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passed. Well, I for one have seen the folly of that route in the past and do not want to see it repeated here. Our amendment will prevent that from occurring today and it will prevent Congress from being steamrolled into enacting a shortsighted piece of legislation.●

● Mr. SASSER. Mr. President, I rise today to sponsor and express my strong support for the Long amendment to the social security bill.

This amendment, ably described by the distinguished Senator from Louisiana, provides that new Federal employees will not be covered under social security unless and until legislation is enacted that would provide new Federal employees the full protection of a supplemental civil service retirement system.

This is an eminently fair amendment, Mr. President.

It recognizes the obligation of the Federal Government to both the social security system and the civil service retirement system.

It recognizes the fact that we must have a solvent social security system that will meet the need of the 36 million Americans who depend on social security for basic retirement, survivor, and disability benefits.

It also recognizes the fact that we have a solemn obligation to maintain the integrity of the civil service retirement system for the more than 1.7 million Federal retirees and survivors currently receiving benefits, and the more than 2.9 million Federal workers that are eligible for civil service retirement benefits.

This amendment enables the Congress to meet its obligation to social security beneficiary and civil servant alike.

Now, Mr. President, we have been on a fast track on social security legislation.

We have moved on this legislation with breath-taking speed. The National Commission on Social Security made its final recommendations to the Congress on January 20, 1983. The House Ways and Means Committee reported this legislation on March 4, 1983, and it was passed by the House on March 9, 1983.

And here in the Senate we are on this legislation less than 2 months after its introduction.

I do not quarrel with the speed with which we are considering this legislation. We must have a social security bill in place so that social security checks can continue to be mailed in July of 1983 to social security recipients.

But it is a fact of legislative life that whenever this Congress moves a major bill on a fast track, there are bound to be flaws in that legislation.

That certainly is the case with H.R. 1900, as amended.

Unfortunately, the House of Representatives did not choose to have a fair and open debate about the issue of the

coverage of Federal employees under social security.

A number of Congressmen implored the House Rules Committee for a rule that would permit an amendment dealing with the issue of coverage of new Federal employees under social security.

That proposed rule was denied, and the House of Representatives was not able to debate this issue in its consideration of the Social Security Act Amendments of 1983.

Fortunately, Mr. President, we are able to rectify this event and consider a suitable amendment to deal with this issue.

And in that regard, I commend Senator Long for bringing this amendment before the Senate Finance Committee and before the full Senate today.

Mr. President, I support this amendment for several reasons.

First, there is a matter of basic equity. Federal civil servants are rightly concerned that coverage of new Federal employees may eventually undermine the fiscal integrity of the current civil service retirement system.

Without new Federal employees making a full contribution to the civil service retirement system, it is estimated that the fiscal loss to the Federal retirement system will amount to some \$640 billion by the year 2022.

In essence, passage of the current legislation without the Long amendment could result in back-door destruction of the civil service retirement system.

That is not fair, Mr. President.

I believe that one of the major attractions to Federal service is the civil service retirement system. We have had a civil service retirement system for some 63 years. And the civil service retirement system has prompted many, many fine people to come into Federal service.

And I can say that from personal experience, Mr. President, because my father was a dedicated civil servant.

We must not break faith with the Federal employee and undermine the civil service retirement system.

A second reason for my support of the Long amendment, Mr. President, is the fact that I believe we do not have the full facts of the fiscal impact of the coverage of new Federal employees on social security financing.

For example, when the Social Security Commission first broached the recommendation for the coverage of new Federal employees under social security, they suggested that it would add some \$21 billion to the social security funds between 1984 and 1988. Later, in testimony before the Congress, Chairman Alan Greenspan revised that estimate downward to some \$12.5 billion, and independent analysis of this problem notes that the funds transferred into the social security system would only be some \$5.3 billion during that period.

If that is the case, Mr. President, the fiscal benefits of covering new Federal employees under the social security system has been oversold. Indeed, if the savings have been so overstated, we could have adopted other alternatives—such as paying for the administrative costs of the social security system out of general revenue for infusing additional revenues into the social security system.

We have not had a full debate over the real savings of including new Federal employees into the social security system, and that is another reason for not going forward with the proposal to cover new Federal employees under social security.

Finally, Mr. President, I support the adoption of the Long amendment because as it stands now, in January 1984, new Federal employees will be subject to a retirement contribution of nearly 14 percent, because they will be covered by both social security and a civil service retirement system.

That is a fiscal burden which is far too great for Federal workers. It will most definitely make it more and more difficult to attract qualified workers into the Federal service. As a result all Federal services will suffer as the Congress further deliberates changes to the civil service retirement system.

Mr. President, we are on a fast track with social security legislation. But in this process we are proceeding to make major changes in the civil service retirement system which have not been the subject of extensive deliberations by the U.S. Congress.

Once again we are giving short shrift to the Federal employee. And lest we forget, the Federal employee serves us all. They are the ones that mail the social security checks every month. They are the ones that maintain our national parks and forests. They are the ones that investigate and control communicable diseases. Indeed, Federal employees provide essential services that touch practically every facet of our lives, each and every day.

The Long amendment simply assures that we provide the Federal civil servant with a fair deal and eventually develop an integrated retirement system that does not bankrupt the civil servant and that retains the basic integrity of the civil service retirement system.

Mr. DeCONCINI. Mr. President, during the past 2 years this administration has conducted a sustained campaign against Federal employees. In 1981, the Reagan administration successfully eliminated the twice-yearly COLA. In 1982, the Reagan administration tried to cap COLA's for Federal retirees, but with mixed results. I opposed both of these moves, and I continue to be opposed to any efforts to undermine the integrity of the civil service retirement system. It is incumbent upon this Congress to protect the promised benefits to those who are now retirees or are presently contrib-

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uting to the civil service retirement system.

I reluctantly support those provisions of S. 1 which place newly hired Federal employees under social security. And I only do so because of the national imperative of preserving the social security system. However, Congress has an obligation to provide new Federal hires with a supplementary retirement plan before placing them under the social security system.

Mr. President, I was frankly disappointed that the Social Security Commission itself did not recommend a specific supplemental plan for new hires, and that the Finance Committee did not insist on such a plan before bringing this bill to the floor. However, I am proud to cosponsor Senator Long's amendment to correct this oversight. The amendment requires that new hires not be placed under social security until a supplemental retirement system for new hires is in place.

Federal employees are hard-working and dedicated public servants. And, if we pass this bill without Senator Long's amendment, the toll on Federal employee morale will be enormous. Besides, not to do so would be unfair.

I urge my colleagues to join me in supporting Senator Long's amendment.

Mr. PELL. Mr. President, I am very pleased to join my distinguished colleague Senator Long as cosponsor of his amendment to defer social security coverage for newly hired Federal employees until legislation is enacted by Congress to provide for a supplemental civil service program for the affected newly hired Federal workers.

In my opinion, the amendment offered by Senator Long is reasonable and absolutely essential for the protection of both current and newly hired Federal employees. In this regard, it is important to emphasize that the National Commission on Social Security, while mandating coverage for newly hired Federal workers, specifically recommended that these same employees be afforded the protection of a supplemental civil service retirement system. Regrettably, no such coordinated coverage and protection for new Federal employees exists or has been proposed to Congress for consideration.

Equally important, the amendment proposed by Senator Long will not alter the essential task of responding to the critical social security financing issues addressed by the National Commission on Social Security.

Mr. President, when the President's Commission on Social Security recommended social security coverage for newly hired employees, I had serious reservations about this proposal, particularly when considered in connection with the other major proposals by the Reagan administration for changes in Federal workers retirement system. In my opinion, the sum total of all these proposals including the re-

tirement age and contributions to the system would place an extraordinary burden on Federal employees.

Taken as a whole, these proposals including the coverage of newly hired Federal employees, would clearly threaten the future of the civil service retirement system. That would be a tragic loss not only to Government workers, but also to the public which depends upon qualified Federal workers for essential services.

Mr. President, in view of the administration's proposal to dramatically revise the entire civil service retirement system, and the uncertainty of any meaningful supplemental retirement coverage for new Federal employees, I am pleased to join Senator Long as cosponsor, and urge my colleagues to vote for this amendment.

Mr. LONG. Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. They have not.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this amendment does not reach the problem that prompted me to offer my amendment and my cosponsors to support it.

Of these three possibilities we have facing us, the committee bill, the Stevens substitute, or the Long amendment, only the Long amendment would link social security coverage to the enactment of a supplemental civil service program. The Stevens substitute makes coverage under social security mandatory whether or not a supplemental civil service program has been enacted, and that is the problem with it.

Mandating social security coverage for new Federal employees means that the Congress will have to modify the civil service retirement program for those employees in order to avoid their paying 14 percent into two programs with similar protection. Present Federal employees are apprehensive that the need to enact a supplemental civil service program will provide the administration with an opportunity to press for its proposals to make substantial changes in civil service retirement for present employees. That would not be to the advantage of those employees. In other words, the purpose of the Long amendment is to seek to have the supplemental program legislated in a situation of legislative neutrality, where there will not be a Sword of Damocles hanging over the employees, where they will not be badly prejudiced when they undertake to press for a program which they think is to their best advantage.

The Stevens amendment would address that problem because social security coverage would be mandated even if Congress should fail to act on the

supplemental civil service program. I believe, Mr. President, we have demonstrated by our vote that the majority of the Senate does feel new Federal employees should be under social security. Those who did not feel that way had the opportunity to vote that way and so voted. Those who did feel that way had the opportunity to vote for it. Now we have an opportunity to see how many Senators feel that there should be social security coverage, who think it ought to be in a situation of legislative neutrality where Federal employees can see what they will get in return for what they are giving—or should it be in a situation where they are prejudiced, because they are going to be prejudiced under the Stevens amendment, and they should not be prejudiced.

I hope the Stevens amendment will not be agreed to.

Mr. DOLE. Mr. President, the Senator from Louisiana is correct in saying that we just demonstrated by a vote of 86 to 12 that Federal employees should not be exempt. I hope that message will not be lost on the House conferees when they go to conference on this bill.

I think we might just as well lay it all out on the table. In the House they took a lot of heat on whether or not to do anything about Federal employees, and they decided to stick with the Social Security Commission.

Let us face it, they are not too anxious to do that and have the U.S. Senate say, "Well, that was all right for the House, but we are in the United States Senate so we can just cut the ground out from under them." I want the conferees on the House side to know there was a vote of 86 to 12 not to exempt Federal employees, and I think we have laid that groundwork. It was bipartisan. It was what, 7 to 1, so it is a strong indication of where the sentiment in the Senate is. I want my House colleagues to know there is no backing off in the general sense by the U.S. Senate.

I happen to believe that the Stevens amendment is a good idea—I wish I had thought of it myself—but it is a good idea, and it does protect the concerns of Federal employees. Federal employees do have some legitimate concerns and they deserve to be protected. They are hard-working people.

I told some of the Federal employee leaders that I do not want Republicans all to stand up and vote against the Federal employees so that all the Democrats can vote for the Federal employees. But if that is the price of getting a social security package, then I guess we have to do the best we can. We have as much interest in Federal employees as anyone else, and I hope we have demonstrated that or will demonstrate that.

I believe the Stevens amendment as a compromise is a good one. It deals with the key criticisms leveled by the opponents of the National Commis-

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sion's recommendation to cover newly hired Federal employees. It would deal with the possible double-taxation problem beginning in January 1984, and it would deal with a potential loss of revenue to the civil service retirement system.

I am aware that if the committee bill were enacted as is, and there were no further congressional action, Federal employees hired on or after January 1, 1984, would be required to pay both the current 7 percent contribution to the civil service retirement fund, and the social security tax which will be 7 percent under our bill.

I strongly believe that a supplemental plan can be developed before the coverage is extended on January 1, 1984, and I will cooperate in any way that I can to achieve that end.

However, this provision would assure future Federal employees that they will not have to pay both the social security tax and the civil service retirement contribution in the event the creation of a supplemental system is delayed, even if the delay is until October 1, 1985, more than 2½ years from now.

The Senator from Kansas cannot believe we cannot put together a package in 2½ years, and I know the problem now. There is an election in 1984, as the Senator from Alaska pointed out earlier. But I believe that in 2½ years, as slowly as Congress moves at times, we can address this problem. I know it is a very sensitive problem. I know there are a lot of people on each side who do not know which way to go, but I think a plan can be completed in 2½ years.

The Stevens amendment also addresses a concern of many of the critics who say the civil service retirement system will go broke when the new Federal employees are siphoned off to the social security system. Under this amendment, if a supplemental retirement system is in place by October 1, 1985, newly hired Federal employees would receive retroactive credit to the new system. Likewise, the new supplemental system would receive the revenues foregone by having had new Federal hires temporarily excluded.

On the other hand, if, by October 1, 1985, the new supplemental system has not been enacted, such retroactive credit and contributions would be made to the regular civil service retirement system.

Finally, to those who are concerned that this amendment could jeopardize the civil service retirement fund, I have been informed that the civil service retirement fund could continue to pay benefits for 20 years without any contributions from new employees. I am not suggesting that the system should go without new income, only that if there is some temporary period during which new Federal hires are not contributing to the civil service retirement system, it will not go broke as alleged by some.

I would say to those who do not like the Stevens amendment, the Senator from Kansas would prefer to go with what we have in the Senate bill and what we have in the House bill, but that is not the choice we have. The Senator from Kansas believes that the Senator from Louisiana may have a majority. If he has a majority, then we have a problem. It may be a problem we can address in conference, it may be the end of the social security package, but we do not know that yet.

So I would suggest to those who say, "Well, this goes too far; we shouldn't do this much for Federal employees; they ought to be treated like everyone else in the system," I believe the Stevens approach is a moderate approach to try to solve the problem.

It is going to be fair to new hires coming into the system, it is going to be fair to those on the Commission, fair to the Congress, and others who have tried to put together this package. I hope we might adopt the Stevens amendment.

Mr. STEVENS. Mr. President, I want to emphasize what the Senator from Kansas just said. We have had lengthy discussions with Members of the House concerning the problems dealing with the civil service retirement system. We have a tentative agreement that, instead of looking for a Presidential Commission to deal with a future replacement for the current system, we will seek to hire a consultant or consultants jointly between the House and Senate committees, that we will have the system and its problems studied and it will be studied on the basis that social security will be the first portion of a civil servant's security for life after he or she leaves the Federal employment.

The difficulty with that is that we have no timeframe to work on, no real compulsion for the Congress to act, or no reason for the Government employee organizations to support that effort if the Long amendment passes. Because all they need to do is oppose the creation of a new system for retirement of civil servants and they will never be included under social security, notwithstanding that last vote of the Senate.

I am at a loss for words to explain how those of us who have the responsibility to deal with the subject can deal with it if the Long amendment passes. All you have to do is look at the statements that are being made by leaders of those employee organizations to understand that they will not support any new system so long as they are assured that they will not be included under social security until that new system is enacted.

