIREMENT TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.**

**"(a) GENERAL RULE.**—There shall be allowed as a credit against the tax imposed by section 3101(a) on wages received during 1984 an amount equal to  $\frac{3}{10}$  of 1 percent of the wages so received.

**"(b) TIME CREDIT ALLOWED.**—The credit under subsection (a) shall be taken into account in determining the amount of the tax deducted under section 3102(a).

**"(c) WAGES.**—For purposes of this section, the term 'wages' has the meaning given to such term by section 3121(a).

42 USC 418.

**"(d) APPLICATION TO AGREEMENTS UNDER SECTION 218 OF THE SOCIAL SECURITY ACT.**—For purposes of determining amounts equivalent to the tax imposed by section 3101(a) with respect to remuneration which—

**"(1)** is covered by an agreement under section 218 of the Social Security Act, and

**"(2)** is paid during 1984,

the credit allowed by subsection (a) shall be taken into account. A similar rule shall also apply in the case of an agreement under section 3121(l).

**"(e) CREDIT AGAINST RAILROAD RETIREMENT EMPLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.**—

**"(1) IN GENERAL.**—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes at rates determined by reference to section 3101 an amount equal to  $\frac{3}{10}$  of 1 percent of such compensation.

**"(2) TIME CREDIT ALLOWED.**—The credit under paragraph (1) shall be taken into account in determining the amount of the tax deducted under section 3202(a) (or the amount of the tax under section 3211(a)).

**"(3) COMPENSATION.**—For purposes of this subsection, the term 'compensation' has the meaning given to such term by section 3231(e).

**"(f) COORDINATION WITH SECTION 6413(c).**—For purposes of subsection (c) of section 6413, in determining the amount of the tax imposed by section 3101 or 3201, any credit allowed by this section shall be taken into account."

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:



## PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 89

"Sec. 3510. Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to remuneration paid during 1984. 26 USC 3510 note.

(4) **DEPOSITS IN SOCIAL SECURITY TRUST FUNDS.**—For purposes of subsection (h) of section 218 of the Social Security Act (relating to deposits in social security trust funds of amounts received under section 218 agreements), amounts allowed as a credit pursuant to subsection (d) of section 3510 of the Internal Revenue Code of 1954 (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement. 42 USC 418 note.  
42 USC 418.  
*Ante*, p. 88.

(5) **DEPOSITS IN RAILROAD RETIREMENT ACCOUNT.**—For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974, amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1954 shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code. 45 USC 231n note.  
45 USC 231n.

**SEC. 124. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT AGAINST SUCH TAXES FOR YEARS BEFORE 1990; DEDUCTION OF SUCH TAXES FOR YEARS AFTER 1989.**

(a) **INCREASE IN RATES.**—Subsections (a) and (b) of section 1401 of the Internal Revenue Code of 1954 (relating to rates of tax on self-employment income) are amended to read as follows: 26 USC 1401.

"(a) **OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.**—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

"In the case of a taxable year		Percent:
Beginning after:	And before:	
December 31, 1983.....	January 1, 1988 .....	11.40
December 31, 1987.....	January 1, 1990 .....	12.12
December 31, 1989.....		12.40

"(b) **HOSPITAL INSURANCE.**—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

"In the case of a taxable year		Percent:
Beginning after:	And before:	
December 31, 1983.....	January 1, 1985 .....	2.60
December 31, 1984.....	January 1, 1986 .....	2.70
December 31, 1985.....		2.90."

(b) **CREDIT FOR YEARS BEFORE 1990 AGAINST SELF-EMPLOYMENT TAXES.**—Section 1401 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) **CREDIT AGAINST TAXES IMPOSED BY THIS SECTION.**—

"(1) **IN GENERAL.**—In the case of a taxable year beginning before 1990, there shall be allowed as a credit against the taxes imposed by this section for any taxable year an amount equal to

the applicable percentage of the self-employment income of the individual for such taxable year.

“(2) **APPLICABLE PERCENTAGE.**—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

“In the case of taxable years beginning in:	The applicable percentage is:
1984.....	2.7
1985.....	2.3
1986, 1987, 1988, or 1989.....	2.0.”

(c) **ALLOWANCE OF DEDUCTION FOR YEARS AFTER 1989 FOR ONE-HALF OF TAXES ON SELF-EMPLOYMENT INCOME.**—

26 USC 164.

(1) **IN GENERAL.**—Section 164 of such Code (relating to deduction for taxes) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **DEDUCTION FOR ONE-HALF OF SELF-EMPLOYMENT TAXES.**—

“(1) **IN GENERAL.**—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to one-half of the taxes imposed by section 1401 for such taxable year.

“(2) **DEDUCTION TREATED AS ATTRIBUTABLE TO TRADE OR BUSINESS.**—For purposes of this chapter, the deduction allowed by paragraph (1) shall be treated as attributable to a trade or business carried on by the taxpayer which does not consist of the performance of services by the taxpayer as an employee.”

26 USC 1402.

(2) **ALTERNATIVE DEDUCTION ALLOWED IN COMPUTING SELF-EMPLOYMENT TAXES.**—Subsection (a) of section 1402 of such Code (defining net earnings from self-employment) is amended by striking out “and” at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by inserting after paragraph (11) the following new paragraph:

“(12) in lieu of the deduction provided by section 164(f) (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—

“(A) the taxpayer’s net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

“(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 for such year; and”.

42 USC 411.

(3) **CONFORMING AMENDMENT TO SOCIAL SECURITY ACT.**—Subsection (a) of section 211 of the Social Security Act is amended by striking out “and” at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following new paragraph:

“(11) In lieu of the deduction provided by section 164(f) of the Internal Revenue Code of 1954 (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—

“(A) the taxpayer’s net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

“(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 of such Code for such year; and”.

*Supra.*

(4) **SECTION 164(F) DEDUCTION TAKEN INTO ACCOUNT IN COMPUTING EARNED INCOME.**—

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 91

(A) Subparagraph (A) of section 401(c)(2) of such Code (defining earned income) is amended by striking out “and” at the end of clause (iv), by striking out the period at the end of clause (v) and inserting in lieu thereof “, and”, and by inserting after clause (v) the following new clause:

96 Stat. 513.  
26 USC 401.

“(vi) with regard to the deduction allowed to the taxpayer by section 164(f).”

*Ante*, p. 90.  
26 USC 43.

(B) Clause (ii) of section 43(c)(2)(A) of such Code is amended by inserting before the period “, but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f)”.

(5) CONFORMING AMENDMENT.—Subsection (a) of section 275 of such Code (relating to denial of deduction for certain taxes) is amended by adding at the end thereof the following new sentence:

26 USC 275.

“Paragraph (1) shall not apply to any taxes to the extent such taxes are allowable as a deduction under section 164(f).”

(d) EFFECTIVE DATES.—

26 USC 1401  
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1989.

SEC. 125. TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.

26 USC 125.

(a) GENERAL RULE.—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1954 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

(i) which employs faculty members of such medical school, and

(ii) 30 percent or more of the employees of which are concurrently employed by such medical school; and

(2) remuneration which is disbursed by such faculty practice plan to a health professional employed by both such entities shall be deemed to have been actually disbursed by such university as a common paymaster and not to have been actually disbursed by such faculty practice plan.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1983.

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 126. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (N) 1.06 per

42 USC 401.

centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported.”.

42 USC 401.

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1988, (N) 1.06 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999.”.

**PART D—BENEFITS FOR CERTAIN SURVIVING, DIVORCED, AND  
DISABLED SPOUSES**

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

42 USC 402.

SEC. 131. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

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

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

“(A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection), or

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

(3)(A) Section 202(e) of such Act is further amended by redesignating paragraph (4) (as amended by paragraph (2) of this subsection), and paragraphs (5) through (8), as paragraphs (3) through (7), respectively.

(B) Section 202(e)(1)(B)(ii) of such Act is amended by striking out “(5)” and inserting in lieu thereof “(4)”.

(C) Section 202(e)(1)(F) of such Act is amended by striking out “(6)” in clause (i) and “(5)” in clause (ii) and inserting in lieu thereof “(5)” and “(4)”, respectively.

(D) Section 202(e)(2)(A) of such Act is amended by striking out “(8)” and inserting in lieu thereof “(7)”.

(E) The paragraph of section 202(e) of such Act redesignated as paragraph (5) by subparagraph (A) of this paragraph is amended by striking out “(5)” and inserting in lieu thereof “(4)”.

(F) The paragraph of such section 202(e) redesignated as paragraph (7) by subparagraph (A) of this paragraph is amended by striking out “(4)” and inserting in lieu thereof “(3)”. 42 USC 402.

(G) Section 202(k) of such Act is amended by striking out “(e)(4)” each place it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof “(e)(3)”.

(H) Section 226(e)(1)(A) of such Act is amended by striking out “202(e)(5)” and inserting in lieu thereof “202(e)(4)”. 42 USC 426.

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

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

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

“(A) a widower marries after attaining age 60 (or after attaining age 50 if he was entitled before such marriage occurred to benefits based on disability under this subsection), or

“(B) a disabled widower described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred.”.

(3)(A) Section 202(f) of such Act is further amended by redesignating paragraph (5) (as amended by paragraph (2) of this subsection), and paragraphs (6) through (8), as paragraphs (4) through (7), respectively.

(B) Section 202(f)(1)(B)(ii) of such Act is amended by striking out “(6)” and inserting in lieu thereof “(5)”.

(C) Section 202(f)(1)(F) of such Act is amended by striking out “(7)” in clause (i) and “(6)” in clause (ii) and inserting in lieu thereof “(6)” and “(5)”, respectively.

(D) Section 202(f)(2)(A) of such Act is amended by striking out “(5)” and inserting in lieu thereof “(4)”.

(E) The paragraph of section 202(f) of such Act redesignated as paragraph (6) by subparagraph (A) of this paragraph is amended by striking out “(6)” and inserting in lieu thereof “(5)”.

(F) Section 202(k) of such Act is amended by striking out “(f)(5)” each place it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof “(f)(4)”.

(G) Section 226(e)(1)(A) of such Act is amended by striking out “202(f)(6)” and inserting in lieu thereof “202(f)(5)”.

(c)(1) Section 202(s)(2) of such Act is amended by striking out “Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4)” and inserting in lieu thereof “So much of subsections (b)(3), (d)(5), (g)(3), and (h)(4)”.

(2) Section 202(s)(3) of such Act is amended by striking out “(e)(3)”.

(d)(1) The amendments made by this section shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

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

Effective date.  
42 USC 402 note.  
42 USC 401.

**ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS WITHOUT REGARD TO ENTITLEMENT OF INSURED INDIVIDUAL TO BENEFITS; EXEMPTION OF DIVORCED SPOUSE'S BENEFITS FROM DEDUCTION ON ACCOUNT OF WORK**

**SEC. 132.** (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 402.

42 USC 414. “(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced wife of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced wife—

“(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

“(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a wife’s insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the Secretary) in the manner otherwise provided for wife’s insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced wife first meets the criteria for entitlement set forth in clauses (i) and (ii).

“(B) A wife’s insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (J) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.”

42 USC 403.

(b)(1)(A) Section 203(b) of such Act is amended—

(i) by inserting “(1)” after “(b)”;

(ii) by striking out “(1) such individual’s benefit” and “(2) if such individual” and inserting in lieu thereof “(A) such individual’s benefit” and “(B) if such individual”, respectively;

(iii) by striking out “clauses (1) and (2)” and inserting in lieu thereof “clauses (A) and (B)”;

(iv) by striking out “(A) an individual” and “(B) if a deduction” and inserting in lieu thereof “(i) an individual” and “(ii) if a deduction”, respectively; and

(v) by adding at the end thereof the following new paragraph:

“(2) When any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month and such person has been so divorced for not less than 2 years, the benefit to which he or she is entitled on the basis of the wages and self-employment income of the individual referred to in paragraph (1) for such month shall be determined without regard to deductions under this subsection as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in paragraph (1) shall be determined as if no such divorced spouse were entitled to benefits for such month.”

(B)(i) Section 203(f)(1) of such Act is amended—

(I) in the first sentence, by inserting “(excluding divorced spouses referred to in subsection (b)(2))” after “all other persons” the first place it appears, and by striking out “all other persons” the second place it appears and inserting in lieu thereof “all such other persons”; and

(II) in the second sentence, by inserting “(excluding divorced spouses referred to in subsection (b)(2))” after “other persons”.

(ii) Section 203(f)(7) of such Act is amended by inserting “(excluding divorced spouses referred to in subsection (b)(2))” after “all persons”.

(2) Section 203(d)(1) of such Act is amended—

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 95

(A) by inserting “(A)” after “(d)(1)”; and

(B) by adding at the end thereof the following new subparagraph:

“(B) When any divorced spouse is entitled to monthly benefits under section 202 (b) or (c) for any month and such divorced spouse has been so divorced for not less than 2 years, the benefit to which he or she is entitled for such month on the basis of the wages and self-employment income of the individual entitled to old-age insurance benefits referred to in subparagraph (A) shall be determined without regard to deductions under this paragraph as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in subparagraph (A) shall be determined as if no such divorced spouse were entitled to benefits for such month.” 42 USC 402.

(c)(1) The amendments made by subsection (a) shall apply with respect to monthly insurance benefits for months after December 1984, but only on the basis of applications filed on or after January 1, 1985. Effective date.  
42 USC 402 note.

(2) The amendments made by subsection (b) shall apply with respect to monthly insurance benefits for months after December 1984. Effective date.  
42 USC 403 note.

INDEXING OF DEFERRED SURVIVING SPOUSE'S BENEFITS TO RECENT  
WAGE LEVELS

SEC. 133. (a)(1) Section 202(e)(2) of the Social Security Act is amended— 42 USC 402.

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by striking out “(2)(A) Except” and all that follows down through “If such deceased individual” and inserting in lieu thereof the following:

“(2)(A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (D) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

“(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount— 42 USC 415.

“(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B) (i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

“(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(ii)(I), and

“(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

97 STAT. 96

PUBLIC LAW 98-21—APR. 20, 1983

“(ii) The year specified in this clause is the earlier of—

“(I) the year in which the deceased individual attained age 60, or would have attained age 60 had he lived to that age, or

“(II) the second year preceding the year in which the widow or surviving divorced wife first meets the requirements of paragraph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

42 USC 415.

“(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

“(C) If such deceased individual.”.

(2) Section 202(e) of such Act (as amended by paragraph (1) of this subsection) is further amended—

(A) in paragraph (1)(D) and in the matter in paragraph (1) following subparagraph (F)(ii), by inserting “(as determined after application of subparagraphs (B) and (C) of paragraph (2))” after “primary insurance amount”; and

(B) in paragraph (2)(D)(ii), by inserting “(as determined without regard to subparagraph (C))” after “primary insurance amount”.

42 USC 402.

(b)(1) Section 202(f)(3) of such Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by striking out “(3)(A) Except” and all that follows down through “If such deceased individual” and inserting in lieu thereof the following:

“(3)(A) Except as provided in subsection (q), paragraph (2) of this subsection, and subparagraph (D) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

“(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount—

“(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B) (i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

“(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(ii)(I), and

“(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

“(ii) The year specified in this clause is the earlier of—

“(I) the year in which the deceased individual attained age 60, or would have attained age 60 had she lived to that age, or

“(II) the second year preceding the year in which the widower first meets the requirements of paragraph (1)(B) or the second



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 97

year preceding the year in which the deceased individual died, whichever is later.

“(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

42 USC 415.

“(C) If such deceased individual.”

(2) Section 202(f) of such Act (as amended by paragraph (1) of this subsection) is further amended—

42 USC 402.

(A) in paragraph (1)(D) and in the matter in paragraph (1) following subparagraph (F)(ii), by inserting “(as determined after application of subparagraphs (B) and (C) of paragraph (3))” after “primary insurance amount”; and

(B) in paragraph (3)(D)(ii), by inserting “(as determined without regard to subparagraph (C))” after “primary insurance amount”.

(c) The amendments made by this section shall apply with respect to monthly insurance benefits for months after December 1984 for individuals who first meet all criteria for entitlement to benefits under section 202 (e) or (f) of the Social Security Act (other than making application for such benefits) after December 1984.

Effective date.  
42 USC 402 note.

**LIMITATION ON BENEFIT REDUCTION FOR EARLY RETIREMENT IN CASE OF DISABLED WIDOWS AND WIDOWERS**

SEC. 134. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(ii) and all that follows and inserting in lieu thereof a period.

42 USC 402.

(2)(A) Section 202(q)(6) of such Act is amended to read as follows: “(6) For purposes of this subsection, the ‘reduction period’ for an individual’s old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is the period—

“(A) beginning—

“(i) in the case of an old-age or husband’s insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

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

“(iii) in the case of a widow’s or widower’s insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

“(B) ending with the last day of the month before the month in which such individual attains retirement age.”

(B) Section 202(q)(3)(G) of such Act is amended by striking out “paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))” and inserting in lieu thereof “paragraph (6)”.

(C) Section 202(q) of such Act is further amended, in paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii)(I), by striking out “paragraph (6)(A)” and inserting in lieu thereof “paragraph (6)”.

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

97 STAT. 98

PUBLIC LAW 98-21—APR. 20, 1983

“(7) For purposes of this subsection, the ‘adjusted reduction period’ for an individual’s old-age, wife’s, husband’s, widow’s, or widower’s insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—”.

42 USC 402.

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

(A) in that part of the second sentence preceding clause (A), by striking out “or an additional adjusted reduction period”;

(B) in clauses (B)(i) and (C)(i), by striking out “, plus the number of months in the adjusted additional reduction period multiplied by  $\frac{3}{240}$  of 1 percent”;

(C) in clause (B)(ii), by striking out “plus the number of months in the additional reduction period multiplied by  $\frac{3}{240}$  of 1 percent,”; and

(D) in clause (C)(ii), by striking out “plus the number of months in the adjusted additional reduction period multiplied by  $\frac{3}{240}$  of 1 percent.”.

95 Stat. 1660.

(b) Section 202(m)(2)(B) of such Act (as applicable after the enactment of section 2 of Public Law 97-123) is amended by striking out “subsection (q)(6)(A)(ii)” and inserting in lieu thereof “subsection (q)(6)(B)”.

Effective date.  
42 USC 402 note.

(c) The amendments made by this section shall apply with respect to benefits for months after December 1983.

#### PART E—MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS IN UNEXPECTEDLY ADVERSE CONDITIONS

##### NORMALIZED CREDITING OF SOCIAL SECURITY TAXES TO TRUST FUNDS

42 USC 401.

SEC. 141. (a)(1) The last sentence of section 201(a) of the Social Security Act is amended—

(A) by striking out “from time to time” each place it appears and inserting in lieu thereof “monthly on the first day of each calendar month”; and

(B) by striking out “paid to or deposited into the Treasury” and inserting in lieu thereof “to be paid to or deposited into the Treasury during such month”.

(2) Section 201(a) of such Act is further amended by adding at the end thereof the following new sentence: “All amounts transferred to either Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of such Trust Fund; and such Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of such Fund in the same month under subsection (d).”.

42 USC 1395i.

(b)(1) The last sentence of section 1817(a) of such Act is amended—

(A) by striking out “from time to time” and inserting in lieu thereof “monthly on the first day of each calendar month”; and

(B) by striking out “paid to or deposited into the Treasury” and inserting in lieu thereof “to be paid to or deposited into the Treasury during such month”.

(2) Section 1817(a) of such Act is further amended by adding at the end thereof the following new sentence: “All amounts transferred to the Trust Fund under the preceding sentence shall be invested by

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 99

the Managing Trustee in the same manner and to the same extent as the other assets of the Trust Fund; and the Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of the Trust Fund in the same month under subsection (c)."

(c) The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

Effective date.  
42 USC 401 note.

INTERFUND BORROWING EXTENSION

SEC. 142. (a)(1) Section 201(l)(1) of the Social Security Act is amended—

42 USC 401.

(A) by striking out "January 1983" and inserting in lieu thereof "January 1988"; and

(B) by inserting after "or" the second place it appears " , subject to paragraph (5),".

(2) (A) Section 201(l)(2) of such Act is amended—

(i) by striking out "from time to time" and inserting in lieu thereof "on the last day of each month after such loan is made";

(ii) by striking out "interest" and inserting in lieu thereof "the total interest accrued to such day"; and

(iii) by inserting before the period at the end thereof the following: "(even if such an investment would earn interest at a rate different than the rate earned by investments redeemed by the lending fund in order to make the loan)".

(B) The amendment made by this paragraph shall apply with respect to months beginning more than thirty days after the date of enactment of this Act.

Effective date.  
42 USC 401 note.

