

S 2998

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

Mr. BAKER. I thank the Chair.

Mr. President, I ask further, is there a budget waiver to accompany this measure at the desk?

The PRESIDING OFFICER. Such waiver is at the desk and has been reported.

Mr. BAKER. That budget waiver is privileged.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, so everyone will understand what we are about, it is my intention shortly to ask us to turn first to the consideration of the budget waiver. Assuming the Senate adopts the budget waiver, to turn next to the consideration of the social security package, and to continue on the social security package today, and tomorrow, and Friday, if necessary, until we reach the time when the vote will occur on the cloture motion which is filed against further debate on the jobs bill.

The Chair has already stated that at that time, if we are still on the social security bill, we will resume consideration of the jobs bill for the purpose of conducting the live quorum and the cloture vote. If the vote succeeds, we will continue on the jobs bill, notwithstanding that social security has not yet been completed.

Mr. President, I will not put those motions at this time. So Members will be advised of what I would like to do, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The assistant legislative clerk resumed the call of 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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.

## BUDGET ACT WAIVER

Mr. BAKER. I ask that the Chair lay before the Senate S. Res. 91, a budget waiver with respect to consideration of S. 1.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 91) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution waiver.

The resolution (S. Res. 91) was agreed to as follows:

S. RES. 91

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1, an Act to implement the consensus recommendations of the National Commission on Social Security Reform and with respect to the consideration of H.R. 1900, dealing with the same subject matter. Such waiver is necessary because the recommendations of the National Commission on Social Security Reform require prompt action in order to ensure the stability of the social security system.

SOCIAL SECURITY ACT  
AMENDMENTS OF 1983

Mr. BAKER. Mr. President, I move that the Senate proceed to the consideration of H.R. 1900, the social security measure.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, as I understand the situation, the situation is this: It appears to me we are not going to be able to negotiate a compromise settlement of the jobs bill dilemma today. I regret that. I must say that all of the parties to this matter have given their best efforts and have done so conscientiously. I commend them all for it. Senator Kasten and Senator Dole have tried and tried repeatedly to reconcile the differences in their point of view on this matter without success. Finally, we have arrived at the place where we have to move on.

This in no way signals that we are not going to pass a jobs bill. We are going to pass a jobs bill if it is humanly possible for that to be done. But there is a cloture motion filed against further debate on the jobs bill that will not mature until Friday. In my judgment, there was simply no reason for us to sit here in quorum calls and what appeared to be endless efforts to negotiate a settlement on this matter until Friday. I think we can make good use of the time between now and Friday, 1 hour after we convene, by considering aspects of the social security bill and perhaps even passing it. I hope we can pass it.

On Friday, the cloture motion on the jobs bill will occur as the pending business. If cloture is invoked, we shall be back on the jobs bill, whether we

finish social security or not. I hope we have finished social security and we can continue then with the jobs bill in an orderly way.

The Senate should be on notice, Mr. President, of the strong possibility of a Saturday session.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. On behalf of Mr. Moynihan, I make the following unanimous-consent request: I ask unanimous consent that floor privileges be granted during the disposition of the pending social security measure to Dr. John Hambor, Director of the Division of Economic Research in Office of Research & Statistics, Social Security Administration. He is serving as a legislative fellow in the office of Senator Moynihan at this time. It is a bit of an unusual request, but I hope the Senate will grant it.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BYRD. I thank the Senator from Kansas.

Mr. MOYNIHAN. Mr. President, may I express my appreciation to the minority leader for his courtesy in this matter and to the Senate. Dr. Hambor is a respected authority on the issues of fact that will come before the Senate.

Mr. BYRD. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## THE JOBS BILL

Mr. LEVIN. Mr. President, I am wondering if the majority leader would comment on the following problem: On the jobs bill was about \$5 billion to replenish the trust fund from which about 29 States must draw by the end of this week in order that unemployment checks can go out without interruption next Monday. I was on my way over to ask the majority leader about that problem when he did move to set aside the jobs bill. I am wondering if he can give us assurance

March 16, 1983

## CONGRESSIONAL RECORD—SENATE

S 2999

that there will be an effort, separate from the jobs bill and the social security bill, to make sure that there is no interruption in those funds given our present parliamentary situation.