Mr. President, I urge Members of the Senate to support this amendment. It will mean that we will work on a system and have it in place and, in the meantime, all new employees who come into the Federal civil service system will get credit in the new system without paying into it and they

will not have to pay for two retirement systems.

● Mrs. KASSEBAUM. Mr. President, I am pleased to offer my support for the amendment offered by Senator STEVENS. This amendment addresses what I believe to be a serious problem with the bill as written. The bill provides for social security coverage of Federal employees hired after December 31, 1983, as recommended by the National Commission on Social Security Reform. The Commission and sponsors of S. 1 have assumed that a supplemental pension program will be established to assist in meeting the retirement needs of new Federal hires. The bill itself does not, however, establish such a supplemental program—as this effort was deemed to be outside the scope of the social security financing issue.

Considerable concern has been expressed about problems which could occur should a supplemental pension program not be enacted prior to January 1, 1984. It has been assumed that new Federal employees would then be in the position of paying both social security and civil service retirement payroll taxes. Such a taxload, which would approach 14 percent of salary for nearly all new employees, would clearly impose an unfair and unnecessary burden on new Federal employees. An alternative where new hires would pay only social security payroll taxes would relieve the financial burden, but leaves open questions as to the adequacy of retirement coverage during the period in which a supplemental plan is being developed.

I support universal coverage under social security, as I believe there are a number of benefits to be derived from including all workers in a single, portable retirement system. Universal coverage avoids situations where individuals who work in both public and private jobs during their careers are under- or over-compensated upon retirement relative to other workers. Individuals who work only a few years in Federal positions receive little, if any, civil service retirement benefits, while their public employment years are counted as zero-earnings years for purposes of social security. Consequently, their social security benefits are lower than those provided workers with the same overall career earnings who spent their working lifetimes in the private sector. On the other hand, Federal workers who also work for short periods in private employment frequently receive social security benefit levels which are disproportionately high. This is due to the fact that the social security benefit formula is weighted to favor low-income workers.

In my conversations with Federal workers about universal coverage, I have indicated my support for the concept but have also noted two factors I feel are crucial to any legislation in this area. First, I have emphasized my strong endorsement of the approach

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taken in this measure, whereby social security coverage is extended only to new employees—not to the Federal work force as a whole. I believe that attempting to include current workers would have created complex administrative problems and could potentially have jeopardized the value of contributions already made to the Federal retirement system. Second, I have stated my commitment to the development of a good supplemental pension program for new employees. Social security is not, nor was it ever intended to be, the sole source of an adequate retirement income. When the program was created, it was intended to serve as a supplement to private pensions and individual savings. Consequently, the Federal Government as an employer has the responsibility to provide supplemental pension benefits comparable to those made available by private employers.

Obviously, it is my hope—and I am sure the hope of all of us here—that Congress can develop a supplemental plan prior to December 31. I intend to support expeditious action on such a plan in whatever way I can. Should we be unable to accomplish this goal, however, the amendment now before us does offer assurance that new Federal employees will be adequately protected. The amendment offers credits to employees hired after December 31 toward whatever supplemental program is enacted, retroactive to their date of hiring. Consequently, if we do not, for example, enact a supplemental plan until say July 1984, individuals hired in January would receive 6 months' worth of credit in the new system.

I wish it were possible to guarantee that by some date certain a supplemental plan would be in place. Because there is no mechanism for making such an assurance, this amendment represents our best effort at providing for new Federal employees without necessitating a delay in the implementation of universal coverage.

I realize that many would prefer that social security coverage not be extended to the Federal work force until a plan was in place. In concept, I agree that this is a good approach; but, in practical effect, I fear it would mean the eventual abandonment of universal coverage itself. The amendment before us offers the advantage of upholding the intent of efforts to delay implementation—to assure supplemental pension protection of new Federal hires—without jeopardizing implementation of universal coverage.

Looking to the future, I hope that Congress and Federal employees can work together in a positive manner to shape a sound, supplemental system. Universal coverage will be a reality, and we need to turn our efforts toward assuring that it operates smoothly.●

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. LEVIN. Will the Senator yield for a question?

Mr. STEVENS. Yes.

Mr. LEVIN. Is the opposite point true, then, that the 12 Senators who voted for your amendment should then vote for the Long amendment?

Mr. STEVENS. It is a good point. The impact of the last amendment was to demonstrate that the Senate opposes the basic assumption of the Long amendment.

Mr. LEVIN. But the 12 Senators who supported the Stevens amendment and are opposed to employees coming under social security should all then vote for the Long amendment?

Mr. DOLE. If the others vote the other way, we will take that.

Mr. STEVENS. I thank the Senator for his rhetoric. I intend to support my own amendment.

Mr. LEVIN. I beg the Senator's pardon?

Mr. STEVENS. I supported the last one and I support this one. I do not think they are inconsistent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MOYNIHAN (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Florida (Mrs. HAWKINS), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DeCONCINI), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. KENNEDY), are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFFEE). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—45

Abdnor	Hecht	Nickles
Baker	Heinz	Packwood
Bradley	Helms	Percy
Chafee	Humphrey	Quayle
Chiles	Jepsen	Roth
Cohen	Kassebaum	Rudman
Danforth	Kasten	Simpson
Denton	Lautenberg	Stafford
Dole	Laxalt	Stevens
Durenberger	Lugar	Symms
Garn	Mathias	Thurmond
Gorton	Mattlingly	Tower
Grassley	McClure	Wallopp
Hatch	Metzenbaum	Weicker
Hatfield	Murkowski	Wilson

NAYS—50

Andrews	Boschwitz	Dixon
Armstrong	Bumpers	Dodd
Baucus	Burdick	Domenici
Bentsen	Byrd	Eagleton
Biden	Cochran	East
Bingaman	Cranston	Exon
Boren	D'Amato	Ford

Glenn	Long	Riegle
Goldwater	Matsunaga	Sarbanes
Hart	Melcher	Sasser
Heflin	Mitchell	Specter
Huddleston	Nunn	Stennis
Inouye	Pell	Trible
Jackson	Pressler	Tsongas
Johnston	Proxmire	Warner
Leahy	Pryor	Zorinsky
Levin	Randolph	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Moynihan, against

NOT VOTING—4

DeConcini	Hollings
Hawkins	Kennedy

So Mr. STEVENS' amendment (UP No. 128) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

Mr. BAKER. Mr. President, I think, in conferring with the distinguished Senator from Louisiana, that he is agreeable to having a voice vote on this matter and I think we are. There is no point in taking the time of the Senate, I believe.

Have the yeas and nays been ordered on the Long amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BAKER. Mr. President, I ask unanimous consent the yeas and nays be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I withdraw that request.

Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (UP No. 126) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later, the following occurred:)

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate earlier today agreed by voice vote to a Long amendment to include new Federal employees under social security only after the Congress enacts a supplemental civil service program for those employees.

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Mr. President, I voted against the two amendments that were offered by Mr. STEVENS intending to vote for the Long amendment. That vote was by voice vote.

I want the RECORD to show that, had it been by rollcall vote, I would have voted for the Long amendment.

I ask unanimous consent that this statement appear immediately after the voice vote in the bill, and I ask unanimous consent that any other Senators who wish to make similar statements be permitted to put in the RECORD such similar statements at that place also.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Chair. Mr. President, I want to express the hope that the conferees on the part of the Senate stand firm in support of that amendment in conference.

I want this statement to appear also immediately following the voice vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I should like to have my name recorded following the minority leader as one of those Senators who would have voted for the Long amendment. As a cosponsor of the Long amendment I would have voted aye on a rollcall vote. I am pleased that the Senate approved this amendment because it provides "fairness" to the new public employees. I urge the Senator from Kansas to include this provision in the final conference report.

Mr. BYRD. I say for the information of others who may not have heard my request, I asked—and the Senate agreed to my request—that any other Senators may put similar statements in the RECORD at that point.

Mr. PRYOR. Mr. President, I should like to associate myself with the remarks of the minority leader and also add my hopes that our conferees when they meet with the House of Representatives on this issue will adhere to our wishes relative to the Long amendment. I, too, am a cosponsor, supported and would have voted for the Long amendment had it been a rollcall vote. I certainly appreciate the remarks of the distinguished minority leader on this point.

Mr. LAUTENBERG. Mr. President, one of the most controversial and difficult issues faced by the Senate in its consideration of the social security amendments has been the question of including Federal employees under the social security system, and the related question of a supplementary retirement system for them. This kind of dual coverage is what exists, in most cases, in the private sector. It has been

a debate of extreme importance to Federal employees, who are particularly concerned about the future solvency of the civil service retirement system.

In approaching this question, two major considerations were uppermost in my mind. First was the need to address the fiscal crisis facing the social security system—one which must be addressed if benefit checks are to go out this July and if future beneficiaries are going to be assured of their social security benefits in later years. My second concern was an absolute commitment to protect the solvency of the current Federal employee retirement system and provide for a fair and affordable retirement package for new Federal employees.

Mr. President, I supported the Stevens amendment which retained the Social Security Commission's recommendation to include Federal employees under social security, but also mandated supplementary coverage under either the existing or a new civil service retirement system for Federal workers. I felt this compromise offered an equitable resolution to the dilemma we faced: Saving the social security package, but not at the expense of Federal employees. This amendment failed. With the defeat of this amendment, Mr. President, I want to state my support for Senator Lowe's amendment which will delay mandatory coverage for new Federal employees under social security until Congress enacts a supplementary retirement system for them.

Mr. BOREN. Will the Senator from Arkansas yield?

Mr. PRYOR. I will be glad to yield to my friend from Oklahoma.

Mr. BOREN. Mr. President, I also want to associate myself with the remarks of the Senator from West Virginia and the Senator from Arkansas.

As a cosponsor of the Long amendment, I also voted against the two preceding Stevens amendments because of my support for the Long amendment. I join in voicing the hope that the conferees will reflect the Senate viewpoint of strong support for the Long amendment, keeping faith with those in the civil service system who have been assured that we will put in place an appropriate supplemental system, having this action taken before we began the payment into social security by new civil service employees.

I strongly endorse the statements that have just been made by the minority leader and by the Senator from Arkansas.

Mr. SASSER. Will the Senator from Arkansas yield?

Mr. PRYOR. I will be glad to yield to my friend from Tennessee.

Mr. SASSER. Mr. President, I want to associate myself with the remarks made by the distinguished Senator from West Virginia. I was a cosponsor of the Long amendment. I strongly supported that amendment. I am

hopeful, Mr. President, and optimistic that our conferees will stand firm in support of the Long amendment in the course of the conference that will ensue following the passage of this bill.

Mr. RIEGLE. Mr. President, the Senate earlier today agreed by voice vote to a Long amendment to include new Federal employees under social security only after the Congress enacts a supplemental civil service program for those employees.

Mr. President, I voted against the two amendments that were offered by Mr. STEVENS intending to vote for the Long amendment. That vote was by voice vote.

I want the RECORD to show that had it been by rollcall vote, I would have voted for the Long amendment.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first I should like to associate myself with the remarks of the minority leader. I hope that the conferees will support the Long amendment with as much vigor as if it had been adopted by a rollcall vote.

Mr. RANDOLPH. Mr. President, as a cosponsor of the amendment of the able Senator from Louisiana (Mr. Lowe), I would like to state for the RECORD that if given the opportunity I would have voted for the proposal. I urge my colleagues on the committee to support the amendment in the conference with the House.

Mr. FORD. Mr. President, I join my colleague from West Virginia in supporting the amendment of the Senator from Louisiana. If a rollcall were ordered, I would have voted "aye."

Mr. HUDDLESTON. Mr. President, the Senate earlier today agreed by voice vote to a Long amendment to include new Federal employees under social security only after the Congress enacts a supplemental civil service program for those employees.

Mr. President, I voted against the two amendments that were offered by Mr. STEVENS intending to vote for the Long amendment. That vote was by voice vote.

I want the RECORD to show that had it been by rollcall vote, I would have voted for the Long amendment.

Mr. DOMENICI. Mr. President, I intended to vote in favor of the amendment by my colleague from Louisiana to assure that a supplementary pension system be in place before new Federal employees are covered by social security. Had there been a rollcall recorded vote, I would have voted in favor of the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, if I may have the attention of the Senate, we have about a half a dozen amendments left, and I am going to encourage my colleagues who have those

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amendments to use the minimum amount to time. We need to get to conference hopefully by 5 o'clock this afternoon. If we cannot make it by 5 o'clock, we will probably just postpone the conference until tomorrow.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. DOLE. Yes, I yield.

Mr. STENNIS. Mr. President, we need order. We need quiet, Mr. President, please.

The PRESIDING OFFICER. May we have order in the Senate, please.

Mr. BAKER. Will the Senator yield to me?

Mr. DOLE. Yes, I yield.

Mr. BAKER. Mr. President, the manager of the bill is absolutely correct—

The PRESIDING OFFICER. I wonder if the majority leader will withhold?

Mr. BAKER. Yes, I withhold.

The PRESIDING OFFICER. May we have order, please.

Senators will please desist discussions so that we might hear the majority leader. Staff will take their places on the seats in the rear of the Chamber.

The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, the manager of the bill is absolutely right. It is 3:30 in the afternoon. The day is rapidly slipping away from us. If we have any possibility at all of recessing tomorrow, as I hope we do, we have to get this bill out and be prepared to go to conference yet tonight, if the House is willing to do that. There are not many amendments left. In all candor, the major battles have now been fought.

I urge Senators either not to call up their amendments or to do so promptly and to consider those cases where a voice vote will suffice.

Mr. President, I thank the Senator for yielding.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, let me say to my colleagues that I think we all would like to finish, but some of us are conferees. We do not want to stay here until midnight to accommodate Senators who have statements that can be put in the RECORD so that when we go off to the conference others go home to bed.

If Senators would like to have the conferees meet this evening, they should let us try to expedite the process. We are well aware of the amendments. We are prepared to accept a couple of them and try to defeat the others.

On that basis, I think the Senator from Montana is ready to offer an amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I am about to offer an amendment that deals with the withholding provisions

applying to State and local governments.

AMENDMENT NO. 527

(Purpose: To eliminate the changes made with respect to the payment schedule for State and local governments)

Mr. BAUCUS. Mr. President, I call up printed amendment No. 527.

The PRESIDING OFFICER (Mr. STAFFORD). The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an amendment numbered 527:

On page 99 of the matter proposed to be inserted, beginning with line 19, strike out all through page 100, line 5.

Redesignate sections 149 through 152 of the matter proposed to be inserted as sections 148 through 151, respectively.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. STAFFORD). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, this amendment is really quite simple. It is to repeal a mistake that the committee made when we considered this bill—that is, section 148.

Under present law, States are required to collect social security taxes withheld by local subdivisions on a monthly basis. That is, States must collect within 30 days after the end of the month, the withholding deposits of local governments attributable to the employees they have working for them. That is the present law.