(3) Section 201(l)(3) of such Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Hospital Insurance Trust Fund to the Federal Old-Age and Survivors Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee determines that the OASDI trust fund ratio exceeds 15 percent, he shall transfer from the borrowing Trust Fund to the Federal Hospital Insurance Trust Fund an amount that—

"(I) together with any amounts transferred from another borrowing Trust Fund under this paragraph for such year, will reduce the OASDI trust fund ratio to 15 percent; and

"(II) does not exceed the outstanding balance of such loan.

"(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

"(iii) For purposes of this subparagraph, the term 'OASDI trust fund ratio' means, with respect to any calendar year, the ratio of—

"(I) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as of the last day of such calendar year, to

"(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors

97 STAT. 100

PUBLIC LAW 98-21—APR. 20, 1983

Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the calendar year following such calendar year for all purposes authorized by section 201 (other than payments of interest on, and repayments of, loans from the Federal Hospital Insurance Trust Fund under paragraph (1), but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account).

Repayment date. “(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.

“(ii) For the period after December 31, 1987, and before January 1, 1990, the Managing Trustee shall transfer each month to the Federal Hospital Insurance Trust Fund from any Trust Fund with any amount outstanding on a loan made from the Federal Hospital Insurance Trust Fund under paragraph (1) an amount not less than an amount equal to (I) the amount owed to the Federal Hospital Insurance Trust Fund by such Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsing after the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence.”

42 USC 401. (4) Section 201(l) of such Act is further amended by adding at the end thereof the following new paragraph:

“(5)(A) No amounts may be borrowed from the Federal Hospital Insurance Trust Fund under paragraph (1) during any month if the Hospital Insurance Trust Fund ratio for such month is less than 10 percent.

“Hospital Insurance Trust Fund ratio.” “(B) For purposes of this paragraph, the term ‘Hospital Insurance Trust Fund ratio’ means, with respect to any month, the ratio of—

“(i) the balance in the Federal Hospital Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under this subsection, as of the last day of the second month preceding such month, to

“(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Hospital Insurance Trust Fund during the month for which such ratio is to be determined (other than payments of interest on, or repayments of loans from another Trust Fund under this subsection), and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfer into the Hospital Insurance Trust Fund from that Account.”

42 USC 1395i. (b)(1) Section 1817(j)(1) of such Act is amended—

(A) by striking out “January 1983” and inserting in lieu thereof “January 1988”; and

(B) by inserting “, subject to paragraph (5),” after “may”.

(2)(A) Section 1817(j)(2) of such Act is amended—

(i) by striking out “from time to time” and inserting in lieu thereof “on the last day of each month after such loan is made”; and

(ii) by striking out “interest” and inserting in lieu thereof “the total interest accrued to such day”; and

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 101

(iii) by inserting before the period at the end thereof the following: “(even if such an investment would earn interest at a rate different than the rate earned by investments redeemed by the lending fund in order to make the loan)”.

(B) The amendment made by this paragraph shall apply with respect to months beginning more than 30 days after the date of enactment of this Act.

Effective date.  
42 USC 1395i  
note.

(3) Section 1817(j)(3) of such Act is amended—

42 USC 1395i.

(A) by inserting “(A)” after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

“(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Hospital Insurance Trust Fund, the Managing Trustee determines that the Hospital Insurance Trust Fund ratio exceeds 15 percent, he shall transfer from such Trust Fund to the lending trust fund an amount that—

“(I) together with any amounts transferred to another lending trust fund under this paragraph for such year, will reduce the Hospital Insurance Trust Fund ratio to 15 percent; and

“(II) does not exceed the outstanding balance of such loan.

“(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

“(iii) For purposes of this subparagraph, the term ‘Hospital Insurance Trust Fund ratio’ means, with respect to any calendar year, the ratio of—

“Hospital  
Insurance Trust  
Fund ratio.”

“(I) the balance in the Federal Hospital Insurance Trust Fund, as of the last day of such calendar year; to

“(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Hospital Insurance Trust Fund during the calendar year following such calendar year (other than payments of interest on, and repayments of, loans from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under paragraph (1)), and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from the Railroad Retirement Account.

“(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.”.

Repayment date.

“(ii) For the period after December 31, 1987 and before January 1, 1990, the Managing Trustee shall transfer each month from the Federal Hospital Insurance Trust Fund to any Trust Fund that is owed any amount by the Federal Hospital Insurance Trust Fund on a loan made under paragraph (1), an amount not less than an amount equal to (I) the amount owed to such Trust Fund by the Federal Hospital Insurance Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsing after the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence.”.

(4) Section 1817(j) of such Act is further amended by adding at the end thereof the following new paragraph:

97 STAT. 102

PUBLIC LAW 98-21—APR. 20, 1983

“OASDI trust  
fund ratio.”

42 USC 401.

“(5)(A) No amounts may be loaned by the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund under paragraph (1) during any month if the OASDI trust fund ratio for such month is less than 10 percent.

“(B) For purposes of this paragraph, the term ‘OASDI trust fund ratio’ means, with respect to any month, the ratio of—

“(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Trust Fund from the Federal Hospital Insurance Trust Fund under section 201(l), as of the last day of the second month preceding such month, to

“(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the month for which such ratio is to be determined for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account.”.

RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE  
BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

SEC. 143. Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

“RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE  
BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

Report to  
Congress.  
42 USC 910.

26 USC 1401,  
3101, 3111.

“Balance ratio.”

“SEC. 709. (a) If the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund determines at any time that the balance ratio of any such Trust Fund for any calendar year may become less than 20 percent, the Board shall promptly submit to each House of the Congress a report setting forth its recommendations for statutory adjustments affecting the receipts and disbursements of such Trust Fund necessary to maintain the balance ratio of such Trust Fund at not less than 20 percent, with due regard to the economic conditions which created such inadequacy in the balance ratio and the amount of time necessary to alleviate such inadequacy in a prudent manner. The report shall set forth specifically the extent to which benefits would have to be reduced, taxes under section 1401, 3101, or 3111 of the Internal Revenue Code of 1954 would have to be increased, or a combination thereof, in order to obtain the objectives referred to in the preceding sentence.

“(b) For purposes of this section, the term ‘balance ratio’ means, with respect to any calendar year in connection with any Trust Fund referred to in subsection (a), the ratio of—

“(1) the balance in such Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 103

made to such Trust Fund under section 201(l) or 1817(j), as of the beginning of such year, to 42 USC 401, 1395i.

“(2) the total amount which (as estimated by the Secretary) will be paid from such Trust Fund during such calendar year for all purposes authorized by section 201, 1817, or 1841 (as applicable), other than payments of interest on, or repayments of, loans under section 201(l) or 1817(j), but excluding any transfer payments between such Trust Fund and any other Trust Fund referred to in subsection (a) and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from that Account.”. 42 USC 1395t.

PART F—OTHER FINANCING AMENDMENTS

FINANCING OF NONCONTRIBUTORY MILITARY WAGE CREDITS

SEC. 151. (a) Section 217(g) of the Social Security Act is amended to read as follows: 42 USC 417.

“Appropriation to Trust Funds

“(g)(1) Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amount equal to the excess of—

“(A) the actuarial present value as of such date of enactment of the past and future benefit payments from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under this title and title XVIII, together with associated administrative costs, resulting from the operation of this section (other than this subsection) and section 210 of this Act as in effect before the enactment of the Social Security Amendments of 1950, over 42 USC 1395.

“(B) any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this subsection as in effect immediately before the date of the enactment of the Social Security Amendments of 1983. 42 USC 410. 42 USC 1305 note.

Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 201(c) and 1817(b). Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

*Post*, pp. 107, 135.

“(2) The Secretary shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Secretary from data which becomes available to him after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this title or title XVIII and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 201(c) or 1817(b). Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury

97 STAT. 104

PUBLIC LAW 98-21—APR. 20, 1983

not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury determines necessary to take into account such revision.”.

42 USC 429.

(b)(1) Section 229(b) of such Act is amended to read as follows:

42 USC 401,  
1395i.

“(b) There are authorized to be appropriated to each of the Trust Funds, consisting of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for transfer on July 1 of each calendar year to such Trust Fund from amounts in the general fund in the Treasury not otherwise appropriated, an amount equal to the total of the additional amounts which would be appropriated to such Trust Fund for the fiscal year ending September 30 of such calendar year under section 201 or 1817 of this Act if the amounts of the additional wages deemed to have been paid for such calendar year by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954. Amounts authorized to be appropriated under this subsection for transfer on July 1 of each calendar year shall be determined on the basis of estimates of the Secretary of the wages deemed to be paid for such calendar year under subsection (a); and proper adjustments shall be made in amounts authorized to be appropriated for subsequent transfer to the extent prior estimates were in excess of or were less than such wages so deemed to be paid.”.

26 USC 3121.  
26 USC 3101,  
3111.

Effective date.  
42 USC 429 note.

(2) The amendment made by paragraph (1) shall be effective with respect to wages deemed to have been paid for calendar years after 1983.

42 USC 429 note.

(3)(A) Within thirty days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the additional amounts which would have been appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1984 had constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

42 USC 429.

(B)(i) Within thirty days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to each such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amount determined with respect to such Trust Fund under subparagraph (A), less any amount appropriated to such Trust Fund pursuant to the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under subparagraph (A) with respect to wages deemed to have been paid for calendar years prior to 1984.

*Supra.*

(ii) The Secretary of Health and Human Services shall revise the amount determined under clause (i) with respect to each such Trust Fund within one year after the date of the transfer made to such Trust Fund under clause (i), as determined appropriate by such Secretary from data which becomes available to him after the date of the transfer under clause (i). Within 30 days after any such revision, the Secretary of the Treasury shall transfer to such Trust



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 105

Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of Health and Human Services certifies as necessary to take into account such revision.

ACCOUNTING FOR CERTAIN UNNEGOTIATED CHECKS FOR BENEFITS  
UNDER THE SOCIAL SECURITY PROGRAM

SEC. 152. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 401.

“(m)(1) The Secretary of the Treasury shall implement procedures to permit the identification of each check issued for benefits under this title that has not been presented for payment by the close of the sixth month following the month of its issuance.

“(2) The Secretary of the Treasury shall, on a monthly basis, credit each of the Trust Funds for the amount of all benefit checks (including interest thereon) drawn on such Trust Fund more than 6 months previously but not presented for payment and not previously credited to such Trust Fund, to the extent provided in advance in appropriation Acts.

“(3) If a benefit check is presented for payment to the Treasury and the amount thereof has been previously credited pursuant to paragraph (2) to one of the Trust Funds, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, recharge such Trust Fund, and notify the Secretary of Health and Human Services.

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

(b) The amendment made by subsection (a) shall apply with respect to all checks for benefits under title II of the Social Security Act which are issued on or after the first day of the twenty-fourth month following the month in which this Act is enacted.

(c)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, in the month following the month in which this Act is enacted and in each of the succeeding 30 months, such sums as may be necessary to reimburse such Trust Funds in the total amount of all checks (including interest thereof) which he and the Secretary of Health and Human Services jointly determine to be unnegotiated benefit checks, to the extent provided in advance in appropriation Acts. After any amounts authorized by this subsection have been transferred to a Trust Fund with respect to any benefit check, the provisions of paragraphs (3) and (4) of section 201(m) of the Social Security Act (as added by subsection (a) of this section) shall be applicable to such check.

(2) As used in paragraph (1), the term “unnegotiated benefit checks” means checks for benefits under title II of the Social Security Act which are issued prior to the twenty-fourth month following the month in which this Act is enacted, which remain unnegotiated after the sixth month following the date on which they were issued, and with respect to which no transfers have previously been made in accordance with the first sentence of such paragraph.

Effective date.  
42 USC 401 note.  
42 USC 401.

Transfers from  
general  
Treasury fund.  
42 USC 401 note.

“Unnegotiated  
benefit checks.”

97 STAT. 106

PUBLIC LAW 98-21—APR. 20, 1983

FLOAT PERIODS

Study.  
42 USC 401 note.

42 USC 401.

**SEC. 153.** (a) The Secretary of Health and Human Services and the Secretary of the Treasury shall jointly undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the period of time (hereafter in this section referred to as the "float period") between the issuance of checks from the general fund of the Treasury in payment of monthly insurance benefits under title II of the Social Security Act and the transfer to the general fund from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, of the amounts necessary to compensate the general fund for the issuance of such checks. Each such Secretary shall consult the other regularly during the course of the study and shall, as appropriate, provide the other with such information and assistance as he may require.

(b) The study shall include—

(1) an investigation of the feasibility and desirability of maintaining the float periods which are allowed as of the date of the enactment of this section in the procedures governing the payment of monthly insurance benefits under title II of the Social Security Act, and of the general feasibility and desirability of making adjustments in such procedures with respect to float periods; and

(2) a separate investigation of the feasibility and desirability of providing, as a specific form of adjustment in such procedures with respect to float periods, for the transfer each day to the general fund of the Treasury from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, of amounts equal to the amounts of the checks referred to in subsection (a) which are paid by the Federal Reserve Banks on such day.

Consultation  
with OMB  
Director.

(c) In conducting the study required by subsection (a), the Secretaries shall consult, as appropriate, the Director of the Office of Management and Budget, and the Director shall provide the Secretaries with such information and assistance as they may require. The Secretaries shall also solicit the views of other appropriate officials and organizations.

Reports to  
President and  
Congress.

(d)(1) Not later than six months after the date of the enactment of this Act, the Secretaries shall submit to the President and the Congress a report of the findings of the investigation required by subsection (b)(1), and the Secretary of the Treasury shall by regulation make such adjustments in the procedures governing the payment of monthly insurance benefits under title II of the Social Security Act with respect to float periods (other than adjustments in the form described in subsection (b)(2)) as may have been found in such investigation to be necessary or appropriate.

(2) Not later than twelve months after the date of the enactment of this Act, the Secretaries shall submit to the President and the Congress a report of the findings of the separate investigation required by subsection (b)(2), together with their recommendations with respect thereto; and, to the extent necessary or appropriate to carry out such recommendations, the Secretary of the Treasury shall by regulation make adjustments in the procedures with respect to float periods in the form described in such subsection.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 107

TRUST FUND TRUSTEES' REPORTS

SEC. 154. (a) The next to last sentence of section 201(c) of the Social Security Act is amended by striking out "Such report shall also include" and inserting in lieu thereof the following: "Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable: *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report, and shall also include". 42 USC 401.

(b) Section 1817(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable: *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report." 42 USC 1395i.

(c) Section 1841(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable: *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report." 42 USC 1395t.

(d) Notwithstanding sections 201(c)(2), 1817(b)(2), and 1841(b)(2) of the Social Security Act, the annual reports of the Boards of Trustees of the Trust Funds which are required in the calendar year 1983 under those sections may be filed at any time not later than forty-five days after the date of the enactment of this Act. 42 USC 401 note.

(e) The amendments made by this section shall take effect on the date of the enactment of this Act. Effective date. 42 USC 401 note.

TITLE II—ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

INCREASE IN RETIREMENT AGE

SEC. 201. (a) Section 216 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 416.

"Retirement Age

"(1)(1) The term 'retirement age' means—

"(A) with respect to an individual who attains early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age;

"(B) with respect to an individual who attains early retirement age after December 31, 1999, and before January 1, 2005, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age;

"(C) with respect to an individual who attains early retirement age after December 31, 2004, and before January 1, 2017, 66 years of age;

97 STAT. 108

PUBLIC LAW 98-21—APR. 20, 1983

“(D) with respect to an individual who attains early retirement age after December 31, 2016, and before January 1, 2022, 66 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age; and

“(E) with respect to an individual who attains early retirement age after December 31, 2021, 67 years of age.

“(2) The term ‘early retirement age’ means age 62 in the case of an old-age, wife’s, or husband’s insurance benefit, and age 60 in the case of a widow’s or widower’s insurance benefit.

“(3) The age increase factor for any individual who attains early retirement age in a calendar year within the period to which subparagraph (B) or (D) of paragraph (1) applies shall be determined as follows:

“(A) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2000 through 2004, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

“(B) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2017 through 2021, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2017 and ending with December of the year in which the individual attains early retirement age.”.

42 USC 402. (b)(1) Section 202(q)(9) of such Act is amended to read as follows:

“(9) The amount of the reduction for early retirement specified in paragraph (1)—

“(A) for old-age insurance benefits, wife’s insurance benefits, and husband’s insurance benefits, shall be the amount specified in such paragraph for the first 36 months of the reduction period (as defined in paragraph (6)) or adjusted reduction period (as defined in paragraph (7)), and five-twelfths of 1 percent for any additional months included in such periods; and

“(B) for widow’s insurance benefits and widower’s insurance benefits, shall be periodically revised by the Secretary such that—

“(i) the amount of the reduction at early retirement age as defined in section 216(a) shall be 28.5 percent of the full benefit; and

“(ii) the amount of the reduction for each month in the reduction period (specified in paragraph (6)) or the adjusted reduction period (specified in paragraph (7)) shall be established by linear interpolation between 28.5 percent at the month of attainment of early retirement age and 0 percent at the month of attainment of retirement age.”.

(2) Section 202(q)(1) of such Act is amended by striking out “If” and inserting in lieu thereof “Subject to paragraph (9), if”.

42 USC 401. (c) Title II of the Social Security Act is further amended—

(1) by striking out “age 65” or “age of 65”, as the case may be, each place it appears in the following sections and inserting in lieu thereof in each instance “retirement age (as defined in section 216(l))”:

(A) subsections (a), (b), (c), (d), (e), (f), (q), (r), and (w) of section 202;

Post, p. 112.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 109

- (B) subsections (c) (as amended by section 309(g) of this Act) and (f) of section 203; 42 USC 403.
- (C) subsection (f) of section 215; 42 USC 415.
- (D) subsections (h) and (i) of section 216; and 42 USC 416.
- (E) section 223(a); and 42 USC 423.
- (2) by striking out “age sixty-five” in section 203(c) (as amended by section 309(g) of this Act) and inserting in lieu thereof “retirement age (as defined in section 216(l))”; and
- (3) by striking out “age of sixty-five” in section 223(a) and inserting in lieu thereof “retirement age (as defined in section 216(l))”. 42 USC 423.
- (d) The Secretary shall conduct a comprehensive study and analysis of the implications of the changes made by this section in retirement age in the case of those individuals (affected by such changes) who, because they are engaged in physically demanding employment or because they are unable to extend their working careers for health reasons, may not benefit from improvements in longevity. The Secretary shall submit to the Congress no later than January 1, 1986, a full report on the study and analysis. Such report shall include any recommendations for legislative changes, including recommendations with respect to the provision of protection against the risks associated with early retirement due to health considerations, which the Secretary finds necessary or desirable as a result of the findings contained in this study. Implications of changes, study and analysis. 42 USC 416 note.
- Report to Congress.

TITLE III—MISCELLANEOUS AND TECHNICAL PROVISIONS

PART A—ELIMINATION OF GENDER-BASED DISTINCTIONS

DIVORCED HUSBANDS

- SEC. 301. (a)(1) Section 202(c)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by inserting “and every divorced husband (as defined in section 216(d))” before “of an individual” and by inserting “or such divorced husband” after “if such husband”. 42 USC 402.
- (2) Section 202(c)(1) of such Act is further amended—
- (A) by striking out “and” at the end of subparagraph (B);
- (B) by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:
- “(C) in the case of a divorced husband, is not married, and”; and
- (C) by striking out the matter following subparagraph (D) (as so redesignated) and inserting in lieu thereof the following: “shall be entitled to a husband’s insurance benefit for each month, beginning with—
- “(i) in the case of a husband or divorced husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband or divorced husband has attained age 65, the first month in which he meets the criteria specified in subparagraphs (A), (B), (C), and (D), or
- “(ii) in the case of a husband or divorced husband (as so defined) of—
- “(I) an individual entitled to old-age insurance benefits, if such husband or divorced husband has not attained age 65, or

97 STAT. 110

PUBLIC LAW 98-21—APR. 20, 1983

“(II) an individual entitled to disability insurance benefits,  
the first month throughout which he is such a husband or divorced husband and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month he meets the criterion specified in subparagraph (A)),  
whichever is earlier, and ending with the month preceding the month to which any of the following occurs:

“(E) he dies,

“(F) such individual dies,

“(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

“(H) in the case of a divorced husband, he marries a person other than such individual,

“(I) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

“(J) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.”.

42 USC 402.

(3) Section 202(c)(3) of such Act is amended by inserting “(or, in the case of a divorced husband, his former wife)” before “for such month”.

(4) Section 202(c) of such Act is further amended by adding after paragraph (3) the following new paragraph:

“(4) In the case of any divorced husband who marries—

“(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

“(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), by reason of paragraph (1)(B)(ii) thereof,

such divorced husband's entitlement to benefits under this subsection, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), shall not be terminated by reason of such marriage.”.

(5) Section 202(c) of such Act is further amended by adding after paragraph (4) (as added by paragraph (4) of this subsection) the following new paragraph:

“(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced husband of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced husband—

42 USC 414.

“(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

“(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a husband's insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the Secretary) in the manner otherwise provided for husband's insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced husband first meets the criteria for entitlement set forth in classes (i) and (ii).