Mr. BAKER. Mr. President, let me say, to begin with, no one in this Chamber is more dedicated than I, with the possible exception of the Senator from Michigan, to seeing that unemployment benefits funds are provided. He has been most diligent in that respect, and I can assure him that, one way or the other, we are going to get that money; we are going to get it through the Senate.

Now, the jobs bill is not gone. The jobs bill is going to recur as the pending business on Friday. If we succeed with our vote for cloture at that time, we are going to proceed, I think, to pass that bill on Friday and the issue will be moot.

That is what I think will happen. But if we fail to get cloture on Friday, then we will be back on the social security bill. I can assure the Senator from Michigan that I will do whatever is necessary and possible within the rules of the Senate and as the Senate will permit me to do so to see that those checks are funded to go out on Monday. I am confident that we can do that.

Mr. LEVIN. I thank the majority leader.

Mr. DOLE. Mr. President, I think we are ready to begin on social security, and I want to underscore what the majority leader, Senator BAKER, just said.

It is my hope that we can still reach some agreement on the jobs bill and temporarily lay aside the social security bill and pass the jobs bill. The Senator from Kansas is still willing, as before the vote, to bring some measure to the floor—in fact, there is one on the calendar, the reciprocity measure—on or about the 15th of April, and have a freestanding debate, at which time we could argue the merits and demerits of withholding, and have a chance to vote and debate and modify and whatever. That is still in the process of being worked out. If that agreement comes together, we will set aside the social security measure long enough to take care of the jobs bill, to assure the Senator from Michigan and others that the benefits will be there when needed.

Mr. LEVIN. Mr. President, the assurance of the majority leader that, one way or another, whether or not such agreement is reached, it is his determination and prediction that we will provide that funding this week, so that those funds do not run out this weekend, is indeed important.

A great test of wills is going on here. That is not unusual in the Senate. But what we cannot allow to happen is for 12 million unemployed Americans to be caught in the vise; and the assurance of the Senator from Kansas and of the majority leader that, whether that test of wills is resolved by Friday or not, those funds will be provided by

the last of the week, by a separate bill or a separate motion, is important. I thank my friend from Kansas and the majority leader for those assurances.

### SOCIAL SECURITY ACT AMENDMENTS OF 1983

The Senate continued with the consideration of H.R. 1900.

#### UP AMENDMENT NO. 87

(Subsequently numbered amendment No. 516.)

Mr. DOLE. Mr. President, I send to the desk a Finance Committee amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 87.

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

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

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof:

#### SHORT TITLE

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

#### TABLE OF CONTENTS

##### Sec. 1. Short title.

#### TITLE I—SOCIAL SECURITY

##### PART A—CHANGES IN COVERAGE

- Sec. 101. Coverage of newly hired Federal employees.
- Sec. 102. Coverage of employees of nonprofit organizations.
- Sec. 103. Duration of agreement for coverage of State and local employees.
- Sec. 104. Exclusion of services performed by members of certain religious sects.

##### PART B—CHANGES IN BENEFITS

- Sec. 111. Shift of cost-of-living adjustments to calendar year basis.
- Sec. 112. Elimination of windfall benefits for persons with pensions from noncovered employment.
- Sec. 113. Benefits for divorced or disabled widow or widower who remarries.
- Sec. 114. Change in indexing for deferred survivor benefits.
- Sec. 115. Benefits for divorced spouse regardless of whether former spouse has retired.
- Sec. 116. Increase in benefit amount for disabled widows and widowers.
- Sec. 117. Adjustment to cost-of-living increase when trust fund ratio falls below 20 percent.
- Sec. 118. Increase in old-age insurance benefit amounts on account of delayed retirement.
- Sec. 119. Increase in retirement age.
- Sec. 120. Adjustments to OASDI benefit formula.
- Sec. 121. Phaseout of earnings limitation for beneficiaries who have attained retirement age.
- Sec. 122. Increase in dropout years for time spent in child care.