The committee decided, late one night, with no discussion, no hearings, and no examination whatsoever, to accelerate that withholding so that there would be 13 withholding periods for the coming fiscal year. This is the result if we adopt section 148 which requires that the deposit requirements of the States and all local governments be the same as they would be if they were private employers.

That means that IRS regulations with respect to withholding of payroll taxes for private employers would be applied suddenly to State and local governments. This means these large and small government jurisdictions will face not a monthly withholding requirement but instead will have to deposit up to as many as eight times a month.

I understand that the committee would like to find some additional revenue. I think that is probably the reason why it was adopted by a close vote in the committee. But the point is, as I said, that this came up in the middle of the night. I do not think it makes sense, and it should not be in this bill.

The National Commission did not consider this. The House did not consider it. The Ways and Means Committee did not consider it. No committee in Congress in the last several years has considered it.

I think all of us—at least, most of us—want to maintain the National

Commission package. We do not want to break the package. We do not want to adopt amendments which will have the effect of breaking the package apart. We know the importance of social security. We know the importance of the system, and we are doing what we can, with all due respect and with credit to all involved, particularly the Commission members and Members of the House and the Senate, to maintain that package.

We have rejected amendments in the Senate which probably would break up the package, and in this body we have adopted amendments which do not break up the package. This is not an amendment which breaks the package, and, by definition, it could not be, because it was not part of the Commission's package. The Commission did not discuss it. They did not pay any attention to it; neither has anyone else, except for the committee late at night, after just a few moments' discussion.

Mr. President, I think there is a good reason why the Commission did not consider this. There is a good reason why no other body considered it. That reason is that this provision, if it is kept in the law—section 148—will create absolute chaos for States and local governments.

First of all, we do not know what the responsibility of the States is. The States, if the section stays in the law, will be held accountable and liable for the late payments of school boards, counties, cities—all the municipal jurisdictions involved here. They cannot afford that liability.

More important, it is unclear whether IRS regulations would apply directly to States here or whether States, themselves, could enact regulations applying to local jurisdictions. It would be absolute chaos. That is why States and local governments do not want section 148 to stay in the bill. And that is the reason why we should strike that section.

Mr. President, there is also a good reason why the Commission did not consider this package. There is a little history behind this provision. Before 1978, States and local governments withheld payroll taxes and submitted those withholdings to the Government on a quarterly basis, four times a year. That was the law. Then, in 1978, the Treasury had a bright idea—and we all know that the Treasury is looking for whatever ways it can find to obtain additional revenue. The Treasury, on its own, because it could do so under the law in 1978, tried to implement the provisions that are in section 148.

At that time, in 1978, we in Congress were deluged with legitimate complaints by our local government people, State and local governments. They legitimately and properly pointed out the problems this provision would provide for people. So, at that time, Congress agreed. After comprehensive hearings, Congress then, by

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law, said, "OK, we will change the law. We will speed up the collection, but we will only go to a monthly basis." That is the present law.

So my point is that the only time Congress has considered this in any way at all, the only time there were hearings, the only time the country had the opportunity to know what was involved here, Congress very definitely decided against the provisions of section 148 that are presently contained in the committee bill. That is, Congress decided that States and local governments should withhold on a monthly basis, and that is the law. That is why the National Commission did not touch it. That is why the House did not touch it. That is why no one else here has decided to change present law, except for the committee, after a few moments of discussion, late at night, when the committee considered this bill. Probably the reason why that committee adopted the provision was that it picked up some additional revenue over a decade—\$2.2 billion.

In my judgment, we should keep the package secure, and by keeping the package secure, let us not enact amendments that break the package. Similarly, let us not enact amendments which are not needed and which will cause unnecessary chaos.

Mr. President, this amendment obviously is supported by the States and by various municipal organizations—the National Governors Association, the National Conference of State Legislatures, the National League of Cities, and many others. I will not list all the other organizations that support this amendment.

Let me conclude this point by saying that this amendment is the only major departure that the committee has taken from the National Commission package. There are some minor variations, but this is the only major departure.

I think, Mr. President, that we should correct that oversight, correct that mistake, correct that misguided action that the committee took that night. Let us stay with the package. Even though we do get some additional revenue for the trust funds with this provision, it is going to cause absolute chaos and be absolutely impossible to administer, and we do not need it.

With that, Mr. President, I hope that Senate agrees and votes with me in striking this provision, because I think it will help us avoid a lot of problems that otherwise we are going to face down the road.

I yield the floor.

• Mr. BIDEN. Mr. President, I am happy to be a cosponsor of the amendment offered by Senator Baucus that would remove the proposal to accelerate State and local government deposits of social security taxes withheld from employees' paychecks from the social security bill.

Under current law, social security taxes withheld for State and local em-

ployees must be deposited within 30 days after the end of the month in which the applicable wages were paid. This gives States time to collect withheld taxes from the various local governments within their jurisdiction. Because States guarantee payment of these taxes, this time period is crucial.

The Senate Finance Committee, however, has included in its bill a provision that would put State and local governments on an accelerated deposit schedule identical to that which governs private business. This proposal is not included in the Social Security Commission's recommendations and is not a part of the House version of this legislation.

Many towns in my State, Mr. President, while very small, would be required to deposit these taxes every 3 days under this proposal. These are towns, in many cases with part-time governments, which may only meet once or twice per month, at which time all bills are paid. These are not towns with expensive and fancy computer systems that make it easy to complete these transactions on time, they are run by dedicated people who would simply not be able to keep up with the administrative burden this proposal would impose.

Delaware is hardly unique in this situation, Mr. President. The same applies to small towns and counties throughout America.

And then there is the burden we would place upon the States through this provision. States must guarantee payment of these taxes—but would clearly have great difficulty in collecting withheld taxes from many of the towns and counties within their jurisdiction. In addition, it is clear that it will be very difficult for States to turn the money they collect back around to the Federal Government within the time this provision would allot. The National Conference of State Social Security Administrators estimates that the interest and penalties on States arising from elimination of the current 30-day period would amount to \$400,000 annually.

It is important, Mr. President, that we find a solution to the social security problem that imposes no undue hardship on anyone from whom we demand sacrifice. I believe the proposal to accelerate State and local deposits of social security taxes violates this principle. I hope the Senate will reject the Armstrong substitute and approve the Baucus amendment. •

UP AMENDMENT NO. 129

(Purpose: To permit units of local government to make payments of social security taxes directly to the Secretary of the Treasury)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk as a substitute for the Baucus amendment.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 129.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be stricken, insert the following:

SEC. 148. (a)(1) Subsections (e), (h), (j), (q), (r), (s), and (t) of section 218 of the Social Security Act are repealed.

(2)(A) Section 205(c)(1)(D)(i) of such Act is amended by striking out "(or on reports filed by a State under section 218(e) or regulations thereunder)".

(B) Section 205(c)(5)(F) of such Act is amended by striking out clauses (ii) and (iii).

(C) Section 218(f)(1) of such Act is amended by striking out "Except as provided in subsection (e)(2), any agreement" and inserting in lieu thereof "Any agreement".

(b) Section 3121(b)(7) of the Internal Revenue Code of 1954 (relating to exclusions from employment) is amended by striking out "shall not apply in the case of" in the matter preceding subparagraph (A) and inserting in lieu thereof "shall not apply in the case of service included under an agreement under section 218 of the Social Security Act, or in the case of".

(c)(1) Chapter 21 of such Code (the Federal Insurance Contributions Act) is amended by redesignating section 3126 as section 3127, and by inserting after section 3126 the following new section:

"SEC. 3126. RETURNS IN THE CASE OF STATE AND LOCAL GOVERNMENTAL EMPLOYERS.

"In the case of the taxes imposed by this chapter with respect to services performed in the employ of a State or any political subdivision thereof, or in the employ of any instrumentality of a State or political subdivision thereof which is wholly owned thereby, the return and payment of the taxes may be made by the Governor of such State or such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a)(1)."

(2) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Returns in the case of State and local governmental employees.

"Sec. 3127. Short title."

(d)(1) Section 6205(a) of such Code (relating to adjustment of tax) is amended by adding at the end thereof the following:

"(5) STATE AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and

each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."

(2) Section 6413(a) of such Code (relating to adjustment of tax) is amended by adding at the end thereof the following:

"(5) STATE AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."

(3) Section 6413(c)(2)(B) of such Code (relating to applicability in case of certain governmental employees) is amended to read as follows:

"(B) STATE EMPLOYEES.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."

(e) The amendments made by this section shall apply with respect to service performed after December 31, 1983.

Mr. ARMSTRONG. Mr. President, I shall undertake to explain the amendment.

At the present time, when those local jurisdictions which are covered by social security submit their social security taxes, they do so through their respective States. There is an element of injustice in requiring a more rapid deposit of the withholding proceeds when they have to run it through the States. It literally puts the States in the position of having to collect it faster than seems fair.

So the straightforward way to handle it would be as suggested by this substitute amendment, and that is to simply let the local jurisdictions report their social security taxes directly to the IRS just as they presently do the taxes which they withhold for Federal income tax. In other words, that is going to put the local jurisdictions, the municipalities, and so on, on exactly the same footing as any private employer.

We should bear in mind that some of these jurisdictions are fairly small. A few of them may even be as small as the small businesses that are covered by the Social Security Act, and so it is important to recognize that earlier amendments which we have added to this bill do liberalize the treatment of small business enterprises and assuming the adoption of the substitute, which is now before us, the local jurisdictions would benefit from the same kind of liberalized treatment. In other words, we are not trying to impose a severe duty upon these local jurisdictions with respect to their deposit requirements. Indeed, all we are seeking to do in the original amendment as the Finance Committee amended it and the substitute which I have sent to the desk is simply to say that municipalities, States, anyone that is covered should be on the same footing.

If we should for some reason fail to adopt the substitute and in turn adopt

the Baucus amendment, we would restore the present situation which is to give more favored treatment to units of local government than we give to private employers.

This does not seem fundamentally just to me that the State and local jurisdictions, particularly since they tend to have greater financial resources and greater resources of administration and data processing and so on, are given a better break than we give to small business concerns. It just does not make sense to me that the local gas station has to report its social security withholdings and pay those into the Treasury faster than does, say, a municipality or State government. So that is the issue involved.

To sum up, the substitute amendment would provide that the IRS, not the Social Security Administration, would collect FICA taxes from the State and local government units. The rules for the frequency of FICA deposits would be the same as those which apply to private employers, and those rules already apply to the deposit of withheld income taxes by State and local governments.

And as I pointed out a moment ago, they have been liberalized by an earlier amendment which we have adopted.

Finally, each local government could be treated as a separate employer for the purposes of deposit of FICA taxes at the option of the Governor of the State.

With that word of explanation, I urge adoption of the substitute amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BAUCUS. Mr. President, I understand the good faith of the Senator from Colorado. He is saying that the States would not collect withheld taxes but rather each local government subdivision, each local government entity would deal directly with the Federal Government.

Frankly, Mr. President, that is not even a baby step toward solving the problem. It does not meet the objections that I have. It would not meet the objections of the school districts, of the counties, of the cities, of the towns, of all the municipality subdivisions that are most directly affected by this amendment.

The main problem here is really that this is something that has to be worked out. Perhaps it could be phased in. We need a hearing. We need some full discussion, not to debate it forever, but at least some discussion where mayors and officials from entities and subdivisions as small as school districts can come to us, talk to us, to both bodies on both sides of the Capitol, so we can work out something that makes sense to them.

We cannot do this here. We did not discuss it. We just enacted it, and there we are.

Beyond that there is another point that has not been mentioned: For the next fiscal year these governments

have to pay an additional payment. There will be 13 monthly payments instead of 12. Considering the desperate financial straits, that most States and most local government entities are in these days with the recession, and so forth, I do not think this is a proper time to add this additional financial burden to them.

So what I am saying, Mr. President, is as much as I would like to adopt and agree with the Senator from Colorado, I cannot. If his substitute is adopted, my earlier amendment, according to the Parliamentarian, falls. All we will have done then is say keep the present provisions, section 148, except that States do not collect; everything else is the same.

As I say, that does not really go to the heart of the problem. That just touches the first little bit of the problem but does not go to the heart of the problem. So we have not really done anything. We are kind of wasting our time here. It is for those reasons that I must not agree to the amendment of the Senator from Colorado.

Mr. President, I therefore strongly urge that we do not adopt that provision. It does not go to the problem and I think that we should not agree to it.

On that score, Mr. President, I ask for the yeas and nays on the substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. I thank the Senator from Colorado as well as the chairman of the committee for helping to get the yeas and nays.

Mr. ARMSTRONG. Mr. President, unless there is something further, I think the issue is clear. The Senator from Montana has made some good points. It seems to me the most persuasive issue is we should not treat States and local jurisdictions differently than we treat private employers.

That does not dispute some of the points that he has made. It is just a question of how you feel about it.

I feel everyone should be treated the same. So I am ready to vote if the Senator from Montana is.

Mr. BAUCUS. Mr. President, I am except to say, yes, there is an equity argument here. Private employers have to pay as frequently as eight times monthly and they pay according to certain rules. Why should not State and local governments? That is the equity argument that has a lot of appeal.

The problem is we are going much too quickly. We do not know what we are doing here. It is going to cause absolute chaos for all these little entities. What is the school district going to do? It does not know what is going on here. The school district and every other government entity is used to dealing with the State because under present law they submit to the States and they deal with the States. States,

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too, have 30 days within which to collect on the withheld payroll taxes that each of those local subdivisions provide.

Now, if we adopt the substitute amendment of the Senator from Colorado, States and particularly local subdivisions are not going to know what in the world is going on here. They will have to deal directly with the IRS and deal with all the redtape and all the mess of problems the employers have to deal with. I just suggest we possibly should ease into this, have a transition period.

The only way I know of doing that is to have a hearing on the subject. Let us address it and iron out the kinks and the problems that obviously are going to arise because we know what happened in 1978 when a similar change was suddenly proposed.

We in the Congress looked at it, and said, "Yes, let us move it from quarterly to monthly withholding, but let us not go any further. Monthly collections by the States is what makes sense."

As I said, that is also probably why the National Commission did not address this question because when Congress addressed it earlier it knew what the situation was.

Frankly, Mr. President, I am just here to try to talk a little common-sense. I do not particularly carry water for local governments or for States, for that matter. Sure, we would like to add some more money to the trust fund. But let us be reasonable. Let us not be draconian, let us not be tyrannical, let us not be dictatorial. Let us try to keep that partnership with the local governments that we need to have in this country if we are going to work together and solve problems.

Fundamentally we should work with people, work with local governments, and then we will resolve that equity argument which the Senator from Colorado mentioned.