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 111

“(B) A husband’s insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (I) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.”.

(6) Section 202(c)(2)(A) of such Act is amended by inserting “(or divorced husband)” after “payable to such husband”.

(7) Section 202(b)(3)(A) of such Act is amended by striking out “(f)” and inserting in lieu thereof “(c), (f),”.

(8) Section 202(c)(1)(D) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out “his wife” and inserting in lieu thereof “such individual”.

(9) Section 202(d)(5)(A) of such Act is amended by inserting “(c),” after “(b),”.

(b)(1) Section 202(f)(1) of such Act is amended, in the matter preceding subparagraph (A), by inserting “and every surviving divorced husband (as defined in section 216(d))” before “of an individual” and by inserting “or such surviving divorced husband” after “if such widower”.

(2) Section 202(f)(1) of such Act is further amended by striking out “his deceased wife” in subparagraph (D) and in the matter following subparagraph (F) and inserting in lieu thereof “such deceased individual”.

(3) Section 202(f)(3)(B)(ii)(II) of such Act (as amended by section 133(b)(1)(B) of this Act) is amended by inserting “or surviving divorced husband” after “widower”.

(4) Paragraph (3)(D) of section 202(f) of such Act (as redesignated by section 133(b)(1)(A) of this Act), and paragraphs (4), (5), and (6) of such section (as redesignated by section 131(b)(3)(A) of this Act), are each amended by inserting “or surviving divorced husband” after “widower” wherever it appears.

(5) Paragraph (3)(D) of section 202(f) of such Act (as redesignated by section 133(b)(1)(A) of this Act) is further amended by striking out “wife” wherever it appears and inserting in lieu thereof “individual”.

(6) Section 202(g)(3)(A) of such Act is amended by inserting “(c),” before “(f),”.

(7) Section 202(h)(4)(A) of such Act is amended by inserting “(c),” before “(e),”.

(c)(1) Section 216(d) of such Act is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

“(4) The term ‘divorced husband’ means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

“(5) The term ‘surviving divorced husband’ means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.”.

(2) The heading of section 216(d) of such Act is amended to read as follows:

“Divorced Spouses; Divorce”.

(d)(1) Section 205(b) of such Act is amended by inserting “divorced husband,” after “husband,” and by inserting “surviving divorced husband,” after “widower,”.

97 STAT. 112

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 405. (2) Section 205(c)(1)(C) of such Act is amended by inserting “surviving divorced husband,” after “wife,”.

REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE OF ELIGIBILITY

42 USC 402. SEC. 302. Section 202(f)(1)(A) of the Social Security Act is amended by striking out “has not remarried” and inserting in lieu thereof “is not married”.

ILLEGITIMATE CHILDREN

42 USC 416. SEC. 303. (a) Section 216(h)(3) of the Social Security Act is amended by inserting “mother or” before “father” wherever it appears.  
(b) Section 216(h)(3)(A)(ii) of such Act is amended by striking out all that follows “time” and inserting in lieu thereof “such applicant’s application for benefits was filed;”.  
(c) Section 216(h)(3)(B)(ii) of such Act is amended by striking out “such period of disability began” and inserting in lieu thereof “such applicant’s application for benefits was filed”.  
(d) Section 216(h)(3) of such Act is further amended—  
(1) by striking out “his” wherever it appears and inserting in lieu thereof “his or her”; and  
(2) by striking out “he” in subparagraph (B) and inserting in lieu thereof “he or she”.

TRANSITIONAL INSURED STATUS

42 USC 427. SEC. 304. (a) Section 227(a) of the Social Security Act is amended—  
(1) by striking out “wife” wherever it appears and inserting in lieu thereof “spouse”;  
(2) by striking out “wife’s” wherever it appears and inserting in lieu thereof “spouse’s”;  
(3) by striking out “she” wherever it appears and inserting in lieu thereof “he or she”;  
(4) by striking out “his” and inserting in lieu thereof “the”;  
and  
(5) by inserting “or section 202(c)” after “section 202(b)” wherever it appears.  
(b) Section 227(b) and section 227(c) of such Act are amended—  
(1) by striking out “widow” wherever it appears and inserting in lieu thereof “surviving spouse”;  
(2) by striking out “widow’s” wherever it appears and inserting in lieu thereof “surviving spouse’s”;  
(3) by striking out “her” wherever it appears and inserting in lieu thereof “the”; and  
(4) by inserting “or section 202(f)” after “section 202(e)” wherever it appears.  
(c) Section 216 of such Act is amended by inserting before subsection (b) the following new subsection:

Definitions.  
42 USC 416.

“Spouse; Surviving Spouse

“(a)(1) The term ‘spouse’ means a wife as defined in subsection (b) or a husband as defined in subsection (f).  
“(2) The term ‘surviving spouse’ means a widow as defined in subsection (c) or a widower as defined in subsection (g).”.



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 113

EQUALIZATION OF BENEFITS UNDER SECTION 228

SEC. 305. (a) Section 228(b) of the Social Security Act is amended— 42 USC 428.

(1) by striking out “(1) Except as provided in paragraph (2), the” and inserting in lieu thereof “The”; and

(2) by striking out paragraph (2).

(b) Section 228(c)(2) of such Act is amended by striking out “(B) the larger of” and all that follows and inserting in lieu thereof “(B) the benefit amount as determined without regard to this subsection.”.

(c) Section 228(c)(3) of such Act is amended to read as follows:

“(3) In the case of a husband or wife both of whom are entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other spouse is eligible for such month, over (B) the benefit amount of such other spouse as determined without regard to this subsection.”.

(d) Section 228 of such Act is further amended—

(1) by striking out “he” wherever it appears in subsections (a) and (c)(1) and inserting in lieu thereof “he or she”; and

(2) by striking out “his” in subsection (c)(4)(C) and inserting in lieu thereof “his or her”.

(e) The Secretary shall increase the amounts specified in section 228 of the Social Security Act, as amended by this section, to take into account any general benefit increases (as referred to in section 215(i)(3) of such Act), and any increases under section 215(i) of such Act, which have occurred after June 1974 or may hereafter occur. 42 USC 428 note.  
42 USC 415.

FATHER'S INSURANCE BENEFITS

SEC. 306. (a) Section 202(g) of the Social Security Act is amended— 42 USC 402.

(1) by striking out “widow” wherever it appears and inserting in lieu thereof “surviving spouse”;

(2) by striking out “widow's” wherever it appears and inserting in lieu thereof “surviving spouse's”;

(3) by striking out “wife's insurance benefits” and “he” in paragraph (1)(D) and inserting in lieu thereof “a spouse's insurance benefit” and “such individual”, respectively;

(4) by striking out “her” wherever it appears and inserting in lieu thereof “his or her”;

(5) by striking out “she” wherever it appears and inserting in lieu thereof “he or she”;

(6) by striking out “mother” wherever it appears and inserting in lieu thereof “parent”;

(7) by inserting “or father's” after “mother's” wherever it appears;

(8) by striking out “after August 1950”; and

(9) in paragraph (3)(A) (as amended by section 301(b)(6) of this Act)—

(A) by inserting “this subsection or” before “subsection (a)”; and

(B) by striking out “(c),” and inserting in lieu thereof “(b), (c), (e),”.

(b) The heading of section 202(g) of such Act is amended by inserting “and Father's” after “Mother's”.

97 STAT. 114

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 416.

(c) Section 216(d) of such Act (as amended by section 301(c)(1) of this Act) is further amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

“Surviving divorced father.”

“(6) The term ‘surviving divorced father’ means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

“Surviving divorced parent.”

“(7) The term ‘surviving divorced parent’ means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).”

42 USC 402.

(d) Section 202(c)(1) of such Act (as amended by section 301(a) of this Act) is further amended by inserting “(subject to subsection (s))” before “be entitled to” in the matter following subparagraph (D) and preceding subparagraph (E).

(e) Section 202(c)(1)(B) of such Act is amended by inserting after “62” the following: “or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child’s insurance benefits on the basis of the wages and self-employment income of such individual”.

(f) Section 202(c)(1) of such Act (as amended by section 301(a) of this Act and the preceding provisions of this section) is further amended by redesignating the new subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

“(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child’s insurance benefit.”

(g) Section 202(f)(1)(C) of such Act is amended by inserting “(i)” after “(C)”, by inserting “or” after “223,” and by adding at the end thereof the following new clause:

“(ii) was entitled, on the basis of such wages and self-employment income, to father’s insurance benefits for the month preceding the month in which he attained age 65, and”.

*Ante*, p. 93.

(h) Section 202(f)(5) of such Act (as redesignated by section 131(b)(3)(A) of this Act) is amended by striking out “or” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

“(B) the last month for which he was entitled to father’s insurance benefits on the basis of the wages and self-employment income of such individual, or”.

42 USC 403.

(i) Section 203(f)(1)(F) of such Act is amended by striking out “section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection)” and inserting in lieu thereof “section 202(b) or (c) (but only by reason of having a child in his or her care within the meaning of paragraph (1)(B) of subsection (b) or (c), as may be applicable)”.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 115

EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY BENEFITS AND ON  
OTHER DEPENDENTS' OR SURVIVORS' BENEFITS

SEC. 307. (a) Subsections (b)(3), (d)(5), (g)(3), and (h)(4) of section 202 of the Social Security Act (as amended by the preceding provisions of this Act) are each amended by striking out “; except that” and all that follows and inserting in lieu thereof a period. 42 USC 402.

(b) The amendments made by subsection (a) shall apply with respect to benefits under title II of the Social Security Act for months after the month in which this Act is enacted, but only in cases in which the “last month” referred to in the provision amended is a month after the month in which this Act is enacted. Effective date.  
42 USC 402 note.  
42 USC 401.

CREDIT FOR CERTAIN MILITARY SERVICE

SEC. 308. Section 217(f) of the Social Security Act is amended— 42 USC 417.  
(1) by striking out “widow” each place it appears and inserting in lieu thereof “surviving spouse”; and  
(2) by striking out “his” and “her” wherever they appear (except in clause (A) of paragraph (1)) and inserting in lieu thereof in each instance “his or her”.

CONFORMING AMENDMENTS

SEC. 309. (a) Section 202(b)(3)(A) of the Social Security Act (as amended by section 301(a)(6) of this Act) is further amended by inserting “(g),” after “(f),”. 42 USC 402.

(b) Section 202(q)(3) of such Act is amended by inserting “or surviving divorced husband” after “widower” in subparagraphs (E), (F), and (G).

(c) Section 202(q)(5) of such Act is amended—

(1) by inserting “or husband’s” after “wife’s” wherever it appears;

(2) by striking out “her” in subparagraph (A)(i) and inserting in lieu thereof “him or her”;

(3) by striking out “her” the second place it appears in subparagraph (A)(ii) and inserting in lieu thereof “the”;

(4) by striking out “she” wherever it appears and inserting in lieu thereof “he or she”;

(5) by striking out “her” wherever it appears (except where paragraphs (2) and (3) of this subsection apply) and inserting in lieu thereof “his or her”;

(6) by striking out “the woman” in subparagraph (B)(ii) and “a woman” in subparagraph (C) and inserting in lieu thereof “the individual” and “an individual”, respectively; and

(7) in subparagraph (D)—

(A) by inserting “or widower’s” after “widow’s”;

(B) by striking out “husband” wherever it appears and inserting in lieu thereof “spouse”;

(C) by striking out “husband’s” wherever it appears and inserting in lieu thereof “spouse’s”; and

(D) by inserting “or father’s” after “mother’s”.

(d)(1) Section 202(q)(6)(A) of such Act (as amended by section 134(a)(2) of this Act) is further amended by striking out “or husband’s” in clause (i) and by inserting “or husband’s” after “wife’s” in clause (ii).

(2) Section 202(q)(7) of such Act is amended—

97 STAT. 116

PUBLIC LAW 98-21—APR. 20, 1983

(A) in subparagraph (B), by inserting “or husband’s” after “wife’s”, by striking out “she” and inserting in lieu thereof “such individual”, and by inserting “his or” before “her”, and (B) in subparagraph (D), by inserting “or widower’s” after “widow’s”.

42 USC 402. (e)(1) Section 202(s)(1) of such Act is amended by inserting “(c)(1),” after “(b)(1),”.

(2) Section 202(s)(2) of such Act (as amended by section 131(c)(1) of this Act) is further amended by inserting “(c)(4),” after “(b)(3),”.

(3) Section 202(s)(3) of such Act (as amended by section 131(c)(2) of this Act) is further amended by striking out “So much” and all that follows down through “the last sentence” and inserting in lieu thereof “The last sentence”.

42 USC 403. (f) The third sentence of section 203(b)(1) of such Act (as amended by section 132(b) of this Act) is further amended by inserting “or father’s” after “mother’s”.

(g) Section 203(c) of such Act is amended to read as follows:

“Deductions on Account of Noncovered Work Outside the United States or Failure to Have Child in Care

“(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual’s benefits or benefit under section 202 for any month—

42 USC 402.

“(1) in which such individual is under the age of seventy and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States;

“(2) in which such individual, if a wife or husband under age sixty-five entitled to a wife’s or husband’s insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child’s insurance benefit and such wife’s or husband’s insurance benefit for such month was not reduced under the provisions of section 202(q);

“(3) in which such individual, if a widow or widower entitled to a mother’s or father’s insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child’s insurance benefit; or

“(4) in which such an individual, if a surviving divorced mother or father entitled to a mother’s or father’s insurance benefit, did not have in his or her care a child of his or her deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child’s insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

Child’s  
insurance  
benefit,  
entitlement.  
42 USC 422.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child’s insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child’s insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow’s insurance benefit for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 117

to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).

(h) Section 203(d) of such Act is amended by inserting "divorced husband," after "husband," in paragraph (1)(A) (as amended by section 132(b)(2) of this Act) and by inserting "or father's" after "mother's" each place it appears in paragraph (2). 42 USC 403.

(i)(1) Section 205(b) of such Act (as amended by section 301(d)(1) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,". 42 USC 405.

(2) Section 205(c)(1)(C) of such Act (as amended by section 301(d)(2) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(j) Section 216(f)(3)(A) of such Act is amended by inserting "(c)," before "(f)". 42 USC 416.

(k) Section 216(g)(6)(A) of such Act is amended by inserting "(c)," before "(f)".

(l) Section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband". 42 USC 422.

(m) Section 222(b)(2) of such Act is amended by inserting "or father's" after "mother's" wherever it appears.

(n) Section 222(b)(3) of such Act is amended by inserting "divorced husband," after "husband,".

(o) Section 223(d)(2) of such Act is amended by striking out "or widower" in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband". 42 USC 423.

(p) Section 225(a) of such Act is amended by inserting "or surviving divorced husband" after "widower". 42 USC 425.

(q)(1) Section 226(e)(3) of such Act is amended to read as follows: Hospital insurance benefits. 42 USC 426.

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow aged 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower aged 50 or older who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits be deemed to have filed for such widow's or widower's insurance benefits."

(2) For purposes of determining entitlement to hospital insurance benefits under section 226(e)(3) of such Act, as amended by paragraph (1), an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of his or her disability within twelve months after the month in which this Act is enacted, under such procedures as the Secretary of Health and Human Services may prescribe, be deemed to have been entitled to the widow's or widower's benefits referred to in such section 226(e)(3), as so amended, as of the time such individual would have been entitled to such widow's or widower's benefits if he or she had filed a timely application therefor. 42 USC 426 note.

EFFECTIVE DATE OF PART A

SEC. 310. (a) Except as otherwise specifically provided in this title, the amendments made by this part apply only with respect to 42 USC 402 note.

97 STAT. 118

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 401.

monthly benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted.

(b) Nothing in any amendment made by this part shall be construed as affecting the validity of any benefit which was paid, prior to the effective date of such amendment, as a result of a judicial determination.

**PART B—COVERAGE**

**COVERAGE OF EMPLOYEES OF FOREIGN AFFILIATES OF AMERICAN EMPLOYERS**

26 USC 3121. **SEC. 321.** (a)(1) So much of subsection (l) of section 3121 of the Internal Revenue Code of 1954 (relating to agreements entered into by domestic corporations with respect to foreign subsidiaries) as precedes the second sentence of paragraph (1) thereof is amended to read as follows:

“(1) **AGREEMENTS ENTERED INTO BY AMERICAN EMPLOYERS WITH RESPECT TO FOREIGN AFFILIATES.**—

42 USC 401. “(1) **AGREEMENT WITH RESPECT TO CERTAIN EMPLOYEES OF FOREIGN AFFILIATE.**—The Secretary shall, at the American employer's request, enter into an agreement (in such manner and form as may be prescribed by the Secretary) with any American employer (as defined in subsection (h)) who desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any 1 or more of such employer's foreign affiliates (as defined in paragraph (8)) by all employees who are citizens or residents of the United States, except that the agreement shall not apply to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term ‘employment’ or ‘wages’, as defined in this section, had the service been performed in the United States.”

26 USC 3121. (2) Paragraph (8) of section 3121(l) of such Code (defining foreign subsidiary) is amended to read as follows:

42 USC 410. “(8) **FOREIGN AFFILIATE DEFINED.**—For purposes of this subsection and section 210(a) of the Social Security Act—

“(A) **IN GENERAL.**—A foreign affiliate of an American employer is any foreign entity in which such American employer has not less than a 10-percent interest.

“(B) **DETERMINATION OF 10-PERCENT INTEREST.**—For purposes of subparagraph (A), an American employer has a 10-percent interest in any entity if such employer has such an interest directly (or through one or more entities)—

“(i) in the case of a corporation, in the voting stock thereof, and

“(ii) in the case of any other entity, in the profits thereof.”

(b) The clause (B) of section 210(a) of the Social Security Act (defining employment) which precedes paragraph (1) thereof (as amended by section 323(a)(2) of this Act) is further amended to read as follows: “(B) outside the United States by a citizen or resident of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign affiliate (as defined in section 3121(l)(8) of the Internal Revenue Code of 1954) of an American employer during any period for which there is in

*Supra.*

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 119

effect an agreement, entered into pursuant to section 3121(l) of such Code, with respect to such affiliate.”

26 USC 3121.

(c) Subsection (a) of section 406 of the Internal Revenue Code of 1954 (relating to treatment of certain employees of foreign subsidiaries for pension, etc., purposes) is amended to read as follows:

26 USC 406.

“(a) **TREATMENT AS EMPLOYEES OF AMERICAN EMPLOYER.**—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of an American employer (as defined in section 3121(h)), an individual who is a citizen or resident of the United States and who is an employee of a foreign affiliate (as defined in section 3121(l)(8)) of such American employer shall be treated as an employee of such American employer, if—

*Ante*, p. 118.

“(1) such American employer has entered into an agreement under section 3121(l) which applies to the foreign affiliate of which such individual is an employee;

“(2) the plan of such American employer expressly provides for contributions or benefits for individuals who are citizens or residents of the United States and who are employees of its foreign affiliates to which an agreement entered into by such American employer under section 3121(l) applies; and

“(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign affiliate.”

26 USC 407.

(d) Paragraph (1) of section 407(a) of such Code (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended—

(1) by striking out “citizen of the United States” and inserting in lieu thereof “citizen or resident of the United States”, and

(2) by striking out “citizens of the United States” and inserting in lieu thereof “citizens or residents of the United States”.

26 USC 3121.

(e)(1) Those provisions of subsection (l) of section 3121 of such Code which are not amended by subsection (a) of this section are amended in accordance with the following table:

Strike out (wherever it appears in the text or heading):	And insert:
domestic corporation .....	American employer
domestic corporations.....	American employers
subsidiary .....	affiliate
subsidiaries.....	affiliates
foreign corporation .....	foreign entity
foreign corporations.....	foreign entities
citizens .....	citizens or residents
the word “a” where it appears before “domestic”.	an

(2)(A) Section 406 of such Code (other than subsection (a) thereof) is amended in accordance with the following table:

26 USC 406.

Strike out (wherever appearing in the text):	And insert:
domestic corporation .....	American employer
subsidiary .....	affiliate
the word “a” where it appears before “domestic”.	an

(B) Paragraph (3) of subsection (c) of such section 406 (as in effect before the amendment made by subparagraph (A)) is amended by striking out “another corporation controlled by such domestic corpo-

97 STAT. 120

PUBLIC LAW 98-21—APR. 20, 1983

*Ante*, p. 118.  
26 USC 406.

ration” and inserting in lieu thereof “another entity in which such American employer has not less than a 10-percent interest (within the meaning of section 3121(l)(8)(B))”.

(C)(i) So much of subsection (d) of such section 406 as precedes paragraph (1) thereof is amended by striking out “another corporation” and inserting in lieu thereof “another taxpayer”.