- Sec. 123. Limitation on payments to prisoners.
- Sec. 124. Limitations on payments to non-residentialists.
- Sec. 125. Reduction of cost-of-living increase if trust funds ratio is below 20 percent and declining.

#### PART C—REVENUE PROVISIONS

- Sec. 131. Taxation of Social Security and tier 1 railroad retirement benefits.
- Sec. 132. Acceleration of increases in FICA taxes; 1984 employee tax credit.
- Sec. 133. Taxes on self-employment income; credit against such taxes.

#### PART D—MISCELLANEOUS FINANCING PROVISIONS

- Sec. 141. Allocation to Disability Insurance Trust Fund.
- Sec. 142. Interest borrowing extension.
- Sec. 143. Crediting amounts of unnegotiated checks to trust funds.
- Sec. 144. Transfer to trust funds for costs of benefits attributable to military service before 1957.
- Sec. 145. Payment to trust funds of amounts equivalent to taxes on service in the uniformed services performed after 1956.
- Sec. 146. Trust fund investment procedure.
- Sec. 147. Addition of public members to trust fund board of trustees.
- Sec. 148. Payment schedule by State and local governments.
- Sec. 149. Normalized crediting of social security taxes to trust funds.
- Sec. 150. Amounts received under certain deferred compensation and salary reduction arrangements treated as wages for FICA taxes.
- Sec. 151. Codification of Bowen decision with respect to meals and lodging.
- Sec. 152. Treatment of contributions under simplified employee pensions.

#### TITLE II—SUPPLEMENTAL SECURITY INCOME

- Sec. 201. Increase in benefit standard.
- Sec. 202. Adjustments in Federal SSI pass-through provisions.
- Sec. 203. Notification with respect to SSI program.

#### TITLE III—MEDICARE

- Sec. 301. Medicare payments for inpatient hospital services on the basis of prospective rates.
- Sec. 302. Conforming amendments.
- Sec. 303. Reports, experiments, and demonstration projects.
- Sec. 304. Effective dates.
- Sec. 305. Delay in provision relating to hospital-based skilled nursing facilities.
- Sec. 306. Shift in part B premium to coincide with cost-of-living increase.
- Sec. 307. Shift in voluntary part A premium to coincide with cost-of-living increase.

#### TITLE IV—UNEMPLOYMENT COMPENSATION

##### PART A—FEDERAL SUPPLEMENTAL COMPENSATION

- Sec. 401. Extension of program.
- Sec. 402. Number of weeks for which compensation payable.
- Sec. 403. Effective dates.

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

- Sec. 411. Deferral of interest.
- Sec. 412. Cap on credit reduction.
- Sec. 413. Average employer contribution rate.

S 3000

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

Sec. 414. Date for payment of interest.  
Sec. 415. Recoupment of interest.

## PART C—MISCELLANEOUS PROVISIONS

Sec. 421. Treatment of employees providing services to educational institutions.  
Sec. 422. Extended benefits for individuals who are hospitalized or on jury duty.

## TITLE I—SOCIAL SECURITY

## PART A—CHANGES IN COVERAGE

## COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES

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

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

"(A) would not be included in the term 'employment' for purposes of this subsection by reason of the provisions of paragraph (5) or (6) of this subsection as in effect on January 1, 1983, and

"(B) is performed by an individual who has been continuously in the employ of the United States or an instrumentality thereof (including, solely for purposes of this paragraph, the receipt of benefits under the Civil Service Retirement and Disability Fund, or any other benefits (based upon service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government or members of the Uniformed Services as being 'in the employ' of the United States) since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after a separation from such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 days); except that this paragraph shall not apply with respect to—