Therefore, I think we ought not to agree to the substitute. I urge my colleagues to agree to the underlying main amendment, hold the hearings, and let us get on with it so that we will solve the problem reasonably.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. SPECTER). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—49

Armstrong	Hatfield	Nunn
Baker	Hawkins	Packwood
Bochwin	Hecht	Proxmire
Chafee	Helms	Quayle
Chiles	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Inouye	Stafford
Danforth	Jackson	Stevens
Dole	Jepson	Thurmond
Domenech	Johnston	Tower
Durenberger	Kassebaum	Tribble
East	Kasten	Wallop
Garn	Laxalt	Warner
Goldwater	Lugar	Weicker
Gorton	Mattlingly	Wilson
Grassley	Murkowski	
Hatch	Nickles	

NAYS—48

Abdnor	Dodd	Mitchell
Andrews	Eagleton	Moynihan
Baucus	Exon	Pell
Bentsen	Ford	Percy
Biden	Glenn	Pressler
Bingaman	Hart	Pryor
Boren	Hefflin	Randolph
Bradley	Huddleston	Riegle
Bumpers	Lautenberg	Roth
Burdick	Leahy	Sarbanes
Byrd	Levin	Sasser
Cranston	Long	Specter
D'Amato	Matsunaga	Stennis
DeConcini	McClure	Symms
Denton	Melcher	Trosgas
Dixon	Metsenbaum	Zorinsky

NOT VOTING—3

Hollings	Kennedy	Mathias
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So Mr. ARMSTRONG's amendment (UP No. 129) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I understand the distinguished Senator from Hawaii (Mr. MATSUNAGA) has an amendment which has been agreed to by other Senators who have an interest, Senator MITCHELL, Senator LUGAR, and others, and that the distinguished Senator from North Carolina (Mr. HELMS) has an amendment which has been cleared.

I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 130

(Purpose: Providing for a study of individual retirement security account)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 130.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, insert the following new section:

STUDY OF INDIVIDUAL RETIREMENT SECURITY ACCOUNTS

Sec. . (a) The Secretary of the Treasury or his delegate shall conduct a study of the feasibility of implementing Individual Retirement Security Accounts (hereinafter in this section referred to as "IRSAs") or any similar alternative type of account.

(b) For purposes of this section, an IRSA shall be an account which includes, but is not limited to, the following features:

(1) Any individual who is required to pay tax under section 3101 of the Internal Revenue Code of 1954 may elect to make contributions to the account.

(2) An individual could make unlimited contributions to an IRSA and would receive an income tax credit equal to 20 percent of the amount of the contribution for any taxable year but not in excess of 20 percent of the amount of the taxes paid under section 3101 of such Code by such individual for such taxable year.

(3) To the extent that an individual elected to take advantage of the tax credit for a contribution to an IRSA, the Old-Age and Survivors Insurance benefits of such individual under the Social Security Act would be reduced proportionately in a manner such that if an individual was allowed the maximum credit for 20 years, such individual's benefits would be reduced to zero.

(4) After the IRSA system has been implemented, an increasing portion of the taxes imposed by sections 3101 and 3111 of such Code with respect to any individual would be transferred to such individual's IRSA account with a corresponding reduction in such individual's Old-Age and Survivors Insurance benefits. Eventually all such taxes would be so transferred with an appropriate phaseout of the credit. The Secretary of the Treasury or his delegate shall study 1 or more schedules for the increases in taxes transferred and phase-out of the credit.

(5) An individual could withdraw funds from an IRSA after age 62 without such amounts being taxed. If an individual withdraws funds from an IRSA prior to age 62, such amounts would be appropriately taxed unless used to purchase term life, health, or disability insurance.

(c) The Secretary of the Treasury or his delegate shall also study the feasibility of making IRSAs mandatory, with mandatory employee contributions accompanied by the phase-out of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954.

(d) The Secretary of the Treasury shall submit to the Congress a report on the results of the study conducted under this section before July 1, 1984.

Mr. HELMS. Mr. President, the able Senator from Kansas and the Senator from North Carolina discussed this amendment last evening when it was offered. I believe this has now been cleared on both sides.

Mr. DOLE. Mr. President, a discussion of the amendment offered by the distinguished Senator from North Carolina (Mr. HELMS) was held last evening. This amendment was drafted to conform to the Senator's request, and it has been cleared on both sides. We will accept the amendment.

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The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (UP No. 130) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I understand the distinguished Senator from Hawaii (Mr. MATSUNAGA) has an amendment which we can accept.

SENATE CONCURRENT RESOLUTION 20 MAKING TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 1718

Mr. BAKER. Mr. President, I have a matter that needs to be attended to now in connection with the jobs conference report which was sent to the House last evening. This has been cleared by the minority leader and by all responsible persons on this side, those who have a jurisdictional interest.

Mr. President, I send a concurrent resolution to the desk dealing with the typographical error in the conference report on the jobs bill and ask for its immediate consideration.

The **PRESIDING OFFICER**. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 20) making corrections in the enrollment of H.R. 1718.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its consideration.

Mr. BAKER. Mr. President, this concurrent resolution makes a typographical correction and adds two paragraphs inadvertently dropped from the Senate amendment to the targeting provision of the jobs bill which the Senate passed last night. These corrections have been cleared with the minority and I know of no objection to adoption of this concurrent resolution.

The **PRESIDING OFFICER**. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 20) was agreed to, as follows:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring). That in the enrollment of the bill (H.R. 1718) entitled "An Act making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent for fiscal year 1983, and for other purposes", the Clerk of the House of Representatives is hereby authorized and directed, in the enrollment of the said bill, to make the following corrections, namely, after the word "unemployment" in paragraph (a)(b) in section 101, insert a comma;

and at the end of section 101, insert the following:

"(e) Notwithstanding any other provision of law, the head of each Federal agency to which appropriations are made under this title, with respect to project grants or project contracts in this section, shall expedite final approval of projects in areas of high unemployment, labor surplus areas, or in political units or in pockets of poverty that are currently or should meet the criteria to be eligible under the Urban Development Action Grant program administered by the Department of Housing and Urban Development in order to allocate sums as required by this section. Nothing required by this section shall impede the rapid expenditure of funds under this section.

(f) Notwithstanding any other provisions of law, any agency rulemaking proceeding conducted in order to implement the provisions of this title shall be conducted expeditiously, and in no case shall an agency hearing on the record be required."

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion that on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY ACT AMENDMENTS OF 1983

The Senate continued with consideration of the bill.

UP AMENDMENT NO. 131

(Purpose: To provide that the provision limiting the payment of social security benefits to nonresident aliens shall not apply to individuals who initially become eligible for social security benefits within 10 years after the date of enactment of the social security amendments of 1983 on the basis of the wages and self-employment income of an individual who has 80 or more quarters of coverage prior to such date.)

Mr. DOLE. Mr. President, I understand that the Senator from Hawaii is now prepared to offer his amendment, which has been agreed to. The Senator from Maine is on the floor. I know he has a direct interest in the amendment and the Senator from Iowa (Mr. GRASSLEY) is interested.

Mr. MATSUNAGA. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The bill clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an unprinted amendment numbered 131.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 2, strike out "or".

On page 53, line 7, strike out the period each place it appears and the end quotation marks and insert in lieu thereof a comma and "or".

On page 53, between lines 7 and 8, insert the following new matter:

"(C) to any individual who—

"(i) initially becomes eligible for benefits under section 202 or 223 before the date

which is 10 years after the date of the enactment of the Social Security Amendments of 1983 on the basis of the wages and self-employment income of any individual with respect to whom not less than 80 of the quarters elapsing before such date are quarters of coverage (as defined in section 213(a)(2)); and

"(ii) in the case of an individual described in clause (i) who becomes so entitled on the basis of the wages and self-employment income of another individual, resides in the United States at any time before such other individual accrues 80 quarters of coverage."

Mr. MATSUNAGA. Mr. President, the provision in section 124 of the committee bill to limit social security benefit payments to aliens outside the United States raises for me a grave concern on a matter of equity. Except where required by an international obligation of the United States, section 124 would bar virtually all aliens abroad from receiving full benefits, if their initial eligibility becomes effective after December 31, 1984. Included would be alien workers, many of whom had legally worked and resided in the United States for their working lifetime and paid social security taxes on their earnings in all those years. This provision is manifestly unfair to those aliens who have spent a major part of their lives working in the United States and contributing to our society and economy.

We have a situation in my State of Hawaii wherein section 124 of the committee bill could adversely affect a considerable number of alien residents who would be much better off if they returned to live in their homeland in their retirement years. Between 1907 and 1946, more than 126,000 laborers migrated from the Philippines to Hawaii. Many have already returned to their homeland. Many have died; nearly all of the survivors are retired elderly. The youngest of them have reached age 55 years. Most of these immigrants have spent their working years in Hawaii without the support of family ties.

Many of these lonely, aging Filipinos look forward to returning to their homeland. Their extended families in the Philippines welcome back their aged members and provide them with love and care that are so essential to their mental, physical, and emotional well-being in their later years. The retiree is able to be reunited with not only his extended family, but his church and associations in the Philippines, where there is not the language and cultural barriers that exist for immigrant Filipinos in Hawaii.

In 1975, Father Jaime S. Neri, a Catholic priest, almost single-handedly, boldly undertook to address the needs of such Filipino retirees. With the support of his parishioners and the Hawaii State government, Father Neri was able to arrange for the return to the Philippines of a group of 41 men, ranging in age from 65 to 85, most of them lonely bachelors or widowers. This successful repatriation program is known as Balik-Bahay,

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meaning homecoming in the Filipino language.

An important aspect of the Balik-Bahay program is that it not only provides for a better quality of life for the retiree, it also effects considerable savings in American taxpayers' dollars.

As Father Neri has repeatedly stated to the Social Security Administration in his effort to federalize his Balik-Bahay program, repatriation of many of the retired beneficiaries at Government expense would result in savings to the American taxpayer. Most of the men seeking repatriation are receiving supplemental security income (SSI) benefits while they remain in Hawaii. In 2 years, from 1975 to 1977, the Balik-Bahay program saved the State and Federal Government a total of \$74,000. This saving came from the cessation of SSI, food stamp, medicare, and medicaid payments and housing subsidies for these individuals. In 1979, it was estimated that more than \$10,000 a month of public taxpayer costs are saved by the departure of the 41 men that were already sent home to the Philippines.

For example, a 74-year-old bachelor was sent home in January 1979. It was costing the Hawaii Department of Social Services \$1,084 a month to maintain him in a nursing home. Now, back with relatives in the Philippines, and with his U.S. social security check (earned legally through long years of labor) of \$236 a month, he lives comfortably. His monthly social security check translates into about 1,650 pesos and is more money than the local physician makes.

This humanitarian and tax-saving program to help migrants who desire to return home to rejoin their families would be jeopardized by the proposal to limit social security benefit payments to aliens outside the United States. The migrants, who labored for many years contributing fully to the social security system, would no longer be able to receive their full social security benefits if they reach eligibility after December 31, 1985, and returned to their homeland. They would be forced to choose between giving up hope of returning to their homeland on the one hand, and returning with little or no retirement income, on the other. The likelihood is that they would give up hope of returning to their homeland and draw welfare payments to supplement their meager social security benefits.

The National Commission made no recommendations concerning aliens even though it considered imposing a residence test on the payment of benefits outside the United States to auxiliaries and survivors. And the Finance Committee proposal would not result in appreciable savings in the early years since it would only apply prospectively. Thus, the proposal does not, in any event, contribute to the immediate task at hand. There is no need to rush into what maybe ill-considered action, which would lead to a small, or

even negative savings for the social security trust fund, when there is ample time to deal properly with this issue in the months and years ahead.

My amendment would delay the implementation of limiting the payment of hard-earned social security benefits to any alien outside the United States until 10 years after the enactment of this proposal, if upon the enactment of the committee provision the alien had contribution to the system for 20 or more years.

Aliens coming to work in the United States after the enactment of the committee proposal will not entertain the expectation of receiving from the social security system more than what they will contribute into it, with interest. However, we should not change the rules of the game and penalize those aliens who are now in the system and have contributed to it in full expectation of the scheduled benefits upon reaching retirement age. Although I believe that no one already contributing to the service should be denied its benefits upon qualification, it is in the spirit of compromise. That I am offering my amendment, specifically for those aliens who have already spent at least 20 years in covered employment in the United States and will qualify for retirement benefits within 10 years after the enactment of the committee proposal.

The floor manager, the distinguished chairman of the Finance Committee is signaling me to wind it up, so let me say, that is the essence of my amendment. It is meant to save the State and the Federal Government money, just as it was intended by the original section 124, while providing a comfortable retirement for deserving aliens who have contributed toward elevating the quality of living in the Aloha State.

I might in closing, point out for the Record, as was suggested by the Senator from Maine, that those who become spouses or dependents after the enactment of this act will not qualify as dependents of principal alien beneficiaries who reside outside of the United States.

Mr. President, I urge the adoption of my amendment. Before yielding the floor, I ask unanimous consent that Senator Iwouyz be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, this amends a provision of the pending bill which was included by the committee at the initiative of Senator GRASSLEY and myself and was intended to deal with a serious pattern of abuse that has been apparent for some time and brought into focus by the recent report of the General Accounting Office.

Senator MATSUNAGA's amendment provides for a transition period of 10 years under very tightly defined cir-

cumstances and is intended to accommodate those persons whom he described and others in similar circumstances. I have discussed this with Senator MATSUNAGA and, earlier today, with Senator GRASSLEY. I believe that, while it does provide some exceptions to the provisions of the legislation, the exceptions are sufficiently narrow and warranted under the circumstances. Therefore, I have no objection to the amendment.

Mr. DOLE. Mr. President, do I understand correctly that the Senator from Maine has no objection to the amendment?

Mr. MITCHELL. That is correct.

Mr. DOLE. Mr. President, I wonder whether the Senator from Maine has had conversation with the Senator from Iowa (Mr. GRASSLEY) and with Senator LUGAR.

Mr. MITCHELL. Earlier today, Mr. President, Senator MATSUNAGA, Senator GRASSLEY, and I met to discuss this. Senator GRASSLEY has said the matters now set forth in the amendment would be agreeable to him. I am not aware of whether Senator LUGAR participated in those discussions or agrees with them.

Mr. DOLE. The Senator from Iowa (Mr. GRASSLEY) is now entering the Chamber. I understand that he and Senator LUGAR have no objections to the amendment of Senator MATSUNAGA as modified. Is that correct?

Mr. GRASSLEY. That is correct, Mr. President.

Mr. DOLE. Mr. President, the Senator from Kansas has no objection to the Matsunaga amendment as modified. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 131) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I want to say to the Senator from Hawaii that I was not trying to get him to wind it up. I felt that he was way ahead and I did not want him to lose.