(ii) Paragraph (1) of subsection (d) of such section 406 is amended by striking out “any other corporation” and inserting in lieu thereof “any other taxpayer”.

(D)(i) The heading of such section 406 is amended to read as follows:

**“SEC. 406. EMPLOYEES OF FOREIGN AFFILIATES COVERED BY SECTION 3121(l) AGREEMENTS.”**

(ii) The table of sections for subpart A of part I of subchapter D of chapter 1 of such Code is amended by striking out the item relating to section 406 and inserting in lieu thereof the following:

“Sec. 406. Employees of foreign affiliates covered by section 3121(l) agreements.”

26 USC 1402.

(3) Clause (A) of the second sentence of section 1402(b) of such Code (defining self-employment income) is amended by striking out “employees of foreign subsidiaries of domestic corporations” and inserting in lieu thereof “employees of foreign affiliates of American employers”.

26 USC 6413.

(4)(A) Subparagraph (C) of section 6413(c)(2) of such Code (relating to special refunds of FICA taxes in the case of employees of certain foreign corporations) is amended—

(i) by striking out “FOREIGN CORPORATIONS” in the heading and inserting in lieu thereof “FOREIGN AFFILIATES”, and

(ii) by striking out “domestic corporation” in the text and inserting in lieu thereof “American employer”.

(B) The heading of paragraph (2) of section 6413(c) of such Code is amended by striking out “FOREIGN CORPORATIONS” and inserting in lieu thereof “FOREIGN AFFILIATES”.

Effective dates.  
26 USC 406 note.

(f)(1)(A) The amendments made by this section (other than subsection (d)) shall apply to agreements entered into after the date of the enactment of this Act.

(B) At the election of any American employer, the amendments made by this section (other than subsection (d)) shall also apply to any agreement entered into on or before the date of the enactment of this Act. Any such election shall be made at such time and in such manner as the Secretary may by regulations prescribe.

(2)(A) The amendments made by subsection (d) shall apply to plans established after the date of the enactment of this Act.

(B) At the election of any domestic parent corporation the amendments made by subsection (d) shall also apply to any plan established on or before the date of the enactment of this Act. Any such election shall be made at such time and in such manner as the Secretary may by regulations prescribe.

**EXTENSION OF COVERAGE BY INTERNATIONAL SOCIAL SECURITY AGREEMENT**

42 USC 410.

**SEC. 322.** (a)(1) Section 210(a) of the Social Security Act (as amended by sections 321(b) and 323(a)(2) of this Act) is further amended, in the matter preceding paragraph (1)—

(A) by striking out “either” before “(A)”, and



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 121

- (B) by inserting before “; except” the following: “, or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233”. 42 USC 433.  
 (2) Section 3121(b) of the Internal Revenue Code of 1954 is amended, in the matter preceding paragraph (1)— 26 USC 3121.  
 (A) by striking out “either” before “(A)”, and  
 (B) by inserting before “; except” the following: “, or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act”. 42 USC 433.  
 (b)(1) Section 211(b) of the Social Security Act is amended by inserting after “non-resident alien individual” the following: “, except as provided by an agreement under section 233”. 42 USC 411.  
 (2) The first sentence of section 1402(b) of the Internal Revenue Code of 1954 is amended by inserting after “non-resident alien individual” the following: “, except as provided by an agreement under section 233 of the Social Security Act”. 26 USC 1402.  
 (c) The amendments made by this section shall be effective for taxable years beginning on or after the date of the enactment of this Act. Effective date.  
 26 USC 3121  
 note.

TREATMENT OF CERTAIN SERVICE PERFORMED OUTSIDE THE UNITED STATES

- SEC. 323. (a)(1) Subsection (b) of section 3121 of the Internal Revenue Code of 1954 (defining employment) is amended by striking out “a citizen of the United States” in the matter preceding paragraph (1) thereof and inserting in lieu thereof “a citizen or resident of the United States”. 26 USC 3121.  
 (2) Subsection (a) of section 210 of the Social Security Act is amended by striking out “a citizen of the United States” in the matter preceding paragraph (1) thereof and inserting in lieu thereof “a citizen or resident of the United States”. 26 USC 410.  
 (b)(1) Paragraph (11) of section 1402(a) of the Internal Revenue Code of 1954 (defining net earnings from self-employment) is amended by striking out “in the case of an individual described in section 911(d)(1)(B),”. 26 USC 1402.  
 (2)(A) Paragraph (10) of section 211(a) of the Social Security Act (as amended by section 124(c)(3) of this Act) is further amended to read as follows: Ante, p. 90.  
 “(10) The exclusion from gross income provided by section 911(a)(1) of the Internal Revenue Code of 1954 shall not apply;”. 26 USC 911.  
 (B) Effective with respect to taxable years beginning after December 31, 1981, and before January 1, 1984, paragraph (10) of section 211(a) of such Act is amended to read as follows:  
 “(10) In the case of an individual described in section 911(d)(1)(B) of the Internal Revenue Code of 1954, the exclusion from gross income provided by section 911(a)(1) of such Code shall not apply;”.  
 (c)(1) The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1983. Effective dates.  
 26 USC 3121  
 note.  
 (2) Except as provided in subsection (b)(2)(B), the amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983. 26 USC 1402  
 note.

97 STAT. 122

PUBLIC LAW 98-21—APR. 20, 1983

AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COMPENSATION AND  
SALARY REDUCTION ARRANGEMENTS TREATED AS WAGES FOR FICA  
TAXES

26 USC 3121.

SEC. 324. (a)(1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

“(v) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

“(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.— Nothing in any paragraph of subsection (a) (other than paragraph (1)) shall exclude from the term ‘wages’—

“(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

“(B) any amount treated as an employer contribution under section 414(h)(2).

“(2) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION PLANS.—

“(A) IN GENERAL.—Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

“(i) when the services are performed, or

“(ii) when there is no substantial risk of forfeiture of the rights to such amount.

“(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

“(C) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this paragraph, the term ‘nonqualified deferred compensation plan’ means any plan or other arrangement for deferral of compensation other than a plan described in subsection (a)(5).

“(3) EXEMPT GOVERNMENTAL DEFERRED COMPENSATION PLAN.— For purposes of subsection (a)(5), the term ‘exempt governmental deferred compensation plan’ means any plan providing for deferral of compensation established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing. Such term shall not include—

“(A) any plan to which section 83, 402(b), 403(c), 457(a), or 457(e)(1) applies, and

“(B) any annuity contract described in section 403(b).”

(2) Paragraph (5) of section 3121(a) of such Code (defining wages) is amended—

(A) by striking out “or” at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subparagraphs:

“(E) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 123

“(F) under or to an exempt governmental deferred compensation plan (as defined in subsection (v)(3)), or

“(G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;”.

29 USC 1002.

(3) Subsection (a) of section 3121 of such Code (defining wages) is amended—

26 USC 3121.

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (9),

(C) in paragraph (13)(A)—

(i) by inserting “or” after “death,” and

(ii) by striking out “or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,” and

(D) by striking out “subparagraph (B)” in the last sentence thereof and inserting in lieu thereof “subparagraph (A)”.

(b)(1) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

26 USC 3306.

“(r) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

“(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (b) (other than paragraph (1)) shall exclude from the term ‘wages’—

“(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

“(B) any amount treated as an employer contribution under section 414(h)(2).

“(2) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION PLANS.—

“(A) IN GENERAL.—Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

“(i) when the services are performed, or

“(ii) when there is no substantial risk of forfeiture of the rights to such amount.

“(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

“(C) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this paragraph, the term ‘nonqualified deferred compensation plan’ means any plan or other arrangement for deferral of compensation other than a plan described in subsection (b)(5).”

(2) Paragraph (5) of section 3306(b) of such Code (defining wages) is amended—

(A) by striking out “or” at the end of subparagraph (C),

97 STAT. 124

PUBLIC LAW 98-21—APR. 20, 1983

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subparagraphs:

“(E) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

*Ante*, p. 122.

“(F) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3)), or

“(G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974.”

29 USC 1002.

26 USC 3306.

(3) Subsection (b) of section 3306 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (8), and

(C) in paragraph (10)(A)—

(i) by inserting “or” after “death,” and

(ii) by striking out “or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,”

(4)(A) Subparagraph (A) of section 3306(b)(2) of such Code, as redesignated by paragraph (3)(A), is amended to read as follows:

“(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term ‘wages’ only payments which are received under a workman’s compensation law), or”.

(B) Subsection (b) of section 3306 of such Code (defining wages) is amended by adding at the end thereof the following new flush sentence:

“Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages.”

26 USC 3201 *et seq*

26 USC 3306

note.

26 USC 3121

note.

*Supra*.

*Ante*, p. 70.

(C) Rules similar to the rules of subsections (d) and (e) of section 3 of the Act entitled “An Act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act” (Public Law 97-123), approved December 29, 1981, shall apply in the administration of section 3306(b)(2)(A) of such Code (as amended by subparagraph (A)).

(c)(1) Section 209 of the Social Security Act (as amended by section 101(c)(1) of this Act) is further amended by adding at the end thereof the following new paragraphs:

“Nothing in any of the foregoing provisions of this section (other than subsection (a)) shall exclude from the term ‘wages’—

“(1) Any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k) of the Inter-

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 125

nal Revenue Code of 1954) to the extent not included in gross income by reason of section 402(a)(8) of such Code, or 26 USC 401.

“(2) Any amount which is treated as an employer contribution under section 414(h)(2) of such Code.

“Any amount deferred under a nonqualified deferred compensation plan (within the meaning of section 3121(v)(2)(C) of the Internal Revenue Code of 1954) shall be taken into account for purposes of this title as of the later of when the services are performed, or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into account as wages by reason of the preceding sentence (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this title.” *Ante*, p. 122.

(2) Subsection (e) of section 209 of such Act is amended by adding before the semicolon at the end thereof the following: “, or (5) under or to an annuity contract described in section 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise), or (6) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3) of such Code), or (7) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subsection to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;” 42 USC 409.  
26 USC 403.  
*Ante*, p. 122.  
29 USC 1002.  
42 USC 409.

(3) Section 209 of such Act is amended—

(A) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subsections (c) and (i), and

(C) in subsection (m)(1)—

(i) by inserting “or” after “death,” and

(ii) by striking out “or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer.”

(4) Section 203(f)(5)(C) of the Social Security Act is amended by adding at the end thereof the following new sentence: “The term ‘wages’ does not include— 42 USC 403.

“(i) the amount of any payment made to, or on behalf of, an employee or any of his dependents (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement, or

“(ii) any payment or series of payments by an employer to an employee or any of his dependents upon or after the termination of the employee’s employment relationship because of retirement after attaining an age specified in a plan referred to in section 209(m)(2) or in a pension plan of the employer.” 42 USC 409.

(d)(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply to remuneration paid after December 31, 1983. Effective dates.  
26 USC 3121 note.

(2) Except as otherwise provided in this subsection, the amendments made by subsection (b) shall apply to remuneration paid after December 31, 1984.

97 STAT. 126

PUBLIC LAW 98-21—APR. 20, 1983

Employer contri-  
butions.

26 USC 401.

(3) The amendments made by this section shall not apply to employer contributions made during 1984 and attributable to services performed during 1983 under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1954) if, under the terms of such arrangement as in effect on March 24, 1983—

(A) the employee makes an election with respect to such contribution before January 1, 1984, and

(B) the employer identifies the amount of such contribution before January 1, 1984.

In the case of the amendments made by subsection (b), the preceding sentence shall be applied by substituting “1985” for “1984” each place it appears and by substituting “during 1984” for “during 1983”.

*Ante*, p. 122.

(4) In the case of an agreement in existence on March 24, 1983, between a nonqualified deferred compensation plan (as defined in section 3121(v)(2)(C) of the Internal Revenue Code of 1954, as added by this section) and an individual—

(A) the amendments made by this section (other than subsection (b)) shall apply with respect to services performed by such individual after December 31, 1983, and

(B) the amendments made by subsection (b) shall apply with respect to services performed by such individual after December 31, 1984.

26 USC 457.

The preceding sentence shall not apply in the case of a plan to which section 457(a) of such Code applies.

**EFFECT OF CHANGES IN NAMES OF STATE AND LOCAL EMPLOYEE GROUPS  
IN UTAH**

42 USC 418.

SEC. 325. (a) Section 218(o) of the Social Security Act is amended by adding at the end thereof the following new sentence: “Coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.”.

Effective  
date.  
42 USC 418  
note.

(b) The amendment made by subsection (a) shall apply with respect to name changes made before, on, or after the date of the enactment of this section.

**EFFECTIVE DATES OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS**

42 USC 433.

SEC. 326. (a) Section 233(e)(2) of the Social Security Act is amended by striking out “during which each House of the Congress has been in session on each of 90 days” and inserting in lieu thereof “during which at least one House of the Congress has been in session on each of 60 days”.

Effective  
date.  
42 USC 433 note.

(b) The amendment made by subsection (a) shall be effective on the date of the enactment of this Act.

**CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND  
LODGING**

26 USC 3121.

SEC. 327. (a)(1) Subsection (a) of section 3121 of the Internal Revenue Code of 1954 (defining wages) is amended by striking out “or” at the end of paragraph (17), by striking out the period at the end of paragraph (18) and inserting in lieu thereof “; or”, and by inserting after paragraph (18) the following new paragraph:

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 127

“(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119.”.

(2) Section 209 of the Social Security Act is amended by striking out “or” at the end of the subsection (p) which was added by Public Law 95-472, by striking out the period at the end of subsection (q) and inserting in lieu thereof “; or”, and by inserting after subsection (q) the following new subsection:

“(r) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1954.”.

(b)(1) Subsection (a) of section 3121 of such Code is amended by inserting after and below paragraph (19) (as added by subsection (a) of this section) the following new sentence:  
“Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from ‘wages’ as used in such chapter shall be construed to require a similar exclusion from ‘wages’ in the regulations prescribed for purposes of this chapter.”.

(2) Section 209 of the Social Security Act is amended by inserting immediately after and below subsection (r) (as added by subsection (a) of this section) the following new sentence:

“Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1954 (relating to income tax withholding) which provides an exclusion from ‘wages’ as used in such chapter shall be construed to require a similar exclusion from ‘wages’ in the regulations prescribed for purposes of this title.”.

(c) Subsection (b) of section 3306 of the Internal Revenue Code of 1954 (defining wages) is amended—

- (1) by striking out “or” at the end of paragraph (12),
- (2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof “, or”,
- (3) by adding immediately after paragraph (13) the following new paragraph:

“(14) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119.”, and

- (4) by adding at the end thereof the following new flush sentence:

“Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from ‘wages’ as used in such chapter shall be construed to require a similar exclusion from ‘wages’ in the regulations prescribed for purposes of this chapter.”.

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

42 USC 409.

92 Stat. 1333.

26 USC 119.

26 USC 3121.

42 USC 409.

26 USC 3401  
*et seq.*

26 USC 3306.

Effective  
dates.  
26 USC 3121  
note.

97 STAT. 128

PUBLIC LAW 98-21—APR. 20, 1983

TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS

- 26 USC 3121. SEC. 328. (a) Subparagraph (D) of section 3121(a)(5) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".
- 42 USC 409. (b) Subsection (e) of section 209 of the Social Security Act, (as amended by section 324(c)(2) of this Act) is further amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: " , or (8) under a simplified employee pension (as defined in section 408(k) of the Internal Revenue Code of 1954) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment;".
- 26 USC 408. (c) Subparagraph (D) of section 3306(b)(5) of the Internal Revenue Code of 1954 is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".
- 26 USC 3306. (d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.
- Effective dates.  
26 USC 3121  
note. (2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

PART C—OTHER AMENDMENTS

TECHNICAL AND CONFORMING AMENDMENTS TO MAXIMUM  
FAMILY BENEFIT PROVISIONS

- 42 USC 403. SEC. 331. (a)(1) Section 203(a)(3)(A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following:
- 42 USC 415. " (ii) an amount (I) initially equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1), for January of the year determined for purposes of this clause under the following two sentences, with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230, and (II) thereafter increased in accordance with the provisions of section 215(i)(2)(A)(ii).
- 42 USC 430. The year established for purposes of clause (ii) shall be 1983 or, if it occurs later with respect to any individual, the year in which occurred the month that the application of the reduction provisions contained in this subparagraph began with respect to benefits payable on the basis of the wages and self-employment income of the insured individual. If for any month subsequent to the first month for which clause (ii) applies (with respect to benefits payable on the basis of the wages and self-employment income of the insured individual) the reduction under this subparagraph ceases to apply, then the year determined under the preceding sentence shall be redetermined (for purposes of any subsequent application of this subparagraph with respect to benefits payable on the basis of such wages and self-employment income) as though this subparagraph had not been previously applicable."
- (2) Section 203(a)(7) of such Act is amended by striking out everything that follows "shall be reduced to an amount equal to" and inserting in lieu thereof "the amount determined in accordance with the provisions of paragraph (3)(A)(ii) of this subsection, except that for this purpose the references to subparagraph (A) in the last two



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 129

sentences of paragraph (3)(A) shall be deemed to be references to paragraph (7).”

(b) Clause (i) in the last sentence of section 203(b)(1) of such Act (as amended by section 132(b) of this Act) is further amended by striking out “penultimate sentence” and inserting in lieu thereof “first sentence of paragraph (4)”.

*Ante*, p. 94.

(c) The amendments made by subsection (a) shall be effective with respect to payments made for months after December 1983.

Effective date.  
42 USC 403 note.

RELAXATION OF INSURED STATUS REQUIREMENTS FOR CERTAIN  
WORKERS PREVIOUSLY ENTITLED TO A PERIOD OF DISABILITY

SEC. 332. (a) Section 216(i)(3) of the Social Security Act is amended— 42 USC 416.

(1) by striking out the semicolon at the end of clause (ii) of subparagraph (B) and inserting in lieu thereof “, or”; and

(2) by inserting after clause (ii) of such subparagraph the following new clause:

“(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of clause (ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with such quarter are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;”.

(b) Section 223(c)(1)(B) of such Act is amended—

42 USC 423.

(1) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof “, or”; and

(2) by inserting after clause (ii) the following new clause:

“(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of section 216(i)(3)(B)(ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with the quarter in which such month occurs are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;”.

42 USC 416.

(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act, and for disability determinations under section 216(i) of such Act, filed after the date of the enactment of this Act, except that no monthly benefits under title II of the Social Security Act shall be payable or increased by reason of the amendments made by this section for months before the month following the month of enactment of this Act.

Effective date.  
42 USC 416 note.  
42 USC 423.  
42 USC 416.  
42 USC 401.

PROTECTION OF BENEFITS OF ILLEGITIMATE CHILDREN OF DISABLED  
BENEFICIARIES

SEC. 333. (a) The last sentence of section 216(h)(3) of the Social Security Act is amended by striking out “subparagraph (A)(i)” and inserting in lieu thereof “subparagraphs (A)(i) and (B)(i)”.

42 USC 416.

97 STAT. 130

PUBLIC LAW 98-21—APR. 20, 1983

Effective date. (b) The amendment made by subsection (a) shall be effective on  
42 USC 416 note. the date of the enactment of this Act.

ONE-MONTH RETROACTIVITY OF WIDOW'S AND WIDOWER'S INSURANCE  
BENEFITS

42 USC 402. SEC. 334. (a) Section 202(j)(4)(B) of the Social Security Act is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by adding after clause (ii) the following new clause:

“(iii) Subparagraph (A) does not apply to a benefit under subsection (e) or (f) for the month immediately preceding the month of application, if the insured individual died in that preceding month.”.

Effective date. (b) The amendments made by subsection (a) shall apply with  
42 USC 402 note. respect to survivors whose applications for monthly benefits are filed after the second month following the month in which this Act is enacted.

NONASSIGNABILITY OF BENEFITS

42 USC 407. SEC. 335. (a) Section 207 of the Social Security Act is amended—

(1) by inserting “(a)” before “The right”; and

(2) by adding at the end thereof the following new subsection:

“(b) No other provision of law, enacted before, on, or after the date of the enactment of this section, may be construed to limit, supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section.”.

42 USC 659. (b)(1) Section 459(a) of such Act is amended by inserting “(including section 207)” after “any other provision of law”.

Ante, p. 80. (2)(A) Section 86(a) of the Internal Revenue Code of 1954 (as added by section 121(a) of this Act) is amended by inserting “(notwithstanding section 207 of the Social Security Act)” before “includes”.

Ante, p. 82. (B) Section 871(a)(3)(A) of such Code (as added by section 121(c)(1) of this Act) is amended by inserting “(notwithstanding section 207 of the Social Security Act)” after “income”.

Effective date. (c) The amendments made by subsection (a) shall apply only with  
42 USC 407 note. respect to benefits payable or rights existing under the Social Security Act on or after the date of the enactment of this Act.