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

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

"(iii) service performed as the Commissioner of Social Security, or

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

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

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

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

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

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

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

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

"(A) would not be included in the term 'employment' for purposes of this subsection by reason of the provisions of paragraph (5) or (6) of this subsection as in effect on January 1, 1983, and

"(B) is performed by an individual who has been continuously in the employ of the United States or an instrumentality thereof (including, solely for purposes of this paragraph, the receipt of benefits under the Civil Service Retirement and Disability Fund, or any other benefits (based upon service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government or members of the Uniformed Services as being 'in the employ' of the United States) since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after a separation from such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 days); except that this paragraph shall not apply with respect to—

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

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

"(iii) service performed as the Commissioner of Social Security, or

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

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

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

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

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

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

"(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof."

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

(d) Nothing in this Act shall reduce the accrued entitlements to future benefits under the Federal Retirement System of current and retired Federal employees and their families.

## COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

SEC. 102. (a) Section 210(a)(8) of the Social Security Act is amended by striking out subparagraph (B) thereof and by striking out "(A)" after "(8)".

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

(2) Subsection (k) of section 3121 of such Code is repealed.

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

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

## DURATION OF AGREEMENT FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

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

## "Duration of Agreement

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

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

## EXCLUSION OF SERVICES PERFORMED BY MEMBERS OF CERTAIN RELIGIOUS SECTS

SEC. 104. (a) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

## "(v) MEMBERS OF CERTAIN RELIGIOUS FAITHS.—

"(1) EXEMPTION.—Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by this chapter with respect to wages paid to such individual by an employer who is exempt from the tax imposed under section 1401 by reason of an exemption granted under section 1402(g), if such individual is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—

"(A) such evidence of such individual's membership in, and adherence to the tenets or teachings of the sect or division thereof as the Secretary may require for purposes of determining such individual's compliance with the preceding sentence, and

"(B) his waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person, and only if the Secretary of Health and Human Services finds that—

"(i) such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,

"(ii) it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is rea-

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3001

reasonable in view of their general level of living, and

"(iii) such sect or division thereof has been in existence at all times since December 31, 1950.

An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable (or, but for section 203 or 223(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.

"(2) PERIOD FOR WHICH EXEMPTION EFFECTIVE.—An exemption granted to any individual pursuant to this subsection shall apply with respect to all taxable years beginning after December 31, 1983, except that such exemption shall not apply for any calendar year—

"(A) beginning (i) before the calendar year in which such individual first met the requirements of the first sentence of paragraph (1), or (ii) before the time as of which the Secretary of Health and Human Services finds that the sect or division thereof of which such individual is a member met the requirements of clauses (i) and (ii) of paragraph (1), or

"(B) ending (i) after the time such individual ceases to meet the requirements of the first sentence of paragraph (1), or (ii) after the time as of which the Secretary of Health and Human Services finds that the sect or division thereof of which he is a member ceases to meet the requirements of clauses (i) and (ii) of paragraph (1)."

(b) Section 210(a) of the Social Security Act is amended—

(1) by striking out "or" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

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

"(21) Services performed, in the employ of an employer who is exempt from the tax imposed under section 1401 of the Internal Revenue Code of 1954 by reason of an exemption granted under section 1402(g) of such Code, by an individual with respect to whom an exemption has been granted (and is applicable) under section 3121(v) of such Code."

(c) Section 3121(b) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "or" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

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

"(21) service performed, in the employ of an employer who is exempt from the tax imposed under section 1401 by reason of an exemption granted under section 1402(g), by an individual with respect to whom an exemption has been granted (and is applicable) under subsection (v) of this section."

(d) Section 202(v) of the Social Security Act is amended by inserting "or 3121(v)" after "1402(g)" each place it appears.

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

#### Part B—Changes in Benefits

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

SEC. 111. (a)(1) Section 215(1)(2)(A)(iii) of the Social Security Act is amended by striking out "June" and inserting in lieu thereof "December".

(2) Section 215(1)(2)(A)(iii) of such Act is amended by striking out "May" and inserting in lieu thereof "November".