UP AMENDMENT 133

(Purpose: To amend title II of the Social Security Act to provide for an eight-month transitional benefit for a widow or widower whose spouse died while such widow or widower was between the ages of 50 and 60)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and Mr. DeCONCINI, Mr. CHILES, Mrs. KASSERBAUM, Mrs. HAWKINS, Mr. FORD,

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Mr. BURDICK, and Mr. RANDOLPH, proposes an unprinted amendment numbered 132.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

TRANSITIONAL BENEFITS FOR CERTAIN WIDOWS AND WIDOWERS

Sec. . (a) Section 202(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 50 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife would be so entitled to a widow's benefit under this subsection); and

"(iii) is not otherwise entitled to a widow's benefit under this subsection,

shall be entitled to a widow's benefit under this subsection (subject to the same conditions as an individual entitled to a widow's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which she meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife is entitled to a widow's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the eighth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widow or surviving divorced wife is entitled to a widow's benefit under this subsection other than by reason of this paragraph."

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

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 50 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widower would be so entitled to a widower's benefit under this subsection); and

"(iii) is not otherwise entitled to a widower's benefit under this subsection,

shall be entitled to a widower's benefit under this subsection (subject to the same conditions as an individual entitled to a widower's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which he meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widower is entitled to a widower's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the eighth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widower is entitled to a widower's benefit under this subsection other than by reason of this paragraph."

(c) The amendments made by subsections (a) and (b) shall be effective with respect to monthly benefits under Title II of the Social Security Act for months beginning after December 31, 1983.

Mr. LEVIN. Mr. President, I send this amendment to the desk on behalf of myself, Senators KASSEBAUM, CHILES, HAWKINS, DeCONCINI, FORD, BURDICK, and RANDOLPH.

Mr. President, the amendment that we are offering would give a widow who is under age 60 and is, therefore, not eligible for social security as the survivor of her husband and a widow who is not working a chance to survive financially for a few months while looking for work after the death of her husband. In many cases, widows have spent most of their adult lives raising a family and need time to try to adjust their skills to the demands of the workplace. Also, it is an unfortunate fact of life that women entering or reentering the work force after 20 or 30 years can have a very difficult time finding a job.

Our amendment, therefore, provides for a transition benefit to surviving spouses caught in what has been called the widow's gap. I previously introduced legislation to deal with this situation on October 15, 1981.

Under present law, a widowed homemaker under the age of 60 does not qualify for any financial assistance from social security unless she is disabled or has a child in her care who is disabled or under 16 years of age. This causes a severe hardship for the many women who are widowed under the age of 60 and without a job.

My amendment would provide this transition benefit to widows of workers covered by social security, if the surviving spouse is at least 50 years old at the time of the wage earner's death and is not otherwise immediately eligible for social security benefits for the month in which the death occurred. Thus, the transition benefit is for an 8-month period. The benefit would be for the same percentage of the wage earner's primary insurance amount as, under current law, for widows age 60, or the spouse's own primary insurance amount based on her own past work experience, whichever is higher. These benefits would also be subject to the social security earnings limitation.

Mr. President, coverage has not been made available to this group in the past under the rationale that these individuals can be expected to work and support themselves. But the fact is, Mr. President, according to a February 1979 report from the Department of Health, Education, and Welfare entitled "Social Security and Changing Roles of Men and Women":

Lifelong homemakers (or women who have been out of the labor force for many

years) who are widowed in late middle age may find it difficult or impossible to get a job. Even widows with job skills or younger widows may have difficulty finding a job immediately or may need a period of job training. For these reasons, widows under age 60 may need some kind of immediate income, at least for a short time, to help them adjust to the loss of their spouse's income.

Mr. President, that is exactly what this amendment does. For a short time, it provides that adjustment, that transition benefit to permit widows in their middle age, who have raised a family and who have run the house, a chance to look for work and not be left destitute during that process.

At this point, some may be thinking that this is a good idea, but can the package afford it. Certainly this is a concern of the chairman of the committee. I know of his prodigious effort to balance the need for safeguarding the fiscal integrity of the social security system, with the need for equity and compassion.

But I know from looking at the committee's report and a report from the office of the actuary of the social security system that there is room for my amendment within a financially sound social security system, both in terms of the short and long term.

As for the short-term financing situation, the Office of the Actuary estimates that for calendar year 1984 my amendment would cost about \$75 million. The Office of the Actuary calculates that the net increase in funds in the OASDI trust fund as the result of S. 1 would be \$4.5 billion in calendar year 1984, the first year our amendment would be in effect. This amendment would not, therefore, jeopardize the solvency of the OASDI fund because the Office of the Actuary estimates that with the passage of S. 1 there will be \$29.1 billion in the OASDI at the end of 1984.

As for the long-term financing question, the Office of Actuary calculates our amendment would cost 0.01 percent of taxable payroll. The committee's report indicates that the effect of passage of S. 1 would be to leave the OASI trust fund with a surplus of 0.07 percent, and the combined OASDI trust fund with a surplus of 0.09 percent. Therefore, the passage of my amendment with costs of 0.01 percent of taxable payroll would not in any way jeopardize the long-term solvency of the system.

One final word, Mr. President. Throughout my statement, I have referred to widows. Our amendment would apply to similarly situated men as well, although 90 to 95 percent of the individuals who would benefit from this provision would be women. It is estimated that between 30,000 and 35,000 individuals would benefit from this provision each year.

This amendment thus balances the same values of fiscal integrity and compassion which the committee's bill sought to balance, and I hope that all of our colleagues can support this modest

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amendment, again at a cost of \$75 million, finally doing something to correct the very, very real and tragic problem of displaced homemakers who have given their lives to raising their children and to maintaining their homes and to then find themselves in their fifties suddenly widowed without work and looking for work. This amendment would close, in a modest way, that "widow's gap" at a very, very modest cost to the social security fund.

Mr. DOLE. Mr. President, I always look with favor on amendments offered by the distinguished Senator from Michigan because he is very sensitive and very concerned about the needs of people. His amendment would provide 8 months of social security benefits for a widow or widower whose spouse died while the widow or widower was between the age of 50 and 60 and benefits would be paid at the rate for the widow or widower at age 60, that is, 71.5 percent.

I think the cost between now and 1989 would be about \$1 billion, the long-range cost at about 0.01 percent of taxable payroll.

As the Senator pointed out, the amendment would address a problem confronting lifelong homemakers who have been out of the labor force for many years and suddenly find themselves widowed in late middle age. This amendment would allow older widows to adjust to the loss of their spouse's income and give them a period of time to prepare to enter the work force.

We had some outstanding women on the National Commission and we believe we made some progress in the Commission in addressing the inequities facing women under social security. We did provide for benefits for divorced or disabled widows or widowers who remarry. We changed the indexing for deferred survivor benefits. We added the independent eligibility for divorced spouses. We increased benefits for disabled widows and widowers. We also changed the child care credit, through the amendment of the distinguished Senator from Colorado, which we adopted as part of a long-range package. It is not that we were not conscious or concerned or sensitive to discrimination in some areas of social security. The current package does contain several recommendations.

Our committee recognizes that more remains to be done on these issues and hopes to hold hearings later this year on a more comprehensive approach than the solutions to individual problems offered in this package.

However, on this particular amendment, how do you hold the line at age 50? Why not 40 or 45 or any other age where someone is widowed and where they may be unable to find work?

If you were to take out any age limit on this proposal, then the cost goes to the ceiling. It is another great program, and I commend the Senator from Michigan for calling it to our attention, but I urge my colleagues to defeat this amendment.

Martha Keys, the former Congresswoman from my State, the State of Kansas, who was a member of the Commission, along with Mary Fuller, an outstanding member of the Commission from the State of California, and the Senator from Colorado, had a whole series of additional women's issues they wanted to get into but could not, because of the constraints in the Commission report.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Conversations in the rear of the Chamber will please cease.

Mr. DOLE. The Senator from New York, the Senator from Kansas, and others on the Commission made a number of efforts in this area. We had a whole list of things we wanted to address, and finally we had to draw the line.

I hope the Senator from Michigan will let us proceed with hearings which we will be holding this year in our committee. We know that there are other areas that need to be addressed.

On this particular amendment, however, I wonder how would we hold the line on protecting a spouse from the loss of a worker's income only when he has died? Loss of income can also occur with divorce, separation, disability. Current disability benefits require a 5-month waiting period. A spouse, in particular, with no work history, can suffer loss of income in each of those situations. If we pick out only one, we have difficulty in discriminating against some other group.

I hope the Senator will let us consider the amendment in hearings, because we do plan a more comprehensive approach.

Mr. MOYNIHAN. Mr. President, the chairman has stated it accurately. I fully join in his suggestion that what the Senator from Michigan proposes is compassionate and intelligent. The question is how to fund it.

We have undertaken a broad consideration of those aspects of the social security system which are not equitable to women, which discriminate against them, or where the system simply should be improved because of those circumstances.

Most important, I think, is the question of shared earnings. But the more of these issues involved, the more important our hearings will become. Shared earnings are probably a priority.

I hope we can put this matter over until that early date when we take up the large discussion that is necessary. We can not do it on this package. A billion dollars in the next 7 years is a billion dollars, and we dare not.

Mr. LEVIN. Mr. President, I thank my friends from Kansas and New York.

This is indeed an important issue. It is something which has been festering a long time. As I indicated, I introduced a bill on this subject a number

of years ago. It is an inequity which has to be faced. It can be faced now, in this bill. I think there is an understanding that we can solve this problem now.

If we add up enough years, I guess we can get to a billion dollars. But the fact is, as we understand from the actuary, the cost of this is \$75 million in calendar year 1984 and \$100 million for each year from 1985 through 1987. I do not know how many additional years beyond that the chairman went to get to the figure he identified.

He made a reference to one of the members of the Commission, Mary Fuller, and I want to read from her supplementary statement to this report. She said:

The effect on women of the Social Security program is a subject of major importance, and much analytical work has been done to identify and evaluate alternative approaches to correct the unintended inequities. In fact, the 1979 Advisory Council on Social Security spent more time on this issue than on any other single issue. Unfortunately, our commission could not address this issue due to the urgent priority of restoring the solvency of the system. But we do not intend this choice to detract from the importance of restoring the equitable treatment of women in today's world. The provisions of the bi-partisan package, while advantageous to certain groups of women, do not begin to address the fundamental, though unintended, inequities, that act to the disadvantage of all people except members of intact one-earner couples.

We have talked with her, and, by the way, her reference to this issue relates to inequities to women, not just the particular amendment I am offering.

We also talked to Martha Keys, an outstanding person, with great background in these issues. She told us that this is an excellent amendment, that the area we address is an area of extreme urgency.

We in the Senate all know about the widows' gap. We have let this go on. We know there are women by the tens of thousands in their fifties who are left with children now grown and are suddenly widowed and are not eligible for the social security benefit. They have not worked, they are thrown onto the job market, and they cannot get a job. We all know that.

This amendment is a modest transition amendment to say, "Here, for 8 months you will have this transition benefit so that you can survive."

I say to the chairman of the committee that this is a very modest amendment in amount, in purpose, and in intent, and it is the kind of amendment we all can support.

We have taken action to help small business. We have taken action which costs \$200 million. The trust fund is going to have to lay that out in 1984 to help small business. I think we can take action which will cost \$75 million to help widows.

Mr. President, in closing let me just take a moment to thank Congresswoman MARY ROSE OAKAR, chairperson of the House Task Force on Social

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Security, and her staff for the assistance they provided in the formulation of this important legislation.

Mr. DOLE. Mr. President, I do not want to quarrel with my friend from Michigan. He may proceed on it however he wishes.

We are concerned. We think we have demonstrated that our concern is real. This may be a gap as pointed out by the Senator from New York. It may not be classed as an inequity. We had a very difficult time saying no to many of these worthwhile provisions.

We had a little surplus earlier on today, but that has been wiped out, according to the actuaries, by adoption of the Long amendment. At one time, we had a little cushion, and this amendment might have been able to fit into that little cushion.

Mr. LEVIN. I would be happy to make the suggestion to the chairman that if the Long amendment survives intact in conference and if my amendment were adopted, I would be happy to see the conferees adopt this amendment—if the Long amendment were kept intact in conference.

Mr. DOLE. They might be able to figure out something along that line. If the Senator would raise the age to 55 and reduce the time to 6 months, we might take it to the Rotunda or beyond.

Mr. LEVIN. Including the other part of the suggestion, about the Long amendment?

Mr. DOLE. I do not know anything about the Long amendment. [Laughter.]

Mr. LEVIN. Mr. President, I suggest the absence of a quorum, so that we can confer for a moment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I send a modified amendment to the desk on behalf of the same cosponsors.

The PRESIDING OFFICER. The amendment will be so modified.

The modified amendment is as follows:

At the appropriate place in the bill, insert the following new section:

TRANSITIONAL BENEFITS FOR CERTAIN WIDOWS AND WIDOWERS

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

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 55 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife would be so entitled to a widow's benefit under this subsection); and

"(iii) is not otherwise entitled to a widow's benefit under this subsection,

shall be entitled to a widow's benefit under this subsection (subject to the same conditions as an individual entitled to a widow's benefit under this subsection by reason of attaining age (60) for each such month during the period described in subparagraph (B) during which she meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widow or surviving divorced wife is entitled to a widow's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the eighth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widow or surviving divorced wife is entitled to a widow's benefit under this subsection other than by reason of this paragraph."

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

"(9)(A) Any individual who for any month—

"(i) would be entitled to a monthly benefit under this subsection for such month but for the fact that such individual has not attained age 60;

"(ii) had attained age 55 prior to the time of the death of the deceased individual (on the basis of whose wages and self-employment income the widower would be so entitled to a widower's benefit under this subsection); and

"(iii) is not otherwise entitled to a widower's benefit under this subsection,

shall be entitled to a widower's benefit under this subsection (subject to the same conditions as an individual entitled to a widower's benefit under this subsection by reason of attaining age 60) for each such month during the period described in subparagraph (B) during which he meets the requirements of this subparagraph.

"(B) The period shall begin on the first day of the first month beginning after the death of the deceased individual (on the basis of whose wages and self-employment income the widower is entitled to a widower's benefit by reason of this paragraph) and ending with the earlier of—

"(i) the last day of the sixth month beginning after the death of such deceased individual, or

"(ii) the first day of the first month for which such widower is entitled to a widower's benefit under this subsection other than by reason of this paragraph."

"(c) The amendments made by subsections (a) and (b) shall be effective with respect to monthly benefits under title II of the Social Security Act for months beginning after December 31, 1983.

Mr. LEVIN. Mr. President, the modified amendment, which I sent to the desk, reflects the suggestion of my friend from Kansas that we start this benefit that I described as a widows' transition benefit at age 55 instead of 50 as in my original amendment and that it be for 6 months instead of the 8 months as in the original amendment.

I, as always, am so grateful for the help of my friends from Kansas and Louisiana.