USE OF DEATH CERTIFICATES TO PREVENT ERRONEOUS BENEFIT  
PAYMENTS TO DECEASED INDIVIDUALS

42 USC 405. SEC. 336. Section 205 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION

“(r)(1) The Secretary shall undertake to establish a program under which—

“(A) States (or political subdivisions thereof) voluntarily contract with the Secretary to furnish the Secretary periodically with information (in a form established by the Secretary in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them; and

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 131

“(B) there will be (i) a comparison of such information on such individuals with information on such individuals in the records being used in the administration of this Act, (ii) validation of the results of such comparisons, and (iii) corrections in such records to accurately reflect the status of such individuals.

“(2) Each State (or political subdivision thereof) which furnishes the Secretary with information on records of deaths in the State or subdivision under this subsection may be paid by the Secretary from amounts available for administration of this Act the reasonable costs (established by the Secretary in consultations with the States) for transcribing and transmitting such information to the Secretary.

“(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this Act, the Secretary shall to the extent feasible provide such information through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

Cooperative arrangements with State or Federal agencies.

“(A) under such arrangement the agency provides reimbursement to the Secretary for the reasonable cost of carrying out such arrangement, and

“(B) such arrangement does not conflict with the duties of the Secretary under paragraph (1).

“(4) The Secretary may enter into similar agreements with States to provide information for their use in programs wholly funded by the States if the requirements of (r)(3)(A) and (r)(3)(B) are met.

“(5) The Secretary may use or provide for the use of such records as may be corrected under this section, subject to such safeguards as the Secretary determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical and research activities conducted by Federal and State agencies.

Information protection.

“(6) Information furnished to the Secretary under this subsection may not be used for any purpose other than the purpose described in this subsection and is exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title.

Information disclosure, exemption.

“(7) The Secretary shall include information on the status of the program established under this section and impediments to the effective implementation of the program in the 1984 report required under section 704 of the Act.”.

42 USC 904.

#### PUBLIC PENSION OFFSET

SEC. 337. (a) Subsections (b)(4)(A), (c)(2)(A), (f)(2)(A), and (g)(4)(A) of section 202 of the Social Security Act, and paragraph (7)(A) of section 202(e) of such Act (as redesignated by section 131(a)(3)(A) of this Act), are each amended—

42 USC 402.

(1) by striking out “by an amount equal to the amount of any monthly periodic benefit” and inserting in lieu thereof “by an amount equal to two-thirds of the amount of any monthly periodic benefit”; and

Ante, p. 92.

(2) by adding at the end thereof the following new sentence: “The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.”.

(b) The amendments made by subsection (a) of this section shall apply only with respect to monthly insurance benefits payable under title II of the Social Security Act to individuals who initially

Effective date.  
42 USC 402 note.  
42 USC 401.

97 STAT. 132

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 402 and  
note. 426.

become eligible (as defined in section 334 of Public Law 95-216) for monthly periodic benefits (within the meaning of the provisions amended by subsection (a)) for months after June 1983.

STUDY CONCERNING THE ESTABLISHMENT OF THE SOCIAL SECURITY  
ADMINISTRATION AS AN INDEPENDENT AGENCY

Joint Study  
Panel on the  
Social Security  
Administration.  
42 USC 902 note.

SEC. 338. (a) There is hereby established, under the authority of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a joint study panel to be known as the Joint Study Panel on the Social Security Administration (hereafter in this section referred to as the "Panel"). The duties of the Panel shall be to conduct the study provided for in subsection (c).

Membership.

(b)(1) The Panel shall be composed of 3 members, appointed jointly by the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and such chairmen shall jointly select one member of the Panel to serve as chairman of the Panel. Members of the Panel shall be chosen, on the basis of their integrity, impartiality, and good judgment, from individuals who, as a result of their training, experience, and attainments, are widely recognized by professionals in the fields of government administration, social insurance, and labor relations as experts in those fields.

Vacancies.

(2) Vacancies in the membership of the Panel shall not affect the power of the remaining members to perform the duties of the Panel and shall be filled in the same manner in which the original appointment was made.

Pay.

(3) Each member of the Panel not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Panel. Each member of the Panel shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

(4) By agreement between the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, such Committees shall provide the Panel, on a reimbursible basis, office space, clerical personnel, and such supplies and equipment as may be necessary for the Panel to carry out its duties under this section. Subject to such limitations as the chairmen of such Committees may jointly prescribe, the Panel may appoint such additional personnel as the Panel considers necessary and fix the compensation of such personnel as it considers appropriate at an annual rate which does not exceed the rate of basic pay then payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary or intermittent services of clerical personnel and experts or consultants, or organizations thereof.

Appropriation  
authorization.

(5) There are hereby authorized to be appropriated to the Panel, from amounts in the general fund of the Treasury not otherwise appropriated, such sums as are necessary to carry out the purposes of this section.

(c)(1) The Panel shall undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 133

implementation of removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, including the possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate.

(2) The Panel in its study under paragraph (1) shall address, analyze, and report specifically on the following matters:

Matters to be analyzed.

(A) the manner in which the transition to an independent agency would be conducted;

(B) the authorities which would have to be transferred or amended in such a transition;

(C) the program or programs which would be included within the jurisdiction of the new agency;

(D) the legal and other relationships of the Social Security Administration with other organizations which would be required as a result of establishing the Social Security Administration as an independent agency; and

(E) any other details which may be necessary for the development of appropriate legislation to establish the Social Security Administration as an independent agency.

(d) The Panel shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than April 1, 1984, a report of the findings of the study conducted under subsection (c), together with any recommendations the Panel considers appropriate. The Panel and all authority granted in this section shall expire thirty days after the date of the submission of its report under this section.

Report to congressional committees.

Expiration date.

LIMITATION ON PAYMENTS TO PRISONERS

SEC. 339. (a) Section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 402.

“(x)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

42 USC 423.

“(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section or section 223.

“(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of any individual who is confined in a jail, prison, or other penal

97 STAT. 134

PUBLIC LAW 98-21—APR. 20, 1983

institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.”

42 USC 423.

(b) Section 223 of such Act is amended by striking out subsection (f).

Effective date.

42 USC 402 note.

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits payable for months beginning on or after the date of enactment of this Act.

REQUIREMENT OF PREVIOUS UNITED STATES RESIDENCY FOR ALIEN  
DEPENDENTS AND SURVIVORS LIVING OUTSIDE THE UNITED STATES

42 USC 402.

SEC. 340. (a) Section 202(t) of the Social Security Act is amended—

(1) in the heading, by adding after “United States” the following: “; Residency Requirements for Dependents and Survivors”; and

(2) by adding at the end thereof the following new paragraph:  
“(11)(A) Paragraph (2) and subparagraphs (A), (B), (C), and (E) of paragraph (4) shall apply with respect to an individual’s monthly benefits under subsection (b), (c), (d), (e), (f), (g), or (h) only if such individual meets the residency requirements of this paragraph with respect to those benefits.

“(B) An individual entitled to benefits under subsection (b), (c), (e), (f), or (g) meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing bore a spousal relationship to the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years. For purposes of this subparagraph, a period of time for which an individual bears a spousal relationship to another person consists of a period throughout which the individual has been, with respect to such other person, a wife, a husband, a widow, a widower, a divorced wife, a divorced husband, a surviving divorced wife, a surviving divorced husband, a surviving divorced mother, a surviving divorced father, or (as applicable in the course of such period) any two or more of the foregoing.

“(C) An individual entitled to benefits under subsection (d) meets the residency requirements of this paragraph with respect to those benefits only if—

“(i)(I) such individual has resided in the United States (as the child of the person on whose wages and self-employment income such entitlement is based) for a total period of not less than 5 years, or

“(II) the person on whose wages and self-employment income such entitlement is based, and the individual’s other parent (within the meaning of subsection (h)(3)), if any, have each resided in the United States for a total period of not less than 5 years (or died while residing in the United States), and

“(ii) in the case of an individual entitled to such benefits as an adopted child, such individual was adopted within the United States by the person on whose wages and self-employment income such entitlement is based, and has lived in the United States with such person and received at least one-half of his or her support from such person for a period (beginning before such individual attained age 18) consisting of—

“(I) the year immediately before the month in which such person became eligible for old-age insurance benefits or disability insurance benefits or died, whichever occurred first, or

“(II) if such person had a period of disability which continued until he or she became entitled to old-age insurance benefits or disability insurance benefits or died, the year immediately before the month in which such period of disability began.

“(D) An individual entitled to benefits under subsection (h) meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing was a parent (within the meaning of subsection (h)(3)) of the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years.

“(E) This paragraph shall not apply with respect to any individual who is a citizen or resident of a foreign country with which the United States has an agreement in force concluded pursuant to section 233, except to the extent provided by such agreement.”.

42 USC 433.

42 USC 402.

(b) Paragraphs (2) and (4) of section 202(t) of such Act are each amended by striking out “Paragraph (1) shall not apply” and inserting in lieu thereof “Subject to paragraph (11), paragraph (1) shall not apply”.

(c) The amendments made by this section shall apply with respect to any individual who initially becomes eligible for benefits under section 202 or 223 after December 31, 1984.

Effective date.

42 USC 402 note.

#### ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARD OF TRUSTEES

SEC. 341. (a) Section 201(c) of the Social Security Act is amended—

*Ante*, p. 107.

(1) in the first sentence, by striking out “Secretary of Health, Education, and Welfare, all ex officio” and inserting in lieu thereof “Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate”; and

(2) by adding at the end thereof the following new sentence: “A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.”.

(b) Section 1817(b) of such Act is amended—

*Ante*, p. 107.

(1) in the first sentence, by striking out “Secretary of Health, Education, and Welfare, all ex officio” and inserting in lieu thereof “Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate”; and

(2) by adding at the end thereof the following new sentence: “A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.”.

(c) Section 1841(b) of such Act is amended—

*Ante*, p. 107.

(1) in the first sentence, by striking out “Secretary of Health, Education, and Welfare, all ex officio” and inserting in lieu

97 STAT. 136

PUBLIC LAW 98-21—APR. 20, 1983

thereof "Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate"; and

(2) by adding at the end thereof the following new sentence: "A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund."

Effective date.  
42 USC 401 note.

(d) The amendments made by this section shall become effective on the date of enactment of this Act.

PAYMENT SCHEDULE BY STATE AND LOCAL GOVERNMENTS

42 USC 418.

SEC. 342. (a) Section 218(e)(1)(A) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury—

26 USC 3101,  
3111.

"(i) on the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 with respect to the period which includes the first fifteen days of such calendar month if the services for which wages were paid in such period to employees covered by the agreement constituted employment as defined in section 3121 of such Code, and

26 USC 3121.

"(ii) on the fifteenth day of the calendar month following such calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of such Code with respect to the period beginning with the sixteenth day of such calendar month and ending with the last day of such calendar month if the services for which wages were paid in such period to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and"

Effective date.  
42 USC 418 note.

(b) The amendments made by this section shall apply to calendar months beginning after December 31, 1983.

EARNINGS SHARING IMPLEMENTATION REPORT

42 USC 902 note.

SEC. 343. (a) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall develop, in consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, proposals for earnings sharing legislation as described in subsection (b). The Secretary shall report such proposals to such committees not later than July 1, 1984. The report and proposals provided to such committees shall—

(1) take into account, discuss, and analyze the impact of earnings sharing on various categories of social security beneficiaries and include recommendations for the implementation of earnings sharing which may be necessary to provide adequate protection for particular classes of beneficiaries;

(2) include specific recommendations with respect to an appropriate and feasible time period or time periods for implementation of such proposals along with recommendations for any transition provisions which may be necessary or appropriate; and



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 137

(3) provide cost-impact analyses on each proposal presented.

(b) For the purposes of subsection (a), the term "earnings sharing" refers to proposals that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for social security benefit purposes.

(c) In preparing the report and proposals required in subsection (a), the Secretary shall include consideration and analysis of the earnings sharing proposals contained in (1) S. 3, 98th Congress, 1st Session, (2) H.R. 1513, 97th Congress, 1st Session, and (3) the earnings sharing option described in the report entitled "Social Security and the Changing Roles of Men and Women", submitted to the Congress pursuant to Public Law 95-216, the Social Security Amendments of 1977.

42 USC 1305  
note.

(d) In carrying out subsections (a), (b), and (c), the Secretary shall consult with the Director of the Congressional Budget Office. Not later than 30 days after the Secretary submits the report required in subsection (a), the Director of the Congressional Budget Office shall submit a report to the committees identified in such subsection on the methodologies, recommendations, and analyses used in the Secretary's report.

VETERANS' ADMINISTRATION REORGANIZATION

SEC. 344. The requirements of section 210(b)(2)(A) of title 38, United States Code, shall not apply to the planned administrative reorganization at the Veterans' Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees from the Office of Data Management and Technology to the Department of Medicine and Surgery of the Veterans' Administration.

SOCIAL SECURITY CARDS

SEC. 345. (a) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph: "(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited."

42 USC 405.

(b) The amendment made by this section shall apply with respect to all new and replacement social security cards issued more than 193 days after the date of the enactment of this Act.

Effective date.  
42 USC 405 note.

(c) Within 90 days after the date of the enactment of this Act the Secretary of Health and Human Services shall report to the Congress on his plans for implementing the amendment made by this section.

Report to  
Congress.

BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

SEC. 346. (a)(1) Title VII of the Social Security Act (as amended by section 143 of this Act) is further amended by adding at the end thereof the following new section:

Ante, p. 102.

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. The disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust

42 USC 911.

97 STAT. 138

PUBLIC LAW 98-21—APR. 20, 1983

Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Funds, including the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954, shall be set forth separately in such budgets.”.

26 USC 1401,  
3101, 3111.

Effective date.  
42 USC 911 note.

(2) The amendment made by paragraph (1) shall apply with respect to fiscal years beginning on or after October 1, 1984, and ending on or before September 30, 1992, except that such amendment shall apply with respect to the fiscal year beginning on October 1, 1983, to the extent it relates to the congressional budget.

*Ante*, p. 137.

(b) Effective for fiscal years beginning on or after October 1, 1992, section 710 of such Act (as added by subsection (a) of this section) is amended to read as follows:

#### “BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

“SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund and the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

“(b) The disbursements of the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Fund shall be set forth separately in such budgets.”.

#### LIBERALIZATION OF EARNINGS TEST

42 USC 403.

SEC. 347. (a) Section 203(f)(3) of the Social Security Act is amended by striking out “50 per centum of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)” and inserting in lieu thereof the following: “33⅓ percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) in the case of an individual who has attained retirement age (as defined in section 216(l)) before the close of such taxable year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual”.

42 USC 416.

Effective date.  
42 USC 403 note.

(b) The amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 1989, and only in the case of individuals who have attained retirement age (as defined in section 216(l) of the Social Security Act).

#### TITLE IV—SUPPLEMENTAL SECURITY INCOME BENEFITS

##### INCREASE IN FEDERAL SSI BENEFIT STANDARD

42 USC 1382f.

SEC. 401. (a)(1) Section 1617 of the Social Security Act is amended by adding at the end thereof the following new subsection:

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 139

“(c) Effective July 1, 1983—

“(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611, as previously increased under this section, shall be increased by \$240 (and the dollar amount in effect under subsection (a)(1)(A) of section 211 of Public Law 93-66, as previously so increased, shall be increased by \$120); and

42 USC 1382.

87 Stat. 154.

“(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as previously increased under this section, shall be increased by \$360.”

(2) Section 1617(b) of such Act is amended by striking out “this section” and inserting in lieu thereof “subsection (a) of this section”.

42 USC 1382f.

(b) Section 1617(a)(2) of such Act is amended by inserting “, or, if greater (in any case where the increase under title II was determined on the basis of the wage increase percentage rather than the CPI increase percentage), the percentage by which benefit amounts under title II would be increased for such month if the increase had been determined on the basis of the CPI increase percentage,” after “are increased for such month”.

42 USC 401.

ADJUSTMENTS IN FEDERAL SSI PASS-THROUGH PROVISIONS

SEC. 402. Section 1618 of the Social Security Act is amended by redesignating the subsection (c) which was added by Public Law 97-377 as subsection (d), and by adding at the end thereof the following new subsection:

96 Stat. 1917.

42 USC 1382g.

“(e)(1) For any particular month after March 1983, a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) shall be treated as meeting such requirements if and only if—

“(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for that particular month,

is not less than—

“(B) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefit increases under this title) which have occurred after March 1983 and before that particular month.

“(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Amendments of 1983 had not been enacted.”

42 USC 415.

*Ante*, p. 72.

97 STAT. 140

PUBLIC LAW 98-21—APR. 20, 1983

SSI ELIGIBILITY FOR TEMPORARY RESIDENTS OF EMERGENCY SHELTERS  
FOR THE HOMELESS

42 USC 1382.

SEC. 403. (a) Section 1611(e)(1) of the Social Security Act is amended—

(1) by striking out “subparagraph (B) and (C)” in subparagraph (A) and inserting in lieu thereof “subparagraphs (B), (C), and (D)”; and

(2) by adding at the end thereof the following new subparagraph:

“(D) A person may be an eligible individual or eligible spouse for purposes of this title with respect to any month throughout which he is a resident of a public emergency shelter for the homeless (as defined in regulations which shall be prescribed by the Secretary); except that no person shall be an eligible individual or eligible spouse by reason of this subparagraph more than three months in any 12-month period.”

Effective date.  
42 USC 1382  
note.

(b) The amendments made by subsection (a) shall be effective with respect to months after the month in which this Act is enacted.

DISREGARDING OF EMERGENCY AND OTHER IN-KIND ASSISTANCE  
PROVIDED BY NONPROFIT ORGANIZATIONS

42 USC 1382a.

SEC. 404. (a) Section 1612(b)(13) of the Social Security Act is amended by striking out “any assistance received” and all that follows down through “(B)” and inserting in lieu thereof the following: “any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which”.

42 USC 602.

(b) Section 402(a)(36) of such Act is amended by striking out “shall not include as income” and all that follows down through “(B)” and inserting in lieu thereof the following: “shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which”.

Effective date.  
42 USC 602 note.

(c) The amendments made by this section shall be effective with respect to months which begin after the month in which this Act is enacted and end before October 1, 1984.

NOTIFICATION REGARDING SSI

42 USC 1382  
note.

42 USC 401.

42 USC 1381.

SEC. 405. Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act who may be eligible for supplemental security income benefits under title XVI of such Act of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplementary medical insurance.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 141

# **TITLE V—UNEMPLOYMENT COMPENSATION PROVISIONS**

## **PART A—FEDERAL SUPPLEMENTAL COMPENSATION**

### **EXTENSION OF PROGRAM**

**SEC. 501.** (a) Paragraph (2) of section 602(f) of the Federal Supplemental Compensation Act of 1982 is amended by striking out “March 31, 1983” and inserting in lieu thereof “September 30, 1983”.

96 Stat. 702.  
26 USC 3304  
note.

(b) Section 605(2) of such Act is amended by striking out “April 1, 1983” and inserting in lieu thereof “October 1, 1983”.

96 Stat. 705.  
26 USC 3304  
note.

### **NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE**

**SEC. 502.** (a) Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

96 Stat. 702.  
26 USC 3304  
note.

“(2)(A) In the case of any account from which Federal supplemental compensation was first payable to an individual for a week beginning after March 31, 1983, the amount established in such account shall be equal to the lesser of—

“(i) 55 per centum of the total amount of regular compensation (including dependents’ allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

“(ii) the applicable limit determined under the following table times his average weekly benefit amount for his benefit year:

“In the case of weeks during a:	The applicable limit is:
6-percent period.....	14
5-percent period.....	12
4-percent period.....	10
Low-unemployment period.....	8

“(B) In the case of any State whose applicable limit, as determined under clause (ii) of subparagraph (A) for the first week beginning after March 27, 1983, and after the date of the enactment of part A of title V of the Social Security Amendments of 1983, would be more than 4 weeks lower than the number of weeks applicable to such State under this paragraph as in effect for the week beginning March 27, 1983, the applicable limit for such State for that week and any succeeding week shall not be lower than 4 less than the number so applicable to such State for the week beginning March 27, 1983.

*Supra.*

“(C) In the case of any account from which Federal supplemental compensation was payable to an individual for a week beginning before April 1, 1983, the amount established in such account shall be equal to the lesser of the subparagraph (A) entitlement or the sum of—

“(i) the subparagraph (A) entitlement reduced (but not below zero) by the aggregate amount of Federal supplemental compensation paid to such individual for weeks beginning before April 1, 1983, plus

“(ii) such individual’s additional entitlement.

“(D) For purposes of subparagraph (C) and this subparagraph—

97 STAT. 142

PUBLIC LAW 98-21—APR. 20, 1983

## Definitions.

“(i) The term ‘subparagraph (A) entitlement’ means the amount which would have been established in the account if subparagraph (A) had applied to such account.