(3) Section 215(1)(2)(B) of such Act is amended by striking out "May" each place

it appears and inserting in lieu thereof in each instance "November".

(4) Section 202(a)(4)(B) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(5) Section 250(a) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(6) Section 215(1)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "June" in subparagraph (A)(i) and inserting in lieu thereof "December", and by striking out "May" each place it appears in subparagraph (B) and inserting in lieu thereof in each instance "November".

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

(8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(1) of the Social Security Act for years after 1982.

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

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

(3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(1) of the Social Security Act for years after 1982.

(c) Section 215(1)(4) of such Act is amended by inserting "and as amended by section 201 (a)(6) and (b)(2) of the Social Security Amendments of 1983," after "as in effect in December 1978".

(d) Notwithstanding any provision to the contrary in section 215(1) of the Social Security Act, the "base quarter" (as defined in paragraph (1)(B)(i) of such section) in the calendar year 1983 shall be a "cost-of-living computation quarter" within the meaning of paragraph (1)(B) of such section (and shall be deemed to have been determined by the Secretary of Health and Human Services to be a "cost-of-living computation quarter" under paragraph (2)(A) of such section) for all of the purposes of such Act as amended by this section and by other provisions of this Act, without regard to the extent by which the Consumer Price Index has increased since the last prior cost-of-living computation quarter which was established under such paragraph (1)(B).

##### ELIMINATION OF WINDBELL BENEFITS FOR INDIVIDUALS RECEIVING PENSIONS FROM NONCOVERED EMPLOYMENT

SEC. 112. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In the case of an individual who was not eligible for an old-age or disability insurance benefit for December 1983 and whose primary insurance amount would be computed under paragraph (1) of this subsection, and who first becomes eligible after 1983 to a monthly periodic payment (or a payment determined under subparagraph (D)) based (in whole or in part) upon his earnings for service which did not constitute 'employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (b)(5) referred to as 'noncovered service') of at least one

year's duration, the primary insurance amount of that individual during his entitlement to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (1) with respect to the initial month in which the individual becomes eligible for such benefits, and shall be periodically recomputed thereafter at such times as the Secretary determines there has been a significant change in the amount of such periodic payment.

"(B)(i) If paragraph (1) of this subsection would apply to that individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under this subsection (other than this paragraph), except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (1)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under this subsection (other than this paragraph), except that such second amount shall be reduced by an amount equal to the applicable fraction (as determined under subparagraph (E)) of the portion of the monthly periodic payment attributable to noncovered service to which the individual is entitled (or deemed to be entitled) for the month for which such old-age or disability insurance benefits are payable. For purposes of the preceding sentence, the portion of the monthly periodic payment attributable to noncovered service shall be that portion of such payment which bears the same ratio to the amount of such payment as the number of months of service in noncovered service to which such benefit is attributable (but only counting any such months occurring after 1984) bears to the total number of months of service to which such benefit is attributable. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (1)) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

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

"(I) 78.4 percent with respect to individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits) in 1984;

"(II) 66.8 percent with respect to individuals who so become eligible or die in 1985;

"(III) 55.2 percent with respect to individuals who so become eligible or die in 1986;

"(IV) 43.6 percent with respect to individuals who so become eligible or die in 1987; and

"(V) 32.0 percent with respect to individuals who so become eligible or die in 1988 or thereafter.

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

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

"(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a sur-

vors benefit to any other individual, the payment is deemed to be increased (for the purpose of any computation under this paragraph) by such reduction.

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

"(iv) For purposes of this subparagraph, the term 'periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(E) For purposes of subparagraph (B), the applicable fraction is—

"(i) in the case of an individual who first becomes eligible during 1984 to a monthly periodic payment described in subparagraph (A), one-fifteenth,

"(ii) in the case of an individual who first becomes eligible during 1985 to a monthly periodic payment described in subparagraph (A), two-fifteenths,

"(iii) in the case of an individual who first becomes eligible during 1986 to a monthly periodic payment described in subparagraph (A), one-fifth,

"(iv) in the case of an individual who first becomes eligible during 1987 to a monthly periodic payment described in subparagraph (A), four-fifteenths, and

"(v) in the case of an individual who first becomes eligible during 1988 or thereafter to a monthly periodic payment described in subparagraph (A), one-third.