I think the suggestion is a constructive one which gets on the books at

least on this bill a provision which we have been struggling for so long to achieve. We have not recosted it, but I presume it would be something less than \$75 million, perhaps in the area of \$50 million in the first year, that divided by perhaps half because we are starting at age 55 instead of 50. So I presume it would be in the area of \$25 million to \$30 million.

I hope that my friend from Kansas and my friend from Louisiana will try to hold to this position in conference regardless of the disposition of the Long amendment in conference.

Mr. DOLE. Mr. President, if the Senator will yield to me, let me assure the Senator I did not mean to connect the two. I am sure the Senator from Michigan did not. But I think with the modification mentioned before, the Senator from Kansas is willing to accept the amendment.

Again I will say that the amendment has a great deal of merit, but there are a number of others that probably fit in that same category. I am not certain what the reaction of the House of Representatives will be. I am certainly willing to test it.

Mr. LEVIN. I thank my friend from Louisiana and my friend from Kansas for their constructive suggestion and help and thank the Chair and yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Michigan.

The amendment (UP No. 132), as modified, was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SIMMS. Mr. President, have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. They have not.

Mr. SIMMS. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 133

(Purpose: To disregard tax-exempt interest in the computation of adjusted gross income for purposes of the taxation of Social Security benefits)

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

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The Senator from Louisiana (Mr. Long) proposes an unprinted amendment numbered 133.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 115, beginning with line 21, strike out all through page 116, line 3, and insert in lieu thereof the following:

"(2) ADJUSTED GROSS INCOME.—For purposes of this subsection, the adjusted gross income of the taxpayer for the taxable year shall be determined without regard to this section and sections 231, 911, and 931.

Mr. LONG. Mr. President, this amendment deals with a provision that was not in the Commission recommendation. It deals with a provision that was not in the House bill. And in my judgment it is certainly a provision that was not adequately considered even in the Senate Finance Committee. This provision would require that in taxing 50 percent of social security benefits, that the base for determining whether people pay the tax include whatever income they may have from State and municipal bonds.

Mr. President, there is no doubt in my mind that the proposed inclusion of State and local bond interest in the tax base for calculating the tax on social security benefits is unconstitutional. We have debated that matter before in the Senate and I believe most Senators begin to understand the issue.

It seems that every year the people who want to tax State and local bond interest seem to find some new way of trying to do it. The problem is, no matter how the proposal is dressed up, taxing State and local bond interest still raises serious constitutional problems.

The proposal would not affect the taxation of higher income people. Let me explain that for a moment, Mr. President, because a lot of folks do not understand this.

This proposal in the committee bill does not apply to people who are making a lot of income. It only applies to little people in the middle-income bracket. For example, if a person had, let us say, \$50,000 of adjusted gross income and \$100,000 of tax-exempt bond income, he would pay the tax on half his social security benefits anyway and it would make no difference how much he had in tax-exempt income. Whether he had \$1 or \$100,000 of tax-exempt income, once he has the \$50,000 or for that matter once he has \$40,000 of adjusted gross income, from that point forward he is paying all the tax that is to be paid on 50 percent of his social security income anyway.

So this is only a tax provision to strike at middle-income aged people. It is not one to strike at very wealthy aged people.

I do not think the committee really understood the matter when the com-

mittee voted to put this on the statute books. This adds complexity to the formula for taxing social security benefits and it would raise very little additional taxes.

Now to support that statement, Mr. President, you do not need to go beyond the committee report. The committee report contains its estimate on how much money the bill raises with all these provisions. This is what I regard as a clearly unconstitutional provision which unfairly affects old people—and then you look in the chart in the committee report to see how much money the bill is going to raise by taxing the State and local government and what do you see? An asterisk. How much do they raise? An asterisk. You know what that means. An asterisk means that over the period less than \$5 million will be raised. An asterisk. What it really means is zero in this case, because it is not going to raise anything.

The cost of administering it and the cost of the complexity, the cost of adding additional lines on the income tax returns of these dear old people—and it will probably have to go on everyone's income tax return—completely offsets whatever might be raised with the provision.

In short, Mr. President, the provision in the committee bill creates problems of constitutionality and complexity in order to close an imagined loophole that does not really exist at all.

Let us just understand this, Mr. President: People do not benefit as far as investments are concerned by buying State and municipal bonds if they are in low tax brackets. The reason is that they lose anywhere from 20 to 40 percent of the income that they would get by buying instead a Federal bond, for example, or a AAA corporate bond. They would lose anywhere from 20 to 40 percent of their income by buying a State or municipal bond and, therefore, as Bill Simon, a former Secretary of Treasury, used to tell us, it has been taxed already. You might say it has been taxed for the benefit of the State and local Government because the fact that bonds of State and local governments are not subject to taxation by the Federal Government causes those bonds to sell at a favored price which means that they pay a much lower interest rate.

Mr. President, we should make no mistake about it. This provision does amount to taxing the interest on those State and local bonds.

Suppose an individual has social security benefits of \$10,000, pension income of \$20,000, and a tax-exempt income of \$10,000. Under the House bill and Social Security Commission recommendation you count one-half of social security benefits as income, \$5,000; count the pension income of \$20,000; for a total countable income of \$25,000. Thus in this situation social security benefits would not be taxed under the House bill.

But under the terms of the Finance Committee bill you count one-half of social security benefits as income, so that is \$5,000; then count pension income of \$20,000; and then count tax-exempt income of \$10,000 for a total countable income of \$35,000, and one-half of the social security benefits would be fully taxed. Thus the inclusion of tax-exempt income would have the effect of raising taxable income \$5,000 in this example.

Furthermore, this proposal is not targeted at high-income individuals. In fact, it would only increase taxes on persons with relatively low levels of taxable income aside from their exempt bond interest. Any single person with adjusted gross income of over \$25,000, and any married couple with adjusted gross income of over \$32,000, will already be over the taxable threshold and thus will not be affected if their exempt bond income goes into the base. Only persons with adjusted gross income, other than exempt bond income, of less than \$25,000 for single individuals, or \$32,000 for a married couple, will suffer this taxation of their exempt bond income.

(Mr. SYMMS assumed the Chair.)

Mr. LONG. Why did the Finance Committee adopt such a proposal? It was not in the Social Security Commission's recommendations, and the revenue cost over the next 7 years is too small to be estimated.

Why would you want to discriminate against these dear old people? Anybody else who buys those tax-exempt bonds will not be taxed on the interest. Why would you want to do that to grandma? Why tax her? Why?

It is difficult to understand. The committee assumed that the proposal was needed to close a loophole under which a person could convert his taxable income into tax-exempt income in order to avoid paying tax on some of his social security benefits. In fact, the potential tax savings from such a conversion is very small and would be more than offset by the lower yield on the exempt bonds.

Furthermore, once a taxpayer had brought his countable income down below the \$25,000 or \$32,000 threshold, his marginal tax rate would be so low that the tax-exempt bonds would be a bad investment. That is, the tax savings would be much smaller than the amount the taxpayer would be giving up by investing in bonds with a lower yield. That is why the revenue estimators say that the revenue gain under this provision is too small even to estimate.

Mr. D'AMATO. Mr. President, will the Senator yield for a question?

Mr. LONG. Yes, I yield.

Mr. D'AMATO. Am I understanding the Senator correctly to say that if you are on social security and have an adjusted gross income of \$40,000 a year for husband and wife with \$10,000 a year of that income coming

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from tax-exempt municipal bonds, that that \$10,000 would be calculated in the formula and thereby your social security benefits over and above the cutoff would be taxable; is that correct?

Mr. LONG. That is right. Half of it would be taxable.

Mr. D'AMATO. Now supposing, for example, you are 55 years of age and you have an income of \$100,000 from tax-exempt municipal bonds, you pay no taxes on that, is that correct?

Mr. LONG. That is correct.

Mr. D'AMATO. So we are saying in essence that if you have \$100,000 in municipal bond income and you are not qualified for social security, you have not reached retirement age, you pay no tax. But if you have \$10,000 and you are on social security that can be the difference that raises your adjusted gross income to \$35,000 maximum, husband and wife, and that will put you into a taxable status; is that correct?

Mr. LONG. That is absolutely correct.

Mr. D'AMATO. Is it further correct that the Social Security Commission recommended this?

Mr. LONG. No; the Commission did not recommend that.

Mr. D'AMATO. Well, they showed good judgment.

Mr. LONG. The House did not recommend this, either.

Mr. D'AMATO. Is there any revenue loss or gain that has been determined?

Mr. LONG. It will gain what revenue estimators call an asterisk, which means somewhere between zero and \$5 million in revenue over a 7-year period. This excludes the cost of administration.

Mr. D'AMATO. If you had municipal bonds and were drawing social security and had an income, of \$10,000 from the municipal bonds, and if it were going to place you in a taxable position on your social security, and you were getting a 6 or 7, or 8 percent yield, would you not be wise then to convert them into a higher taxable yield, by selling those municipals because you would not have the tax advantage any more in holding them, and would you not have people converting from municipals into other bonds, and other people purchasing other bonds instead of municipals as a result of this?

Mr. LONG. Why, of course. In other words, the point is that in a great number of cases if people do happen to have a State or municipal bond they would just have to replace them with other investments.

Mr. D'AMATO. In the Senator's opinion, drawing on all his years on the Finance Committee, what would that do to the municipal bond market? Would that raise or lower the cost of those bonds when, for example, the Village of Island Park, in which I live, consisting of 5,300 people, goes into the municipal bond market to borrow, would it not cost that village more in-

terest to borrow? Would not people expect a greater yield as a result?

Mr. LONG. Middle-income taxpayers drawing social security would go to a tax consultant to try to plan what to do with their municipal bonds.

They go to a tax consultant and he says, "let me see, unless you have \$35,000 of income, the first thing you should do is to sell your municipal bonds." This Senator knows that will hurt the market for State and municipal bonds and force State and local governments to pay a higher price to borrow money.

Mr. D'AMATO. I might make note of the fact that I have asked the treasurer in the county in which I live, Nassau County, Long Island, what the effect of this would be. After checking with various bond counsel he said they indicated that with time this provision could result, without gain to the Treasury, in an increase of as much as 200 basis points in borrowing costs.

When we are talking about borrowing of billions of dollars by State, county, city, village, town governments, we are talking about increasing the cost to local governments that need these revenues. They will then have to raise real property taxes on working middle class families who, for the most part, support those governments.

But the thing I find to be incredible is that there is no revenue gain here. People will be forced in many cases to dispose of these bonds, depressing the municipal bond market, resulting in their being less accepted. Consequently, there will be a higher cost to local governments passed on to the working middle-class people, as well as those on social security.

Mr. LONG. I agree with the Senator.

Now, Mr. President, if Senators consider anything wrong about the tax-exempt status of State and municipal bonds, if they consider this to be a tax loophole, why would they want to go after these retired middle-income aged people but not the rich people? Why not go after persons who invested millions in tax exempt bonds? Why not go after them, because with large amounts of tax-exempt bonds, why could they not say, "From this point forward you must pay a tax on income on your tax exempt bonds?"

Why not just go after it that way and see if you cannot overrule the Pollock case decided in 1895 that you could not tax those bonds, and try to get the Supreme Court to reverse itself? Why not go after the rich people? Why go after only the middle-income people?

Mr. D'AMATO. I concur with the Senator. It seems to me if we are going to talk about closing tax loopholes the place should not be on the social security bill.

I have heard since I have been here about how we want to close these loopholes. Why do we not develop a tax system that says people at a certain income have to pay a minimum tax,

including the income that may come from tax-exempt bonds and municipal bonds? It would seem to me that would be a more appropriate way. It would deal with the real abuses that people worry about, so that people who have incomes in the hundreds of thousands of dollars, in the millions of dollars, who pay no taxes will be affected. But it is certainly not solving the problem to place a tax on middle-class working people, who worked all their lives and now have a small income and subject them to a tax with no revenue gain, especially when the local governments are going to wind up levying throughout this country millions of dollars more in real property taxes because the value of their bonds will be published.

I strongly support the Long amendment. It makes eminent good sense.

Once again we find ourselves faced with the situation where those people who propose these kinds of amendments really do not deal with the totality of the question. If they want to argue everyone should pay a fair share, let us look at the entire code. Let us see to it that everybody, regardless of how much they may own in the way of municipal and industrial revenue bonds, no matter how much they may contribute to charities, will pay a certain minimum when they are above a certain income.

It is unfair to have someone who is making a million dollars a year and who, as a result of purchasing revenue bonds, municipal bonds, and tax exemptions and as a result of charitable contributions and various writeoffs, pays no taxes.

I think the Senator from Louisiana agrees with me. We do not want to avoid the closing of a loophole, but let us do it the right way and not in the way that penalizes middle-class people.

Mr. LONG. Mr. President, another thing that is wrong about the amendment is that if someone wants to start a tax reform movement, to go after the so-called tax expenditures in the Internal Revenue Code and tax them, there are a number of them. The Congress passed Mr. DOLE's tax bill last year, and we had various types of income included in the alternative minimum tax base. But we expressly voted here in the Senate not to include the interest from State and municipal bonds in this income base because we concluded that they were sacrificing income by forgoing the payment of tax on them. We did include a number of preference items in the alternative minimum income tax base, so that they could be subject to a minimum tax.

Now, if one wanted to subject one-half of social security income to tax, then let us expand the income tax base in a nondiscriminatory fashion and say, "Here are the items that are in the alternative minimum income tax base adopted by the Tax Equity and Fiscal Responsibility Act of 1982.

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We could say, "Now, all right, if these old people have a minimum income tax base then we are going to tax 50 percent of their social security benefits."

Well, if you wanted to do that, at least you would be trying to tax social security income based on an economic income concept. However, these people are omitted. Why would they be left out?

They want to tax dear old grandma because she holds a bond issued by the city government of her own hometown. Why would they want to go tax grandma in a situation like that? If she is a rich grandma; they are not going to tax her social security. They are only going to tax her if she is one of the middle-income people. What do they have against the State and local governments?

Mr. D'AMATO. Look at the basic advantages of it again. If you have only \$10,000 tax-exempt income from municipal bonds and it pushes you over the threshold for social security purposes and then half of your benefits are taxed, that is one thing. But what about the person who has \$100,000 in tax-exempt income from municipal bonds and is eligible for social security? So now that person is adding social security and does not pay one penny more on that.

So to use this in connection with the formula for an adjusted gross income, which will put you over the threshold and now make your social security income taxable, only hurts one group—middle-class families; working families. Not the wealthy. It does not close the loophole for the wealthy. It does not make them subject to one penny more than what they would have paid in any event.

Let us pass a tax across the board and say if you make a million dollars a year you cannot exclude and take writeoffs with all of the shelters, including municipal revenue bonds; that you have to pay a minimum.