“(ii) The term ‘additional entitlement’ means the lesser of—

“(I) three-fourths of the subparagraph (A) entitlement, or

“(II) the applicable limit determined under the following table times the individual’s average weekly benefit amount for his benefit year:

<b>“In the case of weeks during a:</b>	<b>The applicable limit is:</b>
6-percent period.....	10
5-percent period.....	8
4-percent period.....	8
Low-employment period.....	6

“(E) Except as provided in subparagraph (C)(i), for purposes of determining the amount of Federal supplemental compensation payable for weeks beginning after March 31, 1983, from an account described in subparagraph (C), no reduction in such account shall be made by reason of any Federal supplemental compensation paid to the individual for weeks beginning before April 1, 1983.

## Definitions.

“(3)(A) For purposes of this subsection, the terms ‘6-percent period’, ‘5-percent period’, ‘4 percent period’, and ‘low-unemployment period’ mean, with respect to any State, the period which—

“(i) begins with the 3d week after the 1st week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls in the applicable range, and

“(ii) ends with the 3d week after the 1st week in which the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks does not fall within the applicable range.

“(B) For purposes of subparagraph (A), the applicable range is as follows:

<b>“In the case of a:</b>	<b>The applicable range is:</b>
6-percent period.....	A rate equal to or exceeding 6 percent.
5-percent period.....	A rate equal to or exceeding 5 percent but less than 6 percent.
4-percent period.....	A rate equal to or exceeding 4 percent but less than 5 percent.
Low-employment period.....	A rate less than 4 percent.

“(C) No 6-percent period, 5-percent period, or 4-percent period, as the case may be, shall last for a period of less than 4 weeks unless the State enters a period with a higher percentage designation.

“(D) For purposes of this subsection—

“(i) The rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

“(ii) The amount of an individual’s average weekly benefit amount shall be determined in the same manner as determined for purposes of section 202(b)(1)(C) of such Act.”

(b)(1) Section 602(f)(2) of such Act is amended by inserting before the period at the end thereof the following: “; except that in the case of any individual who received such compensation for the week preceding the last week beginning after such date, such compensation shall be payable to such individual for weeks beginning after

26 USC 3304  
note.

26 USC 3304  
note.

96 Stat. 702.  
26 USC 3304  
note.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 143

such date, but the total amount of such compensation payable for such weeks shall be limited to 50 percent of the total amount which would otherwise be payable for such weeks”.

(2) Section 605(2) of such Act is amended by inserting before the semicolon the following: “(except as otherwise provided in section 602(f)(2))”.

96 Stat. 705.  
26 USC 3304  
note.

(c) Paragraph (3) of section 602(d) of the Federal Supplemental Compensation Act of 1982 is amended to read as follows:

96 Stat. 702.  
26 USC 3304  
note.

“(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, the amount which would have been established in such account if the amount established in such account were determined by reference to the applicable limit under subparagraph (A)(ii) or (D)(ii) of subsection (e)(2) applicable in the State in which the individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.”

EFFECTIVE DATE

SEC. 503. (a) The amendments made by this part shall apply to weeks beginning after March 31, 1983.

26 USC 3304  
note.

(b) In the case of any eligible individual—

(1) to whom any Federal supplemental compensation was payable for any week beginning before April 1, 1983, and

(2) who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) before the first week beginning after March 31, 1983,

such individual's eligibility for additional weeks of compensation by reason of the amendments made by this part shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and before April 1, 1983 (and the period after such exhaustion and before April 1, 1983, shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Federal Supplemental Compensation Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Federal Supplemental Compensation Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this part. Notwithstanding any other provision of law, if any State fails or refuses, within the 3-week period beginning on the date the Secretary of Labor proposed such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such 3-week period.

State  
modifications.

97 STAT. 144

PUBLIC LAW 98-21—APR. 20, 1983

TRAINING

96 Stat. 702.  
26 USC 3304  
note.

SEC. 504. Section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new subsection:

“(g) The payment of Federal supplemental compensation shall not be denied to any recipient (who submits documentation prescribed by the Secretary) for any week because the recipient is in training or attending an accredited educational institution on a substantially full-time basis, or because of the application of State law to any such recipient relating to the availability for work, the active search for work, or the refusal to accept work on account of such training or attendance, unless the State agency determines that such training or attendance will not improve the opportunities for employment of the recipient.”.

COORDINATION WITH TRADE READJUSTMENT PROGRAM

96 Stat. 702.  
26 USC 3304  
note.

SEC. 505. Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new paragraph:

“(5)(A) Except as provided in subparagraph (B), the maximum amount of Federal supplemental compensation payable to an individual shall not be reduced by reason of any trade readjustment allowance to which the individual was entitled under the Trade Act of 1974.

19 USC 2101.

“(B) If an individual received any trade readjustment allowance under the Trade Act of 1974 in respect of any benefit year, the maximum amount of Federal supplemental compensation payable under this subtitle in respect of such benefit year shall be reduced (but not below zero) so that (to the extent possible by making such a reduction) the aggregate amount of—

“(i) regular compensation,

“(ii) extended compensation,

“(iii) trade readjustment allowances, and

“(iv) Federal supplemental compensation,

payable in respect of such benefit year does not exceed the aggregate amount which would have been so payable had the individual not been entitled to any trade readjustment allowance.”

PART B—PROVISIONS RELATING TO INTEREST AND CREDIT  
REDUCTIONS

DEFERRAL OF INTEREST

42 USC 1322.

SEC. 511. (a) Section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraphs:

“(8)(A) With respect to interest due under this section on September 30 of 1983, 1984, or 1985 (other than interest previously deferred under paragraph (3)(C)), a State may pay 80 percent of such interest in four annual installments of at least 20 percent beginning with the year after the year in which it is otherwise due, if such State meets the criteria of subparagraph (B). No interest shall accrue on such deferred interest.

“(B) To meet the criteria of this subparagraph a State must—

“(i) have taken no action since October 1, 1982, which would reduce its net unemployment tax effort or the net solvency of its



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 145

unemployment system (as determined for purposes of section 3302(f) of the Internal Revenue Code of 1954); and

26 USC 3302.

“(ii)(I) have taken an action (as certified by the Secretary of Labor) after March 31, 1982, which would have increased revenue liabilities and decreased benefits under the State’s unemployment compensation system (hereinafter referred to as a ‘solvency effort’) by a combined total of the applicable percentage (as compared to such revenues and benefits as would have been in effect without such State action) for the calendar year for which the deferral is requested; or

“(II) have had, for taxable year 1982, an average unemployment tax rate which was equal to or greater than 2.0 percent of the total of the wages (as determined without any limitation on amount) attributable to such State subject to contribution under the State unemployment compensation law with respect to such taxable year.

In the case of the first year for which there is a deferral (over a 4-year period) of the interest otherwise payable for such year, the applicable percentage shall be 25 percent. In the case of the second such year, the applicable percentage shall be 35 percent. In the case of the third such year, the applicable percentage shall be 50 percent.

“(C)(i) The base year is the first year for which deferral under this provision is requested and subsequently granted. The Secretary of Labor shall estimate the unemployment rate for the base year. To determine whether a State meets the requirements of subparagraph (B)(ii)(I), the Secretary of Labor shall determine the percentage by which the benefits and taxes in the base year with the application of the action referred to in subparagraph (B)(ii)(I) are lower or greater, as the case may be, than such benefits and taxes would have been without the application of such action. In making this determination, the Secretary shall deem the application of the action referred to in subparagraph (B)(ii)(I) to have been effective for the base year to the same extent as such action is effective for the year following the year for which the deferral is sought. Once a deferral is approved under clause (ii)(I) of subparagraph (B) a State must continue to maintain its solvency effort. Failure to do so shall result in the State being required to make immediate payment of all deferred interest.

“(ii) Increases in the taxable wage base from \$6,000 to \$7,000 or increases after 1984 in the maximum tax rate to 5.4 percent shall not be counted for purposes of meeting the requirement of subparagraph (B).

“(D) In the case of a State which produces a solvency effort of 50 percent, 80 percent, and 90 percent rather than the 25 percent, 35 percent, and 50 percent required under subparagraph (B), the interest shall be computed at an interest rate which is 1 percentage point less than the otherwise applicable interest rate.

“(9) Any interest otherwise due from a State on September 30 of a calendar year after 1982 may be deferred (and no interest shall accrue on such deferred interest) for a grace period of not to exceed 9 months if, for the most recent 12-month period for which data are available before the date such interest is otherwise due, the State had an average total unemployment rate of 13.5 percent or greater.”

(b) Section 1202(b)(7) of such Act is amended by striking out “, and before January 1, 1988”.

42 USC 1322.

97 STAT. 146

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 1322.

(c) Section 1202(b)(3)(C)(i) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting “No interest shall accrue on such deferred interest.”

CAP ON CREDIT REDUCTION

26 USC 3302.

SEC. 512. (a)(1) Section 3302(f) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

“(8) PARTIAL LIMITATION.—

“(A) In the case of a State which would meet the requirements of this subsection for a taxable year prior to 1987 but for its failure to meet one of the requirements contained in subparagraph (C) or (D) of paragraph (2), the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be reduced by 0.1 percentage point.

“(B) In the case of a State which does not meet the requirements of paragraph (2) but meets the requirements of subparagraphs (A) and (B) of paragraph (2) and which also meets the requirements of section 1202(b)(8)(B) of the Social Security Act with respect to such taxable year, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be further reduced by an additional 0.1 percentage point.

“(C) In no case shall the application of subparagraphs (A) and (B) reduce the credit reduction otherwise applicable under subsection (c)(2) below the limitation under paragraph (1).”

*Ante*, p. 144.

Effective date.  
26 USC 3302  
note.

(2) The amendment made by paragraph (1) shall apply with respect to taxable year 1983 and taxable years thereafter.

(b) Section 3302(f)(1) of such Code is amended by striking out “beginning before January 1, 1988,”.

AVERAGE EMPLOYER CONTRIBUTION RATE

26 USC 3302.

SEC. 513. (a) Section 3302(d)(4)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

“(B)(i) for purposes of subparagraph (B) of subsection (c)(2), the total of the wages (as determined without any limitation on amount) attributable to such State subject to contributions under this chapter with respect to such calendar year, and

“(ii) for purposes of subparagraph (C) of subsection (c)(2), the total of the remuneration subject to contributions under the State unemployment compensation law with respect to such calendar year.”

(b) Section 3302(c)(2)(B)(i) of such Code is amended by striking out “2.7” and inserting in lieu thereof “2.7 multiplied by a fraction, the numerator of which is the wage base under this chapter and the denominator of which is the estimated United States average

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 147

annual wage in covered employment for the calendar year in which the determination is to be made”.

(c) Section 3302(c)(2)(B) of such Code is amended by inserting after “(if any)” the following: “, multiplied by a fraction, the numerator of which is the State’s average annual wage in covered employment for the calendar year in which the determination is made and the determination of which is the wage base under this chapter,”.

26 USC 3302.

(d) The amendments made by this section shall be effective for taxable year 1983 and taxable years thereafter.

Effective date.  
26 USC 3302  
note.

DATE FOR PAYMENT OF INTEREST

SEC. 514. Section 1202(b)(3)(A) of the Social Security Act is amended by striking out “not later than” and inserting in lieu thereof “prior to”.

42 USC 1322.

PENALTY FOR FAILURE TO PAY INTEREST

SEC. 515. (a) Section 303(c) of the Social Security Act is amended by striking out “or” at the end of paragraph (1), striking out the period at the end of paragraph (2) and inserting “; or”, and adding at the end thereof the following new paragraph:

42 USC 503.

“(3) that any interest required to be paid on advances under title XII of this Act has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State’s unemployment fund, until such interest is properly paid.”.

(b) Section 3304(a) of the Internal Revenue Code of 1954 (relating to certification of State unemployment compensation laws) is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

26 USC 3304.

“(17) any interest required to be paid on advances under title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State’s unemployment fund; and”.

PART C—MISCELLANEOUS PROVISIONS

TREATMENT OF EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

SEC. 521. (a)(1) Section 3304(a)(6)(A) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new clause:

26 USC 3304.

“(v) with respect to services to which section 3309(a)(1) applies, if such services are provided to or on behalf of an educational institution, compensation may be denied under the same circumstances as described in clauses (i) through (iv), and”.

(2) Clauses (ii)(I), (iii), and (iv) of such section are each amended by striking out “may be denied” and inserting in lieu thereof “shall be denied”.

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after April 1, 1984.

Effective date.  
26 USC 3304  
note.

97 STAT. 148

PUBLIC LAW 98-21—APR. 20, 1983

Session. (2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to comply with the amendment made by this section, the amendment made by this section shall apply in the case of compensation paid for weeks which begin on or after April 1, 1984, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

26 USC 3304 note. SEC. 522. (a) Clause (ii) of paragraph (3)(A) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(ii) during which he fails to actively engage in seeking work, unless such individual is not actively engaged in seeking work because such individual is, as determined in accordance with State law—

"(I) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty (as such term may be defined by the Secretary of Labor), or

"(II) hospitalized for treatment of an emergency or a life-threatening condition (as such term may be defined by such Secretary),

if such exemptions in clauses (I) and (II) apply to recipients of regular benefits, and the State chooses to apply such exemptions for recipients of extended benefits."

Effective date. 26 USC 3304 note. (b) The amendment made by this section shall become effective on the date of the enactment of this Act.

VOLUNTARY HEALTH INSURANCE PROGRAMS PERMITTED

26 USC 3304. SEC. 523. (a) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by adding after subparagraph (B) the following new subparagraph:

"(C) nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;"

42 USC 503. (b) AMENDMENT OF SOCIAL SECURITY ACT.—Paragraph (5) of section 303(a) of the Social Security Act is amended by striking out "; and" at the end thereof and inserting in lieu thereof "*Provided further*, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 149

pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor; and”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 3304  
note.

**TREATMENT OF CERTAIN ORGANIZATIONS RETROACTIVELY DETERMINED  
TO BE DESCRIBED IN SECTION 501(C) (3) OF THE INTERNAL REVENUE  
CODE OF 1954**

**SEC. 524. If—**

(1) an organization did not make an election to make payments (in lieu of contributions) as provided in section 3309(a)(2) of the Internal Revenue Code of 1954 before April 1, 1972, because such organization, as of such date, was treated as an organization described in section 501(c)(4) of such Code,

26 USC 3303  
note.

26 USC 3309.

(2) the Internal Revenue Service subsequently determined that such organization was described in section 501(c)(3) of such Code, and

26 USC 501.

(3) such organization made such an election before the earlier of—

(A) the date 18 months after such election was first available to it under the State law, or

(B) January 1, 1984,

then section 3303(f) of such Code shall be applied with respect to such organization as if it did not contain the requirement that the election be made before April 1, 1972, and by substituting “January 1, 1982” for “January 1, 1969”.

26 USC 3303.

**TITLE VI—PROSPECTIVE PAYMENTS FOR MEDICARE  
INPATIENT HOSPITAL SERVICES**

**MEDICARE PAYMENTS FOR INPATIENT HOSPITAL SERVICES ON THE BASIS  
OF PROSPECTIVE RATES**

**SEC. 601.** (a)(1) Subsection (a)(1) of section 1886 of the Social Security Act is amended by adding at the end the following new subparagraph:

96 Stat. 331.  
42 USC 1395ww.

“(D) Subparagraph (A) shall not apply to cost reporting periods beginning on or after October 1, 1983.”.

(2) Subsection (a)(4) of such section is amended by adding at the end the following new sentence: “Such term does not include costs of approved educational activities, or, with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986, capital-related costs, as defined by the Secretary.”.

(3) It is the intent of Congress that, in considering the implementation of a system for including capital-related costs under a prospectively determined payment rate for inpatient hospital services, costs related to capital projects for which expenditures are obligated on or after the effective date of the implementation of such a system, may or may not be distinguished and treated differently from costs of projects for which expenditures were obligated before such date.

42 USC 1395ww  
note.

(b) Section 1886(b) of such Act is amended—

(1) by striking out “Notwithstanding sections 1814(b), but subject to the provisions of sections” in paragraph (1) and

42 USC 1395f.

97 STAT. 150

PUBLIC LAW 98-21—APR. 20, 1983

inserting in lieu thereof “Notwithstanding section 1814(b) but subject to the provisions of section”;

(2) by inserting “(other than a subsection (d) hospital, as defined in subsection (d)(1)(B))” in the matter before subparagraph (A) of paragraph (1) after “of a hospital”;

(3) by inserting, in the matter in paragraph (1) following subparagraph (B), “(other than on the basis of a DRG prospective payment rate determined under subsection (d))” after “payable under this title”;

(4) by repealing paragraph (2);

(5) by inserting “and subsection (d) and except as provided in subsection (e)” in paragraph (3)(B) after “subparagraph (A)”;

(6) by inserting “or fiscal year” after “cost reporting period” each place it appears in paragraph (3)(B);

(7) by inserting “before the beginning of the period or year” in paragraph (3)(B) after “estimated by the Secretary”;

(8) by striking out “exceeds” in paragraph (3)(B) and inserting in lieu thereof “will exceed”; and

(9) by repealing paragraph (6), effective with respect to cost reporting periods beginning on or after October 1, 1982, and by inserting after paragraph (5), effective with respect to cost reporting periods beginning on or after October 1, 1983, the following new paragraph (6):

26 USC 3111.

“(6) In the case of any hospital which becomes subject to the taxes under section 3111 of the Internal Revenue Code of 1954, with respect to any or all of its employees, for part or all of a cost reporting period, and was not subject to such taxes with respect to any or all of its employees for all or part of the 12-month base cost reporting period referred to in subsection (b)(3)(A)(i), the Secretary shall provide for an adjustment by increasing the base period amount described in such subsection for such hospital by an amount equal to the amount of such taxes which would have been paid or accrued by such hospital for such base period if such hospital had been subject to such taxes for all of such base period with respect to all its employees, minus the amount of any such taxes actually paid or accrued for such base period.”.

(c)(1) Subsection (c)(1) of such section is amended—

(A) by striking out “and” at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon, and

(C) by adding at the end the following:

42 USC 1395mm.

“(D) the Secretary determines that the system will not preclude an eligible organization (as defined in section 1876(b)) from negotiating directly with hospitals with respect to the organization’s rate of payment for inpatient hospital services; and

42 USC 1395cc.

“(E) the Secretary determines that the system requires hospitals to meet the requirement of section 1866(a)(1)(G) and the system provides for the exclusion of certain costs in accordance with section 1862(a)(14) (except for such waivers thereof as the Secretary provides by regulation).

42 USC 1395y.

The Secretary cannot deny the application of a State under this subsection on the ground that the State’s hospital reimbursement control system is based on a payment methodology other than on the basis of a diagnosis-related group or on the ground that the amount of payments made under this title under such system must be less than the amount of payments which would otherwise have

been made under this title not using such system. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period, the State has the option of applying such test (for inpatient hospital services under part A) on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining aggregate payment amounts below a national average percentage increase in total payments under part A for inpatient hospital services, the Secretary cannot deny the application of a State under this subsection on the ground that the State's rate of increase in such payments for such services must be less than such national average rate of increase."

(2) Subsection (c)(3) of such section is amended—

(A) by striking out "requirement of paragraph (1)(A)" and inserting in lieu thereof "requirements of subparagraphs (A), (D), and (E) of paragraph (1) and, if applicable, the requirements of paragraph (5).", and

(B) by inserting "(or, if applicable, in paragraph (5))" in subparagraph (B) after "paragraph (1)".

(3) Subsection (c) of such section is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system, and

"(B) with respect to that system a waiver of certain requirements of title XVIII of the Social Security Act has been approved on or before (and which is in effect as of) the date of the enactment of the Social Security Amendments of 1983, pursuant to section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972.

42 USC 1395.

42 USC 1395b-1.

42 USC 1395b-1 note.

With respect to a State system described in this paragraph, the Secretary shall judge the effectiveness of such system on the basis of its rate of increase or inflation in inpatient hospital payments for individuals under this title, as compared to the national rate of increase or inflation for such payments, with the State retaining the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during the three cost reporting periods beginning on or after October 1, 1983, after which such test, at the option of the Secretary, shall no longer apply, and such State systems shall be treated in the same manner as under other waivers.