"(F) This paragraph shall not apply in the case of an individual who has more than 30 years of coverage (as defined in paragraph (1)(C)(i)). In the case of an individual who has more than 24 years of coverage (as so defined), the figure '32 percent' in subparagraph (B) shall, if larger, be deemed to be—

"(i) 90 percent, in the case of an individual who has 30 or more of such years of coverage;

"(ii) 80 percent, in the case of an individual who has 29 of such years;

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

"(iv) 60 percent, in the case of an individual who has 27 of such years;

"(v) 50 percent, in the case of an individual who has 26 of such years; and

"(vi) 40 percent, in the case of an individual who has 25 of such years."

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

"(5)(A) In the case of an individual who was not eligible for an old-age or disability insurance benefit for December 1983 and whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)(ii) of that subsection, and who first becomes eligible after 1983 to a monthly periodic payment (or a payment determined under subsection (a)(7)(D)) based (in whole or in part) upon his earnings in noncovered service of at least one year's duration, his primary insurance amount for purposes of his entitlement to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

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

"(ii) the applicable fraction (as determined under subparagraph (B)) of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(D)) attributable to noncovered service to which that individual is entitled (or deemed to be entitled) for the initial month of his eligibility for old-age or disability insurance benefits.

For purposes of the preceding sentence, the portion of the monthly periodic payment attributable to noncovered service shall be that portion of such payment which bears the same ratio to the amount of such payment as the number of months of service in noncovered service to which such benefit is attributable bears to the total number of months of service to which such benefit is attributable. The amount of such periodic payment for purposes of clause (ii) shall be periodically recomputed at such times as the Secretary determines there has been a significant change in the amount of such periodic payment.

"(B) For purposes of subparagraph (A), the applicable fraction is—

"(i) in the case of an individual who first becomes eligible during 1984 to a monthly periodic payment described in subparagraph (A), one-fifteenth,

"(ii) in the case of an individual who first becomes eligible during 1985 to a monthly periodic payment described in subparagraph (A), two-fifteenths,

"(iii) in the case of an individual who first becomes eligible during 1986 to a monthly periodic payment described in subparagraph (A), one-fifth,

"(iv) in the case of an individual who first becomes eligible during 1987 to a monthly periodic payment described in subparagraph (A), four-fifteenths, and

"(v) in the case of an individual who first becomes eligible during 1988 or thereafter to a monthly periodic payment described in subparagraph (A), one-third.

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

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

"(9)(A) In the case of an individual who first becomes eligible for a periodic payment determined under subsection (a)(7)(A) or (a)(7)(D) in a month subsequent to the first month in which he becomes eligible for an old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed, in accordance with either such subsection or subsection (d)(5), as may be applicable, effective with the first month of his concurrent eligibility for either such benefit and such periodic payment.

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

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

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

"(C) In the case of any individual whose primary insurance amount is subject to the requirements of subsection (a)(7) or (d)(5), the amount of such primary insurance amount shall be recomputed as may be required under such subsections by reason of a significant change in the amount of the relevant periodic payment."

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

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

SEC. 113. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

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

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

"(A) a widow or a surviving divorced wife marries after attaining age 60, or

"(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred."

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

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

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

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

"(B) a disabled widower described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred."

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

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

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

SEC. 114. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) If a person is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual whose primary insurance amount would otherwise be determined under paragraph (1), the primary insurance amount of such deceased individual shall be determined, for purposes of determining the amount of the benefit under such subsection, as if such deceased individual died in the year in which the person entitled to benefits under such subsection first became eligible for such benefits or, if earlier, the year in which such deceased individual would have attained age 62 if he had not died (except that the actual year of death of such deceased individual shall be used for purposes of section 215(b)(2)(B)(ii)(II)).