That is the way to do it, but not here in the social security bill; not here when you are not going to raise any money, when we are going to disturb the municipal market. Because even though the gain to the Government is \$5 million, maybe, over 7 years, it will result in municipal revenue bonds becoming less attractive. They will go up 100 basis points and then 200 basis points, and that will result nationwide in hundreds of millions of dollars a year more in costs. To whom? Towns, villages, counties, and cities that cannot afford it. What do they do? They have to raise real property taxes. And who pays the burden of real property taxes? The small homeowner, the businessman. For what? So they can say, "Oh, we are closing the loophole."

We are not closing the loophole. We know how to close loopholes if we really want to go after them. This is not closing the loophole. It is counter-productive.

So I rise to support this amendment. I urge my colleagues to think very carefully about this amendment. It is an important amendment. There will be those among their constituents who will see there is no justice in the bill when they are pushed up over this level and have to pay additional moneys and, there will be an erosion of the municipal theory.

By the way, it probably is unconstitutional.

I thank the Senator.

Mr. LONG. I thank the Senator.

Mr. President, another problem with this proposal is that it would add to the complexity of our Tax Code. Most of the complications in our tax laws affect only a few sophisticated businesses who want the complexity because it reduces their taxes. However, this proposal would make more complex a provision affecting many of the social security beneficiaries who did not buy these tax-exempt State and municipal bonds for that purpose.

The mechanism for taxing social security benefits is already sufficiently complex without considering tax-exempt income. It would add additional lines to the tax return—maybe three additional lines to the tax return—in order to report and then compute this income to see how much additional tax is owed.

Do we really need the additional lines on the tax return, the additional recordkeeping burden, and the additional steps in the formula that this municipal bond provision would add?

Let me also point out that the Internal Revenue Service has never asked for or received any information from States or municipalities on who receives tax-exempt income. I wonder whether we would need to impose reporting requirements on our State governments and reporting requirements on the cities and the counties in order to help the Internal Revenue Service police this provision.

That would certainly be a significant burden on States and localities, but it might be necessary in order for the provision to be applied in an effective way.

Mr. President, as I stated earlier, taxing State and local bond interest is unconstitutional. The leading case in this area is *Pollock against Farmers' Loan and Trust Co.* There were actually two *Pollock* decisions: The first invalidated portions of the 1894 income tax law, including the attempted taxation of State and local bond interest, and a second opinion, issued after rehearing, held that the entire tax law was unconstitutional.

The opinions written in the two *Pollock* decisions make it clear that Federal taxation of State and local bonds is unconstitutional. Under the cases, the constitutional defect as to taxation of State and local bonds is that such a tax directly impairs the borrowing power of the States. The Supreme Court held that the Federal Government cannot, under our Constitution,

impair this State and local borrowing power. The *Pollock* opinions make it clear that this is a separate and distinct rationale that would by itself defeat attempts to tax State and local bond interest. Although the second *Pollock* decision invalidated the remaining portions of the 1894 law on the grounds that the tax was a direct tax required to be apportioned among the States, it did not withdraw the separate rationale applicable to State and local bond interest. In fact, Justice Brown's opinion in the second *Pollock* decision emphasizes that the question of bond taxation is not a question of apportionment, but is rather a question of total lack of Federal taxing power.

When the 16th amendment was taken up in Congress, the question of taxation of State and local bonds was not discussed and, as later events show, it was not contemplated that the amendment would permit taxation of State and local bond interest. When Charles Evans Hughes, then Governor of New York, raised the question during the ratification process of whether the 16th amendment would permit taxation of State and local bond interest, he was assured by Senators Borah and Brown, who played a major part of this process, that no such interpretation was possible. These comments may be found in the *CONGRESSIONAL RECORD* for February 10, 1910. The *RECORD* for March 1, 1910, contains similar reassurances in the form of a letter from Senator Elihu Root to a New York State senator. Congressional debate on a proposal made during World War I to tax State and local bond interest also shows the congressional view that such a tax would be unconstitutional notwithstanding the 16th amendment, as does the fact that, in 1923, Congress considered adopting a constitutional amendment to permit taxation of State and local bond interest. The 1923 proposed amendment passed the House but did not pass the Senate.

The Supreme Court has held on several occasions that the 16th amendment did not extend the Federal taxing power to new subjects. In these decisions, the Court held that the amendment merely removed the necessity for an apportionment of the Federal income tax among the States. These decisions confirm the view that the 16th amendment did not create a new Federal taxing power over State and local bond interest.

The precise question of taxing State and local bond interest has not been considered by the Supreme Court since the adoption of the 16th amendment. However, the Supreme Court has on several occasions, after the ratification of the 16th amendment, expressed the view that the Federal Government cannot tax State and local bond interest, citing the *Pollock* case as authority.

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As a matter of fact, Mr. President, on later occasions, when Charles Evans Hughes, the Governor of New York to whom I referred, became the Chief Justice of the U.S. Supreme Court, in cases dealing with this subject he made a point to state, by way of dictum, that the Federal Government had no authority to tax interest on State and local bonds. Justice Hughes was an individual who had a complete understanding of the entire legislative history of this matter. As the Governor of New York, he had been assured by the legislative process that the 16th amendment had no purpose to allow taxation of State and local bonds, and could not be so construed.

Keep in mind, Mr. President, that the ratification process is part of the legislative process in passing a constitutional amendment.

As I stated, on several occasions after the ratification of the 16th amendment—involving cases on other subjects—the Court has distinguished the special case of bond interest from questions such as the taxability of Government contractors and employees by pointing out the immunity of the States' borrowing power from Federal taxation.

In view of the Pollock decision, its many reaffirmations since the ratification of the 16th amendment, and the legislative history of the amendment, and of other related measures, it is clear that the provisions of the Finance Committee bill that would tax State and local bond interest will directly contradict a well-established constitutional prohibition of taxing a State government. Congress should respect constitutional limitations on the Federal taxing power and should not impose a tax such as this without new and express constitutional authorization. This is especially so when the possibly unconstitutional provision is apparently unnecessary and otherwise imposes troublesome burdens of complexity on our senior citizens.

Mr. President, I would like to add as cosponsors of this amendment the Senator from New York (Mr. D'AMATO), the Senator from Florida (Mrs. HAWKINS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I commend the Senator from Louisiana and the Senator from New York who are doing the best they can with a very, very bad case. I think they have been eloquent in what any objective observer would say has been on the side of inequity.

Mr. President, there has been long discussion about taxation of municipal bonds. I think we can dismiss that. This is not taxation of municipal

bonds at all. It has nothing to do with the taxation of municipal bonds. What we are saying is that municipal bonds can count as a basis on which social security becomes taxable.

The decision is made that social security will be taxable at certain brackets. That is not what we are debating here this afternoon. That decision has been made.

Half of your social security income at certain levels will be taxable.

The question of whether tax-exempt bonds should never be figured in a base, should never be involved in any taxation, of course, does not apply here. As a matter of fact, if we look at the Federal estate tax law we will find that so-called tax-exempt-bond value is computed when one computes the valuation of an estate for tax purposes. There is a tax applied on so-called tax-exempt bonds, the value of them, in computing the Federal estate tax.

Mr. President, what we are discussing this afternoon is not revenue. It is not a question of whether it is an asterisk or a double asterisk, whether it is \$7 billion over 6 years or not. What we are discussing this afternoon, Mr. President, is equity. Is it fair to two people with the same amount of income, one to suffer a tax on his or her social security and the other not, solely because of the definition of the type of income that is.

Mr. President, let us take the case of somebody with a \$22,000 pension, a pension from the company that he or she worked for. That person, with \$4,000 or \$8,000 from social security, with \$4,000 computed here, would have a tax. Clearly, that individual would suffer a tax.

We have decided that. But what is being proposed here on the floor is that somebody with \$100,000 of tax-free income, when he or she receives his or her pension of \$8,000, that be free from any tax.

Is that fair, Mr. President? Is that what we want to do in the Senate of the United States? I do not think so.

The question here is equity. Are we going to permit someone who is wealthy enough or who has the ability to shift around—many people who are going to become taxable under the proposal that is part of this bill do not have the ability to shift their income around. If you have a pension from a company, that is a pension. You cannot make it nontaxable, as opposed to the person whose income comes from stocks and bonds who can shift around and put part of it into tax-exempts and part of it not into tax-exempts. If we are going to make the social security taxable in certain brackets, let us be fair to everybody in the country. Let us not have some groups that are able to avoid that tax through shifting around.

It is not some little old lady, now. It is nice to cloak these in that guise of mama or grandma. But that is not the situation. We are dealing with wealthy

people who have the means, who have the assets to shift them around so that they can avoid the tax on their social security. Is that fair? I do not think so.

Mr. MELCHER. Will the Senator yield for a question?

Mr. CHAFEE. If I may just complete my remarks, then I shall yield the floor. The Senator may have the floor when I finish.

It seems to me, Mr. President—let us set aside the arguments about revenue, the arguments about taxing tax-exempt bonds. That is not before the House this afternoon. We are solely discussing equity. Equity is clearly on the side of the measure that was adopted in the Finance Committee and is a part of this legislation.

Mr. MELCHER. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. MELCHER. Is it not the general case, almost the universal case, that these tax-exempt bonds carry a lower rate of interest return?

Mr. CHAFEE. That is the theory of it. That is the theory, that one shifts into tax-exempts and his income is reduced. It is not always so.

I have here a clipping from the Washington Post of last Friday: Try new investment formula, 10.13 percent; tax-exempt money market and municipal bond fund. Just \$2,000 to open an account, total liquidity—in other words, short term. Unlimited checking.

These are tax-exempts. It says if you are in the 50-percent bracket, tax-exempt income is worth twice the yield; even in the 24-percent bracket, 10.13 tax-free is worth a taxable yield of 13.33.

While the theory is a lower yield, it does not always work out that way.

Mr. MELCHER. Will the Senator yield for a further question?

Mr. CHAFEE. Yes.

Mr. MELCHER. Is it not the general practice that, for instance, school bonds are tax-exempt, city bonds are tax-exempt, in order to permit a school district or the city to be able to sell bonds in a little different market, with a little different attraction, in order to save the taxpayers of the school district or the city some tax money?

Mr. CHAFEE. Yes, that is the rationale for tax-exempt bonds.

Mr. MELCHER. I thank the Senator.

Mr. LONG. Mr. President, did I hear the Senator refer to an advertisement to buy tax-exempt bonds at 13.33 percent?

Mr. CHAFEE. No, Mr. President, I did not say 13.33. I said 10.13.

There is an ad that someone gave me. But that is not what I read from.

Mr. LONG. I thought I heard the Senator say something about 13.33.

Mr. CHAFEE. No, I believe the Record will show I said 10.13. But someone put on my desk 13.75 tax-free municipal bonds, interest income

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exempt from Federal income tax, and so forth.

Mr. LONG. My thought would be that if the Senator is going to advise someone to buy tax-exempt bonds at 13.33 percent, he had better advise them that there is a very severe question of whether they are ever going to get their principal back. They might collect an interest payment or two, but if they are going to buy a tax-exempt bond at that rate, it is sort of like shooting craps at Las Vegas. You might never get your money back.

Most bonds that are touted as being solid bonds, that would be recommended by most people in the investment field, would draw a lot less interest than that.

Mr. DOLE. Will the Senator from Rhode Island yield?

Mr. CHAFEE. I am glad to yield.

Mr. DOLE. Mr. President, I do not know how long we want to spend on this amendment. It is not one of the major provisions in this bill. We have been on it 45 minutes. There are still other amendments pending and we are asked to go to conference tonight, hopefully by 8 o'clock tonight. Is there anyway we can have a time agreement on this amendment with an up-or-down vote, say, by 6 o'clock?

Mr. CHAFEE. Mr. President, I do not need anything like that. I would take 10 minutes equally divided. Five minutes apiece. It is up to the other side.

Mr. LONG. Mr. President, I do not think we need any agreement. As far as I am concerned, I am ready to call the roll now. There may be someone else who might not agree with me.

Mr. DOLE. I do not think anybody has had a chance to talk about this on the other side. We might hear the Senator from Rhode Island.

Mr. CHAFEE. I did briefly talk, Mr. President. I would like to address my remarks, if I may, to the Senator from New York, who envisioned this as one of the most cataclysmic steps being taken by the Senate in many a year. He sees an effect with all kinds of disastrous ramifications on the municipal bond market as it affects the local community.

As he knows, the Senator from Louisiana made it very clear that the revenue implications here are only an asterisk's worth. When you are only down to an asterisk, you are not talking about much.

Mr. D'AMATO. Will the Senator yield for a question on that point?

Mr. CHAFEE. If I may just finish.

So, if it is only an asterisk's worth, which is a new term—I have to get used to that; I have trouble even pronouncing it—the effect of the ramifications on his hometown or his bond market, his community, is that it will be absolutely uninfluenced.

My point is that that is not the concern. What we are trying to do here under this amendment is have equity, to have fairness. That is what we are striving for in this very modest part of

the bill that we are discussing right now.

I shall be glad to yield for a question.

Mr. D'AMATO. Mr. President, if indeed we are talking about \$5 million over 7 years, why would we want to set in motion a chain of events that, indeed, would make municipal revenue bonds less attractive and would cost far more to local government than would be gained? If we are talking about the appearance of equity, I would agree with my distinguished colleague friend from Rhode Island. But this part of the bill does not do a thing in terms of dealing with those people who have millions in income and who pay no taxes.

It simply misses the mark. It is an asterisk that does not raise revenue, but it is an asterisk that creates the appearance of equity. It really is a sham.

Mr. CHAFEE. Mr. President, I just say in winding up that what it seems to me the opponents of this are trying to do is create an incentive to purchase tax-exempt bonds, an incentive that does not exist today, that the inequity we are talking about could arise. I do not think we want that, Mr. President. I think we want to achieve the greatest possible degree of equity. If somebody whose income is locked into certain forms, as I mentioned—to a pension, or a working person, a person over 65 who has to continue to work—that person does not have the ability to have part of his income tax free. A person who is earning \$25,000 by continuing to work over the age of 65 draws social security. That social security will be totally taxable.

So what we are doing under the amendment that is being proposed here this afternoon is really penalizing the working person or the person who is not rich enough, who does not have enough flexibility in his or her income to shift it around to take advantage of an incentive which would be provided in the amendment that is being sponsored by the proponents this afternoon. I am prepared to vote, Mr. President.

Mr. LONG. Mr. President, the Senator argues that his amendment would not tax the State and local bonds, and that is not his purpose. Mr. President, let us just compare this situation to the zero bracket amount and the so-called personal exemption. For a family of four, there would be no tax except on income that exceeds \$7,400. From that point forward a tax could be owed.

Now, if we were to say that interest from State and local bonds would count against their \$7,400 personal exemption and zero bracket amount, and the family had \$7,400 of such interest, they otherwise would have paid no tax. However, by making the income from the State and municipal bonds push up everything else from the bottom, you would have taxed an additional \$7,400 by saying that an equal

amount of income from State and municipal bonds would be counted against the zero bracket amount.