"(5) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met with respect to the system;

"(B) the Secretary determines that the system—

"(i) is operated directly by the State or by an entity designated pursuant to State law,

"(ii) provides for payment of hospitals covered under the system under a methodology (which sets forth exceptions and adjustments, as well as any method for changes in the

97 STAT. 152

PUBLIC LAW 98-21—APR. 20, 1983

methodology) by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period, and

“(iii) hospitals covered under the system will make such reports (in lieu of cost and other reports, identified by the Secretary, otherwise required under this title) as the Secretary may require in order to properly monitor assurances provided under this subsection;

“(C) the State has provided the Secretary with satisfactory assurances that operation of the system will not result in any change in hospital admission practices which result in—

“(i) a significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services,

“(ii) a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services,

“(iii) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

“(iv) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services;

“(D) any change by the State in the system which has the effect of materially reducing payments to hospitals can only take effect upon 60 days notice to the Secretary and to the hospitals the payment to which is likely to be materially affected by the change; and

“(E) the State has provided the Secretary with satisfactory assurances that in the development of the system the State has consulted with local governmental officials concerning the impact of the system on public hospitals.

The Secretary shall respond to requests of States under this paragraph within 60 days of the date the request is submitted to the Secretary.

“(6) If the Secretary determines that the assurances described in paragraph (1)(C) have not been met with respect to any 36-month period, the Secretary may reduce payments under this title to hospitals under the system in an amount equal to the amount by which the payment under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title not using such system.”

96 Stat. 339.  
42 USC 1395ww.

(d) Subsection (d) of such section, as added by section 110 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

(1) by striking out “section 1814(b)” in paragraph (2)(A) and inserting in lieu thereof “subsection (b)”, and

42 USC 1395f.

(2) by redesignating the subsection as subsection (j) and transferring and inserting such subsection at the end of section 1814 of the Social Security Act under the following heading:

“Elimination of Lesser-of-Cost-or-Charges Provision”.

96 Stat. 331.  
42 USC 1395ww.

(e) Such section 1886 is further amended by adding at the end the following new subsections:



“(d)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a subsection (d) hospital (as defined in subparagraph (B)) for inpatient hospital discharges in a cost reporting period or in a fiscal year—

42 USC 1395f,  
1395e.

“(i) beginning on or after October 1, 1983, and before October 1, 1984, is equal to the sum of—

“(I) the target percentage (as defined in subparagraph (C)) of the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), and

“(II) the DRG percentage (as defined in subparagraph (C)) of the regional adjusted DRG prospective payment rate determined under paragraph (2) for such discharges;

“(ii) beginning on or after October 1, 1984, and before October 1, 1986, is equal to the sum of—

“(I) the target percentage (as defined in subparagraph (C)) of the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), and

“(II) the DRG percentage (as defined in subparagraph (C)) of the applicable combined adjusted DRG prospective payment rate determined under subparagraph (D) for such discharges; or

“(iii) beginning on or after October 1, 1986, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.

“(B) As used in this section, the term ‘subsection (d) hospital’ means a hospital located in one of the fifty States or the District of Columbia other than—

“(i) a psychiatric hospital (as defined in section 1861(f)),

“(ii) a rehabilitation hospital (as defined by the Secretary),

“(iii) a hospital whose inpatients are predominantly individuals under 18 years of age, or

“(iv) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days;

and, in accordance with regulations of the Secretary, does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary).

“(C) For purposes of this subsection, for cost reporting periods beginning, or discharges occurring—

“(i) on or after October 1, 1983, and before October 1, 1984, the ‘target percentage’ is 75 percent and the ‘DRG percentage’ is 25 percent;

“(ii) on or after October 1, 1984, and before October 1, 1985, the ‘target percentage’ is 50 percent and the ‘DRG percentage’ is 50 percent; and

“(iii) on or after October 1, 1985, and before October 1, 1986, the ‘target percentage’ is 25 percent and the ‘DRG percentage’ is 75 percent.

“(D) For purposes of subparagraph (A)(ii)(II), the ‘applicable combined adjusted DRG prospective payment rate’ for cost reporting periods beginning, or discharges occurring—

“(i) on or after October 1, 1984, and before October 1, 1985, is a combined rate consisting of 25 percent of the national adjusted DRG prospective payment rate, and 75 percent of the regional

adjusted DRG prospective payment rate, determined under paragraph (3) for such discharges; and

“(ii) on or after October 1, 1985, and before October 1, 1986, is a combined rate consisting of 50 percent of the national adjusted DRG prospective payment rate, and 50 percent of the regional adjusted DRG prospective payment rate, determined under paragraph (3) for such discharges.

“(2) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional adjusted DRG prospective payment rate for such discharges in each region, for which payment may be made under part A of this title. Each such rate shall be determined for hospitals located in urban or rural areas within the United States or within each such region, respectively, as follows:

“(A) DETERMINING ALLOWABLE INDIVIDUAL HOSPITAL COSTS FOR BASE PERIOD.—The Secretary shall determine the allowable operating costs per discharge of inpatient hospital services for the hospital for the most recent cost reporting period for which data are available.

“(B) UPDATING FOR FISCAL YEAR 1984.—The Secretary shall update each amount determined under subparagraph (A) for fiscal year 1984 by—

“(i) updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under such subparagraph and fiscal year 1983 and the most recent case-mix data available, and

“(ii) projecting for fiscal year 1984 by the applicable percentage increase (as defined in subsection (b)(3)(B)) for fiscal year 1984.

“(C) STANDARDIZING AMOUNTS.—The Secretary shall standardize the amount updated under subparagraph (B) for each hospital by—

“(i) excluding an estimate of indirect medical education costs,

“(ii) adjusting for variations among hospitals by area in the average hospital wage level, and

“(iii) adjusting for variations in case mix among hospitals.

“(D) COMPUTING URBAN AND RURAL AVERAGES.—The Secretary shall compute an average of the standardized amounts determined under subparagraph (C) for the United States and for each region—

“(i) for all subsection (d) hospitals located in an urban area within the United States or that region, respectively, and

“(ii) for all subsection (d) hospitals located in a rural area within the United States or that region, respectively.

“Region.”

For purposes of this subsection, the term ‘region’ means one of the nine census divisions, comprising the fifty States and the District of Columbia, established by the Bureau of the Census for statistical and reporting purposes; the term ‘urban area’ means an area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under subsec-

“Urban area.”

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 155

tion (a) by regulation; and the term 'rural area' means any area outside such an area or similar area. "Rural area."

"(E) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (D) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment rates which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(F) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

"(G) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS IN THE UNITED STATES AND IN EACH REGION.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a national DRG prospective payment rate and shall establish a regional DRG prospective payment rate for each region, each of which is equal—

"(i) for hospitals located in an urban area in the United States or that region (respectively), to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in an urban area in the United States or that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(ii) for hospitals located in a rural area in the United States or that region (respectively), to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in a rural area in the United States or that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(H) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the national and regional DRG prospective payment rates computed under subparagraph (G) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

"(3) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in a fiscal year after fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional adjusted DRG prospective payment rate for such discharges in each region for which payment may be made under part A of this title. Each such rate shall be determined for hospitals located in urban or rural areas within the United States and within each such region, respectively, as follows:

"(A) UPDATING PREVIOUS STANDARDIZED AMOUNTS.—The Secretary shall compute an average standardized amount for hospitals located in an urban area and for hospitals located in a rural

area within the United States and for hospitals located in an urban area and for hospitals located in a rural area within each region, equal to the respective average standardized amount computed for the previous fiscal year under paragraph (2)(D) or under this subparagraph, increased for fiscal year 1985 by the applicable percentage increase under subsection (b)(3)(B), and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available.

“(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additional payments described in paragraph (5)(A) (relating to outlier payments).

“(C) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

“(D) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS.—For each discharge classified within a diagnosis-related group, the Secretary shall establish for the fiscal year a national DRG prospective payment rate and shall establish a regional DRG prospective payment rate for each region, each of which is equal—

“(i) for hospitals located in an urban area in the United States or that region (respectively), to the product of—

“(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C), for the fiscal year for hospitals located in an urban area in the United States or that region, and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

“(ii) for hospitals located in a rural area in the United States or that region (respectively), to the product of—

“(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in a rural area in the United States or that region, and

“(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

“(E) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (D) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

“(4)(A) The Secretary shall establish a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

“(B) For each such diagnosis-related group the Secretary shall assign an appropriate weighting factor which reflects the relative

hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

“(C) The Secretary shall adjust the classifications and weighting factors established under subparagraphs (A) and (B), for discharges in fiscal year 1986 and at least every four fiscal years thereafter, to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

“(D) The Commission (established under subsection (e)(2)) shall consult with and make recommendations to the Secretary with respect to the need for adjustments under subparagraph (C), based upon its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The Commission shall report to the Congress with respect to its evaluation of any adjustments made by the Secretary under subparagraph (C).

Report to  
Congress.

“(5)(A)(i) The Secretary shall provide for an additional payment for a subsection (d) hospital for any discharge in a diagnosis-related group, the length of stay of which exceeds the mean length of stay for discharges within that group by a fixed number of days, or exceeds such mean length of stay by some fixed number of standard deviations, whichever is the fewer number of days.

“(ii) For cases which are not included in clause (i), a subsection (d) hospital may request additional payments in any case where charges, adjusted to cost, exceed a fixed multiple of the applicable DRG prospective payment rate, or exceed such other fixed dollar amount, whichever is greater.

“(iii) The amount of such additional payment under clauses (i) and (ii) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i) or (ii).

“(iv) The total amount of the additional payments made under this subparagraph for discharges in a fiscal year may not be less than 5 percent nor more than 6 percent of the total payments projected or estimated to be made based on DRG prospective payment rates for discharges in that year.

“(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except that in the computation under this subparagraph the Secretary shall use an educational adjustment factor equal to twice the factor provided under such regulations.

“(C)(i) The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of regional and national referral centers (including those hospitals of 500 or more beds located in rural areas), and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title.

“(ii) With respect to a subsection (d) hospital which is a ‘sole community hospital’, payment under paragraph (1)(A) for any cost reporting period or fiscal year beginning on or after October 1, 1984, shall be determined under the formula provided in clause (i) of that paragraph with the target and DRG percentages determined under paragraph (1)(C)(i) (except that any reference to paragraph (2) shall

"Sole  
community  
hospital."

be deemed, for this purpose, a reference to paragraph (3)). In the case of a sole community hospital that experiences, in a cost reporting period (beginning on or after October 1, 1983, and before October 1, 1986) compared to the previous cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases due to circumstances beyond its control, the Secretary shall provide for such adjustment to the payment amounts under this subsection as may be necessary to fully compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services, including the reasonable cost of maintaining necessary core staff and services. For purposes of this subparagraph, the term 'sole community hospital' means a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographical area who are entitled to benefits under part A.

"(iii) The Secretary shall provide by regulation for such other exceptions and adjustments to such payment amounts under this subsection as the Secretary deems appropriate (including exceptions and adjustments that may be appropriate with respect to hospitals involved extensively in treatment for and research on cancer).

"(iv) The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

42 USC 1395y.

"(D)(i) The Secretary shall estimate the amount of reimbursement made for services described in section 1862(a)(14) with respect to which payment was made under part B in the base reporting periods referred to in paragraph (2)(A) and with respect to which payment is no longer being made.

"(ii) The Secretary shall provide for an adjustment to the payment for subsection (d) hospitals in each fiscal year so as appropriately to reflect the net amount described in clause (i).

Publication in  
Federal  
Register.

"(6) The Secretary shall provide for publication in the Federal Register, on or before the September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the adjusted DRG prospective payment rates under this subsection, including any adjustments required under subsection (e)(1)(B).

42 USC 1395oo.

"(7) There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the determination of the requirement, or the proportional amount, of any adjustment effected pursuant to subsection (e)(1), and

"(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof under paragraph (4).

"(e)(1)(A) For cost reporting periods of hospitals beginning in fiscal year 1984 or fiscal year 1985, the Secretary shall provide for such proportional adjustment in the applicable percentage increase (otherwise applicable to the periods under subsection (b)(3)(B)) as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(I) for that fiscal year for operating costs of

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 159

inpatient hospital services of hospitals (excluding payments made under section 1866(a)(1)(F)),  
are not greater or less than—

42 USC 1395cc.

“(ii) the target percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Amendments of 1983 (excluding payments made under section 1866(a)(1)(F));  
except that the adjustment made under this subparagraph shall apply only to subsection (d) hospitals and shall not apply for purposes of making computations under subsection (d)(2)(B)(ii) or subsection (d)(3)(A).

“(B) For discharges occurring in fiscal year 1984 or fiscal year 1985, the Secretary shall provide under subsections (d)(2)(F) and (d)(3)(C) for such equal proportional adjustment in each of the average standardized amounts otherwise computed for that fiscal year as may be necessary to assure that—

“(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(II) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals (excluding payments made under section 1866(a)(1)(F)),  
are not greater or less than—

“(ii) the DRG percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Amendments of 1983 (excluding payments made under section 1866(a)(1)(F)).

“(2) The Director of the Congressional Office of Technology Assessment (hereinafter in this subsection referred to as the ‘Director’ and the ‘Office’, respectively) shall provide for appointment of a Prospective Payment Assessment Commission (hereinafter in this subsection referred to as the ‘Commission’), to be composed of independent experts appointed by the Director. In addition to carrying out its functions under subsection (d)(4)(D), the Commission shall review the applicable percentage increase factor described in subsection (b)(3)(B) and make recommendations to the Secretary on the appropriate percentage change which should be effected for hospital inpatient discharges under subsections (b) and (d) for fiscal years beginning with fiscal year 1986. In making its recommendations, the Commission shall take into account changes in the hospital market-basket described in subsection (b)(3)(B), hospital productivity, technological and scientific advances, the quality of health care provided in hospitals (including the quality and skill level of professional nursing required to maintain quality care), and long-term cost-effectiveness in the provision of inpatient hospital services.

“(3) The Commission, not later than the April 1 before the beginning of each fiscal year (beginning with fiscal year 1986), shall report its recommendations to the Secretary on an appropriate change factor which should be used (instead of the applicable percentage increase described in subsection (b)(3)(B)) for inpatient hospital services for discharges in that fiscal year.

Recommendations.

“(4) Taking into consideration the recommendations of the Commission, the Secretary shall determine for each fiscal year (beginning with fiscal year 1986) the percentage change which will apply for purposes of this section as the applicable percentage increase

97 STAT. 160

PUBLIC LAW 98-21—APR. 20, 1983

Publication in  
Federal  
Register.

(otherwise described in subsection (b)(3)(B)) for discharges in that fiscal year, and which will take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

“(5) The Secretary shall cause to have published for public comment in the Federal Register, not later than—

“(A) the June 1 before each fiscal year (beginning with fiscal year 1986), the Secretary’s proposed determination under paragraph (4) for that fiscal year, and

“(B) the September 1 before such fiscal year after such consideration of public comment on the proposal as is feasible in the time available, the Secretary’s final determination under such paragraph for that year.

The Secretary shall include in the publication referred to in subparagraph (A) for a fiscal year the report of the Commission’s recommendations submitted under paragraph (3) for that fiscal year.

“(6) (A) The Commission shall consist of 15 individuals. Members of the Commission shall first be appointed no later than April 1, 1984, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than seven members expire in any one year.

“(B) The membership of the Commission shall provide expertise and experience in the provision and financing of health care, including physicians and registered professional nurses, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care. The Director shall seek nominations from a wide range of groups, including—

“(i) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals;

“(ii) national organizations representing hospitals, including teaching hospitals;

“(iii) national organizations representing manufacturers of health care products; and

“(iv) national organizations representing the business community, health benefit programs, labor, and the elderly.

“(C) Subject to such review as the Office deems necessary to assure the efficient administration of the Commission, the Commission may—

“(i) employ and fix the compensation of such personnel (not to exceed 25) as may be necessary to carry out its duties;

“(ii) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(iii) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

“(iv) make advance, progress, and other payments which relate to the work of the Commission;

“(v) provide transportation and subsistence for persons serving without compensation; and

“(vi) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.



“(D) While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and his regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission.

“(E) In order to identify medically appropriate patterns of health resources use in accordance with paragraph (2), the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient-care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. In order to assess the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures, the Commission shall, in coordination to the extent possible with the Secretary, collect and assess factual information, giving special attention to the needs of updating existing diagnosis-related groups, establishing new diagnosis-related groups, and making recommendations on relative weighting factors for such groups to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the Commission shall—

“(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this paragraph;

“(ii) carry out, or award grants or contracts for, original research and experimentation, including clinical research, where existing information is inadequate for the development of useful and valid guidelines by the Commission; and

“(iii) adopt procedures allowing any interested party to submit information with respect to medical and surgical procedures and services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

“(F) The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies.

“(G)(i) The Office shall report annually to the Congress on the functioning and progress of the Commission and on the status of the assessment of medical procedures and services by the Commission.

Report to Congress.

“(ii) The Office shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

“(iii) In order to carry out its duties under this paragraph, the Office is authorized to expend reasonable and necessary funds as mutually agreed upon by the Office and the Commission. The Office shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission.

“(H) The Commission shall be subject to periodic audit by the General Accounting Office.

Audit.

“(I)(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.

Appropriation authorization.

97 STAT. 162

PUBLIC LAW 98-21—APR. 20, 1983

“(ii) Eighty-five percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 15 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

“(f)(1) The Secretary shall maintain, for a period ending not earlier than September 30, 1988, a system for the reporting of costs of hospitals receiving payments computed under subsection (d).

42 USC 1320c.

“(2) If the Secretary determines, based upon information supplied by a utilization and quality control peer review organization under part B of title XI, that a hospital, in order to circumvent the payment method established under subsection (b) or (d) of this section, has taken an action that results in the admission of individuals entitled to benefits under part A unnecessarily, unnecessary multiple admissions of the same such individuals, or other inappropriate medical or other practices with respect to such individuals, the Secretary may—

42 USC 1301.

“(A) deny payment (in whole or in part) under part A with respect to inpatient hospital services provided with respect to such an unnecessary admission (or subsequent admission of the same individual), or

“(B) require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

42 USC 1395y.

“(3) The provisions of paragraphs (2), (3), and (4) of section 1862(d) shall apply to determinations under paragraph (2) of this subsection in the same manner as they apply to determinations made under section 1862(d)(1).

42 USC 1320a-1.

“(g)(1) If the Congress does not enact legislation, after the date of the enactment of this subsection and before October 1, 1986, respecting the payment under this title for capital-related costs for inpatient hospital services, no payment may be made under this title for capital-related costs of capital expenditures (as defined in section 1122(g) and except as provided in section 1122(j)) for inpatient hospital services in a State, which expenditures are obligated after September 30, 1986, unless the State has an agreement with the Secretary under section 1122(b) and under the agreement the State has recommended approval of the capital expenditures.

“(2) The Secretary shall provide that the amount which is allowable, with respect to reasonable costs of inpatient hospital services for which payment may be made under this title, for a return on equity capital for hospitals shall, for cost reporting periods beginning on or after the date of the enactment of this subsection, be equal to amounts otherwise allowable under regulations in effect on March 1, 1983, except that the rate of return to be recognized shall be equal to the average of the rates of interest, for each of the months any part of which is included in the reporting period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.”.

42 USC 1395y.

(f) Section 1862(a)(1) of the Social Security Act is amended—

(1) by striking out “(B) or (C)” and inserting in lieu thereof “(B), (C), or (D)”;

(2) by striking out “and” at the end of subparagraph (B);

(3) by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof a comma and “and”; and

(4) by adding at the end thereof the following new subparagraph:

“(D) in the case of clinical care items and services provided with the concurrence of the Secretary and with respect to

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 163

research and experimentation conducted by, or under contract with, the Prospective Payment Assessment Commission or the Secretary, which are not reasonable and necessary to carry out the purposes of section 1886(e)(6);”.

(g) In determining whether a hospital is in an urban or rural area for purposes of section 1886(d) of the Social Security Act, the Secretary of Health and Human Services shall classify any hospital located in New England as being located in an urban area if such hospital was classified as being located in an urban area under the Standard Metropolitan Statistical Area system of classification in effect in 1979.

96 Stat. 331.  
42 USC 1395ww.  
42 USC 1395ww  
note.

CONFORMING AMENDMENTS

SEC. 602. (a) Section 1153(b)(2) of the Social Security Act is amended by adding at the end the following new subparagraph: “(C) The twelve-month period referred to in subparagraph (A) shall be deemed to begin not later than October 1983.”.

42 USC 1153c-2.

(b) Sections 1814(g) and 1835(e) of the Social Security Act are each amended by inserting “(or would be if section 1886 did not apply)” after “section 1861(v)(1)(D)”.

42 USC 1395f,  
1395n.

(c) Section 1814(h)(2) of such Act is amended by striking out “the reasonable costs for such services” and inserting in lieu thereof “the amount that would be payable for such services under subsection (b) and section 1886”.

(d)(1) The matter in section 1861(v)(1)(G)(i) of such Act following subclause (III) is amended by striking out “on the basis of the reasonable cost of” and inserting in lieu thereof “the amount otherwise payable under part A with respect to”.

42 USC 1395x.

(2) Section 1861(v)(2)(A) of such Act is amended by striking out “an amount equal to the reasonable cost of” and inserting in lieu thereof “the amount that would be taken into account with respect to”.

(3) Section 1861(v)(2)(B) of such Act is amended by striking out “the equivalent of the reasonable cost of”.

(4) Section 1861(v)(3) of such Act is amended by striking out “the reasonable cost of such bed and board furnished in semiprivate accommodations (determined pursuant to paragraph (1))” and inserting in lieu thereof “the amount otherwise payable under this title for such bed and board furnished in semiprivate accommodations”.

(e) Section 1862(a) of such Act is amended—

42 USC 1395y.

(1) by striking out “or” at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof “; or”, and

(3) by adding at the end the following new paragraph:

“(14) which are other than physicians’ services (as defined in regulations promulgated specifically for purposes of this paragraph) and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the hospital.”.

(f)(1) Section 1866(a)(1) of such Act is amended—

42 USC 1395cc.

(A) by striking out “and” at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E), and

(C) by adding at the end the following new subparagraphs:

97 STAT. 164

PUBLIC LAW 98-21—APR. 20, 1983

96 Stat. 331.  
42 USC 1395ww.

42 USC 1320c.

42 USC 1301.

“(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(5), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, and (i) shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a rate per review established by the Secretary, (ii) shall be transferred from the Federal Hospital Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, (iii) shall be not less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation), and (iv) shall not be less in the aggregate for a fiscal year than the aggregate amount expended in fiscal year 1982 for direct and administrative costs (adjusted for inflation)) of such reviews,

“(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f)(2), and

“(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to have all items and services (other than physicians’ services as defined in regulations for purposes of section 1862(a)(14)) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital.”.

42 USC 1395cc.

(2) The matter in section 1866(a)(2)(B)(ii) of such Act preceding subclause (I) is amended by inserting “and except with respect to inpatient hospital costs with respect to which amounts are payable under section 1886(d)” after “(except with respect to emergency services”.

42 USC 1395mm.

(g) Section 1876(g) of such Act is amended by adding at the end the following:

“(4) A risk-sharing contract under this subsection may, at the option of an eligible organization, provide that the Secretary—

“(A) will reimburse hospitals either for payment amounts determined in accordance with section 1886, or, if applicable, for the reasonable cost (as determined under section 1861(v)), of

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 165

inpatient hospital services furnished to individuals enrolled with such organization pursuant to subsection (d), and

“(B) will deduct the amount of such reimbursement for payment which would otherwise be made to such organization.”.

(h)(1) Section 1878(a) of such Act is amended—

42 USC 1395oo.

(A) by inserting “and (except as provided in subsection (g)(2)) any hospital which receives payments in amounts computed under subsection (b) or (d) of section 1886 and which has submitted such reports within such time as the Secretary may require in order to make payment under such section may obtain a hearing with respect to such payment by the Board” after “subsection (h)” in the matter before paragraph (1),

(B) by inserting “(i)” after “(A)” in paragraph (1)(A),

(C) by inserting “or” at the end of paragraph (1)(A) and by adding after such paragraph the following new clause:

“(ii) is dissatisfied with a final determination of the Secretary as to the amount of the payment under subsection (b) or (d) of section 1886,” and

(D) by striking out “(1)(A)” in paragraph (3) and inserting in lieu thereof “(1)(A)(i), or with respect to appeals under paragraph (1)(A)(ii), 180 days after notice of the Secretary’s final determination,”.

(2)(A) The last sentence of section 1878(f)(1) of the Social Security Act is amended by inserting “(or, in an action brought jointly by several providers, the judicial district in which the greatest number of such providers are located)” after “the judicial district in which the provider is located”.

(B) Section 1878(f)(1) of such Act is further amended by adding at the end thereof the following new sentence: “Any appeal to the Board or action for judicial review by providers which are under common ownership or control must be brought by such providers as a group with respect to any matter involving an issue common to such providers.”.

(3) Section 1878(g) of such Act is amended by inserting “(1)” after “(g)” and by adding at the end the following new paragraph:

“(2) The determinations and other decisions described in section 1886(d)(7) shall not be reviewed by the Board or by any court pursuant to an action brought under subsection (f) or otherwise.”

(4) The third sentence of section 1878(h) of such Act is amended by striking out “cost reimbursement” and inserting in lieu thereof “payment of providers of services”.

(i) The first sentence of section 1881(b)(2)(A) of such Act is amended by inserting “or section 1886 (if applicable)” after “section 1861(v)”.

42 USC 1395rr.

(j) Section 1887(a)(1)(B) of such Act is amended by inserting “or on the bases described in section 1886” after “on a reasonable cost basis”.

96 Stat. 337.  
42 USC 1395xx.

(k) The Secretary of Health and Human Services may, for any cost reporting period beginning prior to October 1, 1986, waive the requirements of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Security Act in the case of a hospital which has followed a practice, since prior to October 1, 1982, of allowing direct billing under part B of title XVIII of such Act for services (other than physicians’ services) so extensively, that immediate compliance with those requirements would threaten the stability of patient care. Any such waiver shall provide that such billing may continue to be made under part B of such title but that the payments to such hospital under part A

42 USC 1395y  
note.

42 USC 1395y,  
1395cc.

42 USC 1395.

42 USC 1395j.

97 STAT. 166

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 1395c,  
1395j.

of such title shall be reduced by the amount of the billings for such services under part B of such title. If such a waiver is granted, at the end of the waiver period the Secretary may provide for such methods of payments under part A as is appropriate, given the organizational structure of the institution.

42 USC 1395cc.

(l) Effective October 1, 1984, section 1866(a)(1) of the Social Security Act, as amended by subsection (f)(1) of this section, is further amended—

(1) by striking out “(if there is such an organization” in subparagraph (F) and insert in lieu thereof “(with an organization”, and

(2) by adding at the end the following new sentence:

“In the case of a hospital which has an agreement in effect with an organization described in subparagraph (F), which organization’s contract with the Secretary under part B of title XI is terminated on or after October 1, 1984, the hospital shall not be determined to be out of compliance with the requirement of such subparagraph during the six month period beginning on the date of the termination of that contract.”.

#### REPORTS, EXPERIMENTS, AND DEMONSTRATION PROJECTS

42 USC 1395ww  
note.

SEC. 603. (a)(1) The Secretary of Health and Human Services (hereinafter in this title referred to as the “Secretary”) shall study, develop, and report to the Congress within 18 months after the date of the enactment of this Act on the method and proposals for legislation by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included within the prospective payment amounts computed under section 1886(d) of the Social Security Act.

96 Stat. 331.  
42 USC 1395ww.

(2)(A) The Secretary shall study and report annually to the Congress at the end of each year (beginning with 1984 and ending with 1987) on the impact, of the payment methodology under section 1886(d) of the Social Security Act during the previous year, on classes of hospitals, beneficiaries, and other payors for inpatient hospital services, and other providers, and, in particular, on the impact of computing DRG prospective payment rates by census division, rather than exclusively on a national basis. Each such report shall include such recommendations for such changes in legislation as the Secretary deems appropriate.

(B) During fiscal year 1984, the Secretary shall begin the collection of data necessary to compute the amount of physician charges attributable, by diagnosis-related groups, to physicians’ services furnished to inpatients of hospitals whose discharges are classified within those groups. The Secretary shall include, in a report to Congress in 1985, recommendations on the advisability and feasibility of providing for determining the amount of the payments for physicians’ services furnished to hospital inpatients based on the DRG type classification of the discharges of those inpatients, and legislative recommendations thereon.

(C) In the annual report to Congress under subparagraph (A) for 1985, the Secretary shall include the results of studies on—

(i) the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates under paragraph (3) of section 1886(d) of the Social Security Act;

(ii) whether and the method under which hospitals, not paid based on amounts determined under such section, can be paid

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 167

for inpatient hospital services on a prospective basis as under such section;

(iii) the appropriateness of the factors used under paragraph (5)(A) of such section to compensate hospitals for the additional expenses of outlier cases, and the application of severity of illness, intensity of care, or other modifications to the diagnosis-related groups, and the advisability and feasibility of providing for such modifications;

(iv) the feasibility and desirability of applying the payment methodology under such section to payment by all payors for inpatient hospital services; and

(v) the impact of such section on hospital admissions and the feasibility of making a volume adjustment in the DRG prospective payment rates or requiring preadmission certification in order to minimize the incentive to increase admissions.

Such report shall specifically include, with respect to the item described in clause (iv), consideration of the extent of cost-shifting to non-Federal payors and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees.

(D) In the annual report to Congress under subparagraph (A) for 1986, the Secretary shall include the results of a study examining the overall impact of State systems of hospital payment (either approved under section 1886(c) of the Social Security Act or under a waiver approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972), particularly assessing such systems' impact not only on the medicare program but also on the medicaid program, on payments and premiums under private health insurance plans, and on tax expenditures.

96 Stat. 331.  
42 USC 1395ww.  
42 USC 1395b-1.  
42 USC 1395b-1  
note.

(3)(A) The Secretary shall complete a study and make legislative recommendations to the Congress with respect to an equitable method of reimbursing sole community hospitals which takes into account their unique vulnerability to substantial variations in occupancy.

Study and  
recommendations.

(B) In addition, the Secretary shall examine ways to coordinate an information transfer between parts A and B of title XVIII of the Social Security Act, particularly with respect to those cases where a denial of coverage is made under part A of such title and no adjustment is made in the reimbursement to the admitting physician or physicians.

42 USC 1395c,  
1395j.

(C) The Secretary shall also report on the appropriate treatment of uncompensated care costs, and adjustments that might be appropriate for large teaching hospitals located in rural areas.

(D) The Secretary shall also report on the advisability of having hospitals make available information on the cost of care to patients financed by both public programs and private payors.

(E) The studies and reports described in this paragraph shall be completed and submitted not later than April 1, 1985.

(4) The Secretary shall complete a study and make recommendations to the Congress, before April 1, 1984, with respect to a method for including hospitals located outside of the fifty States and the District of Columbia under a prospective payment system.

Study and  
recommendations.

(b)(1) Except as provided in paragraph (2), the amendments made by this title shall not affect the authority of the Secretary to develop, carry out, or continue experiments and demonstration projects.

Effective date.  
42 USC 1395b-1  
note.

97 STAT. 168

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 1395.  
42 USC 1395b-1.  
42 USC 1395b-1  
note.

(2) The Secretary shall provide that, upon the request of a State which has a demonstration project, for payment of hospitals under title XVIII of the Social Security Act approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972, which (A) is in effect as of March 1, 1983, and (B) was entered into after August 1982 (or upon the request of another party to demonstration project agreement), the terms of the demonstration agreement shall be modified so that the demonstration project is not required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in medicare hospital costs.

(c) The Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, within 30 days after the date of enactment of this Act—

(1) the risk-sharing application of On Lok Senior Health Services (according to terms and conditions as specified by the Secretary), dated July 2, 1982, for waivers, pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, of certain requirements of title XVIII of the Social Security Act over a period of 36 months in order to carry out a long-term care demonstration project, and

42 USC 1315.  
42 USC 1396.

(2) the application of the Department of Health Services, State of California, dated November 1, 1982, pursuant to section 1115 of the Social Security Act, for the waiver of certain requirements of title XIX of such Act over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

42 USC 1395b-1  
note.

(d) The Secretary shall conduct demonstrations with hospitals in areas with critical shortages of skilled nursing facilities to study the feasibility of providing alternative systems of care or methods of payment.

#### EFFECTIVE DATES

42 USC 1395ww  
note.

SEC. 604. (a)(1) Except as provided in section 602(l) and in paragraph (2), the amendments made by the preceding provisions of this title apply to items and services furnished by or under arrangements with a hospital beginning with its first cost reporting period that begins on or after October 1, 1983. A change in a hospital's cost reporting period that has been made after November 1982 shall be recognized for purposes of this section only if the Secretary finds good cause for that change.

*Ante*, p. 163.

(2) Section 1866(a)(1)(F) of the Social Security Act (as added by section 602(f)(1)(C) of this title), section 1862(a)(14) (as added by section 602(e)(3) of this title) and sections 1886(a)(1) (G) and (H) of such Act (as added by section 602(f)(1)(C) of this title) take effect on October 1, 1983.

*Ante*, p. 152.

(b) The Secretary shall make an appropriate reduction in the payment amount under section 1886(d) of the Social Security Act (as amended by this title) for any discharge, if the admission has occurred before a hospital's first cost reporting period that begins after September 1983, to take into account amounts payable under title XVIII of that Act (as in effect before the date of the enactment of this Act) for items and services furnished before that period.

(c)(1) The Secretary shall cause to be published in the Federal Register a notice of the interim final DRG prospective payment



PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 169

rates established under subsection (d) of section 1886 of the Social Security Act (as amended by this title) no later than September 1, 1983, and allow for a period of public comment thereon. Payment on the basis of prospective rates shall become effective on October 1, 1983, without the necessity for consideration of comments received, but the Secretary shall, by notice published in the Federal Register, affirm or modify the amounts by December 31, 1983, after considering those comments.

*Ante*, p. 152.

(2) A modification under paragraph (1) that reduces a prospective payment rate shall apply only to discharges occurring after 30 days after the date the notice of the modification is published in the Federal Register.

(3) Rules to implement subsection (d) of section 1886 of the Social Security Act (as so amended) shall be established in accordance with the procedure described in this subsection.

DELAY IN PROVISION RELATING TO HOSPITAL-BASED SKILLED NURSING FACILITIES

SEC. 605. (a) Section 102(b) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

96 Stat. 336.  
42 USC 1395x  
note.

(b) The Secretary of Health and Human Services shall, prior to December 31, 1983, complete a study and report to the Congress with respect to (1) the effect which the implementation of section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 would have on hospital-based skilled nursing facilities, given the differences (if any) in the patient populations served by such facilities and by community-based skilled nursing facilities and (2) the impact on skilled nursing facilities of hospital prospective payment systems, and recommendations concerning payment of skilled nursing facilities.

42 USC 1395x  
note.

SHIFT IN MEDICARE PREMIUMS TO COINCIDE WITH COST-OF-LIVING INCREASE

SEC. 606. (a)(1) Section 1839 of the Social Security Act is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

42 USC 1395r.

"(a)(1) The Secretary shall, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees age 65 and older will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The monthly premium of each individual enrolled under this part for each month after December 1983 shall, except as provided in subsections (b) and (e), be the amount determined under paragraph (3).

"(3) The Secretary shall, during September of 1983 and of each year thereafter, determine and promulgate the monthly premium

97 STAT. 170

PUBLIC LAW 98-21—APR. 20, 1983

applicable for individuals enrolled under this part for the succeeding calendar year. The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the smaller of—

“(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

42 USC 415.

“(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of \$900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and older as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

“(4) The Secretary shall also, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to disabled enrollees under age 65 which will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.”.

42 USC 1395r.

(2) Subsections (d), (e), (f), and (g) of section 1839 of such Act are redesignated as subsections (b), (c), (d), and (e), respectively.

(3)(A) Section 1839(b) of such Act (as so redesignated) is amended by striking out “subsection (b), (c), or (g)” and inserting in lieu thereof “subsection (a) or (e)”.

(B) Section 1839(d) of such Act (as so redesignated) is amended by striking out “purposes of subsection (c)” and inserting in lieu thereof “purposes of subsection (b)”.

(C) Section 1839(e) of such Act (as so redesignated) is amended—

(i) by striking out “(c)”, “(c)(1)”, and “(c)(3)” and inserting in lieu thereof “(a)”, “(a)(1)”, and “(a)(3)”, respectively,

(ii) by striking out “June 1983” in paragraph (1) and inserting in lieu thereof “December 1983”, and

(iii) by striking out “July 1985” and inserting in lieu thereof “January 1986” each place it appears.

42 USC 1395i-2.

(D) Section 1818(c) of such Act is amended by striking out “subsection (c) of section 1839” and inserting in lieu thereof “subsection (a) of section 1839”.

PUBLIC LAW 98-21—APR. 20, 1983

97 STAT. 171

- (E) Section 1843(d)(1) of such Act is amended by striking out “without any increase under subsection (c) thereof” and inserting in lieu thereof “without any increase under subsection (b) thereof”. 42 USC 1395v.
- (F) Section 1844(a)(1)(A)(i) of such Act is amended— 42 USC 1395w.
- (i) by striking out “1839(c)(1)” and inserting in lieu thereof “1839(a)(1)”; and
- (ii) by striking out “1839(c)(3) or 1839(g)” and inserting in lieu thereof “1839(a)(3) or 1839(e)”. 42 USC 1395mm.
- (G) Section 1844(a)(1)(B)(i) of such Act is amended—
- (i) by striking out “1839(c)(4)” and inserting in lieu thereof “1839(a)(4)”; and
- (ii) by striking out “1839(c)(3) or 1839(g)” and inserting in lieu thereof “1839(a)(3) or 1839(e)”. 42 USC 1395i-2.
- (H) Section 1876(a)(5) of such Act is amended—
- (i) in subparagraph (A)(ii), by striking out “1839(c)(1)” and inserting in lieu thereof “1839(a)(1)”; and
- (ii) in subparagraph (B)(ii), by striking out “1839(c)(4)” and inserting in lieu thereof “1839(a)(4)”. 42 USC 1395i-2.
- (b) Section 1818(d)(2) of such Act is amended—
- (1) by striking out “during the last calendar quarter of each year, beginning in 1973,” in the first sentence and inserting in lieu thereof “during the next to last calendar quarter of each year”; and
- (2) by striking out “the 12-month period commencing July 1 of the next year” in the first sentence and inserting in lieu thereof “the following calendar year”; and
- (3) by striking out “for such next year” in the second sentence and inserting in lieu thereof “for that following calendar year”. Effective date. 42 USC 1395r note.
- (c) The amendments made by this section shall apply to premiums for months beginning with January 1984, and for months after June 1983 and before January 1984—
- (1) the monthly premiums under part A and under part B of title XVIII of the Social Security Act for individuals enrolled under each respective part shall be the monthly premium under that part for the month of June 1983, and 42 USC 1395c, 1395j.
- (2) the amount of the Government contributions under section 1844(a)(1) of such Act shall be computed on the basis of the actuarially adequate rate which would have been in effect under part B of title XVIII of such Act for such months without regard to the amendments made by this section, but using the amount of the premium in effect for the month of June 1983.

SECTION 1122 AMENDMENTS

- SEC. 607. (a) Section 1122(c) of the Social Security Act is amended by striking out “the Federal Hospital Insurance Trust Fund” and inserting “the general fund in the Treasury”. 42 USC 1320a-1.
- (b)(1) Section 1122(g) of such Act is amended—
- (A) by striking out “\$100,000” the first place it appears and inserting in lieu thereof “\$600,000 (or such lesser amount as the State may establish)”, and
- (B) by striking out “\$100,000” the second place it appears and inserting in lieu thereof “the dollar amount specified in clause (1)”. 42 USC 1395x.
- (2) Section 1861(z)(2) of such Act is amended by striking out “\$100,000” and inserting in lieu thereof “\$600,000 (or such lesser

97 STAT. 172

PUBLIC LAW 98-21—APR. 20, 1983

42 USC 1320a-1.

amount as may be established by the State under section 1122(g)(1) in which the hospital is located)".

(c) Section 1122 of such Act is amended by adding at the end thereof the following:

"(j) A capital expenditure made by or on behalf of a health care facility shall not be subject to review pursuant to this section if 75 percent of the patients who can reasonably be expected to use the service with respect to which the capital expenditure is made will be individuals enrolled in an eligible organization as defined in section 1876(b), and if the Secretary determines that such capital expenditure is for services and facilities which are needed by such organization in order to operate efficiently and economically and which are not otherwise readily accessible to such organization because—

"(1) the facilities do not provide common services at the same site (as usually provided by the organization),

"(2) the facilities are not available under a contract of reasonable duration,

"(3) full and equal medical staff privileges in the facilities are not available,

"(4) arrangements with such facilities are not administratively feasible, or

"(5) the purchase of such services is more costly than if the organization provided the services directly.".

42 USC 1395x.

(d) Section 1861(z)(2) of such Act is amended by inserting "(A)" after "(2)" and by adding at the end thereof the following new subparagraph:

"(B) provides that such plan is submitted to the agency designated under section 1122(b), or if no such agency is designated, to the appropriate health planning agency in the State (but this subparagraph shall not apply in the case of a facility exempt from review under section 1122 by reason of section 1122(j));".

Approved April 20, 1983.

LEGISLATIVE HISTORY—H.R. 1900 (S. 1):

HOUSE REPORTS: No. 98-25, Pt. 1 (Comm. on Ways and Means) and No. 98-47 (Comm. of Conference).

SENATE REPORT No. 98-23 accompanying S. 1 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Mar. 9, considered and passed House.

Mar. 16-18, 21-23, considered and passed Senate, amended.

Mar. 24, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 16 (1983):  
Apr. 20, Presidential statement.