That has the effect of taxing the State and municipal bonds. Keep in mind that when the court in the Pollock case said that it was unconstitutional to levy an income tax on the income from State and municipal bonds, they said it was unconstitutional because it placed a burden on the power of the State to finance itself by borrowing money. I do not care whether you are taxing the interest under this amendment or whether you are taxing it through the zero bracket amount. However you get at it, you are placing a burden on the income of those tax-exempt bonds. It does not make any difference whether you tax them directly or indirectly. The burden is still there, and that is what the Senator seeks to do with his amendment. There is no doubt about it; he is seeking to do exactly what the Pollock case said you could not do.

Mr. President, that stems from the old case of McCulloch against Maryland where Chief Justice Marshall held that the power to tax is the power to destroy, and that if you let the Federal Government tax the States, it can destroy the State governments. It would be just like permitting the State to tax the Federal Government. That would permit those who created the Government to destroy it.

The States have no right to destroy this Federal Government. That has been decided many years ago and even on battlefields. The States have no power to destroy the Federal Government, and the Federal Government has no power to destroy the State governments. That is the principle the Senator from Rhode Island seeks to violate with his provision. Congress, Mr. President, has not seen fit to go along with that. We had this same issue before us on the TEFRA bill, and the Senate voted by a clear margin to strike out the proposal that would put the minimum tax on State and municipal bonds. It recognized the same principle which has been upheld by great Justices down through the years, including Justice Charles Evans Hughes, that we do not have the power to do that. And the Congress, Mr. President, has in the main denied the Internal Revenue Service the right to take the States to court to try to prove that they could tax these bonds under the Constitution. Congress has expressly put in the law up to this point that the income from these State and municipal bonds is not taxable, and that it is not our purpose to tax them. The Congress has also kept the faith that the sponsors of the constitutional amendment permitting the income tax made when they passed that amendment and assured the State legislatures that it did not tax these bonds, that it was not their intention to do that, and that they did not do that.

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We should not be doing it either, Mr. President.

Now, look at the complexity. We are talking about something that is not going to raise any money at all, no money. Why do this? Under the committee bill, the IRS has to put a line, maybe two or three lines on your tax return. I would like to illustrate. Everybody fills out the same tax return, so here is the line: If you are over 65 years old and you have some social security income, then put in here the amount of income you are getting from State and municipal bonds. Add your adjusted gross income. Now report half of your social security income. Now subtract \$25,000 from that and divide two by two and add that to your taxable income down here. How many lines can you get by with on your income tax return when you start trying to do all this?

Why do you want to get into all that complexity if you are not going to make any money for the Government? If you are going to make some money for the Government, perhaps you might take the view that the end justifies the means.

Let us talk about equity. I have stood here year in and year out and heard people talk about tax expenditures. I heard about this until I was sick of it.

Let us just look at some of the items of tax preference:

Accelerated depreciation on real property. If you want to do something about equity and say these old people cannot get away with any tax break, then why not put this in here? Accelerated depreciation on real property. Why let them get a break on that? Tax these old folks.

Next item: accelerated depreciation on leased personal property. Why not go after these old people if they have some of that? Next item: Amortization on certain pollution control facilities. Tax grandpa if he has some of that. Here is the next one: Mining exploration and development costs. Tax grandma if she has some of that. Then circulation and research and experimental expenditures. OK, put that in there and if Uncle Jim has some of that, go after Uncle Jim. Next, reserves for losses on bad debts of financial institutions. All right, go after those people. If old Aunt Susie has some of that, OK, go after her because she is involved in one of these institutions that has a bad debt.

Next, depletion. By all means, if grandma has some income from an oil well, go after her. Do not leave grandma out.

Then we proceed to incentive stock options. If they have some of that, go get them. Intangible drilling costs, go get them. Accelerated cost recovery, go get them.

I would like to ask, why not go get them? In other words, if you are going to go after somebody who is losing a lot of income because they bought a State bond from the State where they

live or because they bought a paving bond in a city or the county where they live, if you are going to go after those bond purchasers, why leave out these other people?

I have heard people stand here and defame these rich oil people. Why leave them out? Why go after somebody who bought a bond in his hometown to help by a fire truck?

It defies imagination, Mr. President. If one wants to do justice and equity, why single these people out for special taxes when you are not going to do it to the rest of them? To be just and to be fair, perhaps you should include all the tax preferences. In fact, they should go in ahead of everything else, because when Congress legislated and looked at this, it thought that if you want to have tax reform, these are the areas you ought to go after first.

So, Mr. President, I hope that the Congress does not get into this mare's nest. It serves no purpose. All it is going to do is wake up some Governors and wake up some mayors, most of whom are not yet aware of what is happening here. You wake up Governors, wake up mayors, wake up county commissioners who will say: "My goodness, what in the devil are those people doing in Washington? Go talk to those people."

Mr. D'AMATO. I wonder if the Senator would yield?

Mr. LONG. I yield to the Senator.

Mr. D'AMATO. In the past Congress, we allowed fire districts that did not have the ability to sell municipal bonds to come in. Was that not just this past Congress that we did that, that volunteer fire districts, for the first time, could sell bonds? It had a municipal purpose.

What is the difference between the status of those who now have municipal treatment, tax-exempt treatment, and their prior status, under which they could not sell tax-exempt bonds? It is as much as 5 points. And who saved the 5 points?

As a result of our action, people who bought those municipal bonds received 5 percent less because they were municipal, and therefore they were tax free. That meant the municipality, the local taxpayers, paid 5 percent less. It meant that it cost the homeowners, the working people, the taxpayers in the villages and towns and in the fire districts, that much less.

When we talk about the difference between a tax-exempt bond and one that is not tax-exempt, we are talking about driving up the cost of local government billions of dollars.

INTRODUCTION

Mr. DOLE. Mr. President, I rise to express my support for the committee bill, which incorporates a very helpful amendment regarding tax-exempt bonds, offered in committee by Senator CHAFEE. The amendment offered by Senator LONG would strike that very important provision added in committee. The committee rule does not tax tax-exempt income, but only

looks at tax-exempt income in determining whether half of social security benefits will be subject to taxation.

PROVIDING BROKERS A NEW MARKET

Mr. President, the distinguished senior Senator from Louisiana has spoken quite eloquently in favor of his amendment to disregard tax-exempt income for this purpose. And when Senator LONG talks, people listen. That does not concern me, since the Senator always enlightens us when he speaks on matters of tax policy. What concerns me is that when E. F. Hutton talks, people also listen. And E. F. Hutton, Merrill Lynch, Bache-Prudential, and Sears, Roebuck, for that matter, will have quite an attractive new market to exploit if the Long amendment is adopted. It will be quite simple really. They can advertise:

You don't have to pay the new tax on half of your social security benefits if you don't want to. The tax is not really mandatory, it's voluntary. All you have to do is shift a portion of your investments into tax-exempt bonds. We'll show you how easy it can be.

Mr. President, that will not be misleading advertising, because the pending amendment will make it possible for some taxpayers to "zero-out" the tax on social security benefits imposed by S. 1. So if your broker tells you "it is not a new tax," he will be right, because he can help you escape it completely.

When some taxpayers are smart and quick enough to take advantage of the opportunity to avoid the tax effect of the bill we have spent so much time and effort putting together, they may or may not say, "thank you, Paine Webber." But they certainly should say, "thank you U.S. Congress," since we will have made it all possible, if we approve the pending amendment. Let me illustrate with some examples.

HOW TO AVOID TAXATION OF BENEFITS

Let us assume an individual taxpayer over age 65, with \$8,000 of social security benefits and \$30,000 of taxable interest income from medium term, 10-percent corporate bonds. Under current law, he is in the 34-percent tax bracket, and has no incentive to invest in equivalent tax exempt bonds, yielding only 7 percent, since his tax savings are slightly outweighed by the reduced interest yield—his exact net loss would be \$226.

By the way, that interest rate spread is totally realistic for medium-term bonds, such as 10-year bonds. Indeed, the interest rate spread between taxable and nontaxable bonds could be even narrower for long-term bonds. The Joint Committee on Taxation discussed this issue in the general explanation of last year's tax bill, and I would ask unanimous consent to include that discussion in the RECORD following my statement.

For the hypothetical taxpayer we are discussing, the law we are debating this week, and the amendment we are debating today will have a real impact. Because this taxpayer is over the

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\$25,000 threshold, he must include half of his benefits in income. As a result, S. 1 will increase his tax liability by \$1,328. But if the pending amendment is adopted, he can avoid including any of his social security benefits in income, by shifting one-third of his investments from top-rated, taxable, 10-percent corporate bonds, into top-rated, tax-exempt, municipal bonds yielding 7 percent. If he does that, his cash interest income will be \$27,000, clearly over the threshold. But his adjusted gross income will be only \$20,000, clearly under the threshold. Thus, his benefits will escape taxation completely.

Moreover, his income tax liability on his interest income will drop, by an amount just about equal to his reduced yield from shifting to tax-exempt bonds. In fact, he will be short about \$226, before taking into account the fact that he has excluded all of his social security benefits from taxation. That is where the real benefit is, Mr. President. At a cost of \$226, he will have saved \$1,328 in taxes on half of his benefits. That, Mr. President, alters the investment picture considerably.

A NEW INCENTIVE TO INVEST IN TAX-EXEMPT BONDS

Today, he would lose \$226 by making this investment in municipal bonds. With the adoption of the Long amendment and S. 1, he will gain \$1,102 by making the investment. That \$1,328 difference, Mr. President, is the tax on half of his social security benefits we are supposedly in the process of enacting. But for our hypothetical taxpayer, that tax is only a voluntary tax, not a mandatory tax. People will certainly listen when E. F. Hutton tells them about this investment opportunity. How can you beat it?

We may not be able to beat it, but we can prevent it, by voting against the pending amendment.

S. 1 MUST BE FAIR TO ALL TAXPAYERS

Mr. President, I believe there is a compelling case for rejecting the Long amendment. If the tax revision we are in the process of enacting is to be fair, it must be a mandatory tax for all similarly situated taxpayers. It cannot be mandatory for those with illiquid investments, or taxable pension or trust income, and a voluntary tax for those with the ability and inclination to convert a small portion of their current taxable income into tax-exempt income, solely to stay below the threshold and escape the taxation of benefits.

I would like to make several added points to clarify what we are doing, and not doing, if we reject the Long amendment in favor of the committee bill.

S. 1 DOES NOT TAX TAX-EXEMPT BONDS

First, we are in no way taxing tax-exempt income. We are only taxing half of social security benefits regardless of how much tax-exempt income the taxpayer may have. A taxpayer

with \$1 million of tax-exempt interest income and an \$8,000 social security benefit will pay only on one-half of his benefits, no more and no less.

We are not, in any way, encroaching upon the tax-exempt status of State and municipal bond interest, simply by making reference to that interest for purposes of this act.

As we know, State and municipal bonds are not sacrosanct, or totally immune from Federal taxation, only the interest on the bonds is exempt from income taxation. Let me give an example of another area in the tax law where the bonds get no special treatment. The fair market value of municipal bonds is includible in a taxpayer's estate for Federal estate tax purposes and this is well established. In my view, the mere reference in S. 1 to tax-exempt income, only for purposes of determining whether another source of income should be taxed, is plainly not an encroachment on any legitimate historical, or constitutional concern bond issuers may have.

S. 1 REFLECTS A COMPROMISE RULE ON TAX-EXEMPTS

Finally, I should point out that we are not depriving the bond issuers, bond markets, or investment houses of a new source of customers for tax-exempt bonds. Many of the advocates of the Long amendment will concede that the committee bill does not take away any incentive that exists under current law. They will admit that the purpose of the committee rule is simply to be neutral, that is, to avoid creating an incentive to purchase tax-exempt bonds that does not exist today.

But the fact is, I must admit that the committee rule is imperfect, and actually results in the creation of a slight incentive to purchase tax-exempt bonds not present under current law.

The reason for this is that the committee rule, for reasons of administrative convenience, only takes into account the stated yield of tax-exempt obligations, and not their taxable equivalent yield.

For our hypothetical taxpayer in the 30-percent tax bracket, \$7,000 of tax-exempt interest is equivalent to \$10,000 of taxable interest, after taxes. To preserve absolute neutrality with respect to current law, we would need to take into account the taxable equivalent yield of \$10,000, rather than \$7,000, in calculating whether half of that taxpayer's social security benefits will be taxable. Because the committee rule looks only at the stated yield of \$7,000, and not the taxable equivalent yield of \$10,000, there will still be a new incentive for some social security recipients to invest in tax-exempt bonds. In the example I gave previously, this incentive is the difference between an investor losing \$226 each year from an investment in the tax-exempt bonds under current law, and the same investor gaining \$328 by the invest-

ment, after passage of S. 1, with the committee's rule on tax-exempt bonds.

Mr. President, in short, there is no justification for the pending amendment which would only contribute to the ability of some taxpayers to completely escape the tax consequences of this act. I urge that the amendment not be adopted.

Mr. LONG. Mr. President, I would like to vote right now.

Mr. DOLE. Maybe somebody on the other side would like to talk.

Mr. HEINZ. Mr. President, if the Senator will yield, I want to make two observations.

First, it seems totally self-evident to this Senator that if we do not retain the Chafee amendment, we are going to give people an absolutely irresistible incentive to shift all their investments into tax-exempt bonds and absolutely escape any taxation of that half of the social security benefit we have now decided to tax. That seems self-evident to me.

I have listened to a good deal of discussion about how unfair the Chafee amendment is. I just do not understand how anyone can say that letting everybody escape taxation is fair. It seems to me that it would be an enormous windfall.

The second point I should like to make is that if we do not adopt the amendment of the Senator from Louisiana, the fact is, if anybody at this point is interested in facts—it has been a long bill, and I hope people are still interested in facts—that the Chafee amendment as it is in this bill will still provide a substantial tax incentive for social security recipients to invest in tax-exempt bonds.

There is going to be an incentive. Why is that? It is because the committee bill contains the compromise rule adopted for reasons of administrative convenience—namely, that the rule includes only the stated yield, the tax-exempt investments, and not the tax equivalent yield.

That is to say, for the typical taxpayer in the 30-percent bracket, the 7-percent interest tax free they get on a municipal bond is the equivalent of 10 percent on a nontaxable bond. In other words, in the case of a \$100,000 denomination investment, they are getting \$7,000 of tax-exempt interest or \$10,000 equivalent in taxable interest. That is because the committee rule includes only the \$7,000. Therefore, there is a substantial tax incentive.

Under Senator CHAFEE's amendment in this bill, the taxpayer with \$30,000 of taxable interest income and \$8,000 of social security benefits will have \$31,207 after enactment of S. 1. By shifting one-third of this investment from 10-percent taxable bonds to equivalent tax-exempt bonds yielding 7 percent, the taxpayer's income would be \$31,535. So the result would be an incentive to shift the tax-exempt worth \$328 each year.