"(B) Notwithstanding subparagraph (A), if a person—

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

"(ii) was entitled to benefits under this title on the basis of the wages and self-employment income of such deceased individual in the month before the month in which



March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3003

such person became eligible for the benefits described in clause (1), the primary insurance amount of such deceased individual shall be the primary insurance amount determined under the rules which would apply (but for subparagraph (A)) or the primary insurance amount determined under subparagraph (A), whichever is larger."

(b) The amendments made by subsection (a) shall apply to the benefits of individuals who become eligible for benefits under section 202 (e) and (f) of the Social Security Act after December 1984.

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

SEC. 115. (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of determining the entitlement of a divorced wife to a benefit under this subsection and the amount of such benefit, in the case of a wife who has been divorced from her former husband for a period of not less than 24 months—

"(A) such former husband shall be deemed to be entitled to an old-age insurance benefit if he would be entitled to such a benefit if he applied therefor; and

"(B) the amount of such benefit for such divorced wife shall be determined without regard to reductions which are or would be made under section 203 on account of work performed by such former husband."

(b)(1) The amendment made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1984.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1984, no benefit shall be paid under such title by reason of such amendment unless proper application for such benefit is made.

**INCREASE IN BENEFIT AMOUNT FOR DISABLED WIDOWS AND WIDOWERS**

SEC. 116. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(i) and all that follows and inserting in lieu thereof a period.

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

"(6) For purposes of this subsection, the 'reduction period' for an old-age, wife's, husband's, widow's, or widower's insurance benefit is the period beginning—

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

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

"(C) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is later, and ending with the last day of the month before the month in which such individual attains retirement age."

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

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

(4) Paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii) of section 202(q) of such Act are

each amended by striking out "(6)(A)" and inserting in lieu thereof in each instance "(6)".

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

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

(A) by striking out "or an additional adjusted reduction period";

(B) in subparagraphs (B)(i), (C)(i), and (C)(ii), by striking out "plus the number of months in the adjusted additional reduction period multiplied by  $\frac{1}{100}$  of 1 percent"; and

(C) in subparagraph (B)(ii), by striking out "plus the number of months in the additional reduction period multiplied by  $\frac{1}{100}$  of 1 percent".

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

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

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

SEC. 117. (a) Section 215(i)(2)(A)(ii) of the Social Security Act is amended, in the matter following clause (iii), by striking out "The increase shall be derived" and inserting in lieu thereof "Except as otherwise provided in paragraph (6), the increase shall be derived".

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

"(5)(A) The amount of the increase under paragraph (2) to become effective for monthly benefits payable for December 1988 or any December thereafter shall, if the Secretary makes a finding under this paragraph that the combined trust funds ratio (as defined in subparagraph (D)) as of the start of business on January 1 of the calendar year in which such December falls is less than 20.0 percent, be determined under paragraph (2) by substituting—

"(i) the percentage (rounded to the nearest one-tenth of 1 percent) by which the average of the total wages for the preceding calendar year (as determined for purposes of subsection (b)(3)(A)(ii)) exceeds such average for the second preceding calendar year (and if no increase in such wages took place, the percentage shall be deemed to be zero), for

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

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

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

"(C) The Secretary shall make the finding with respect to the combined trust funds

ratio (as of the start of business on January 1 of each calendar year) on October 1 of each calendar year, based upon the most recent data available as of that time.

"(D) For purposes of this paragraph, the term 'combined trust funds ratio' means the ratio of—

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

"(ii) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201, but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from the Railroad Retirement Account.

"(E) If any increase under paragraph (2) has been determined on the basis of the substitute formula in subparagraph (A)(i) of this paragraph, and, for any succeeding calendar year, the Secretary determines that the combined trust funds ratio is greater than 32.0 percent, the Secretary shall pay additional benefits with respect to the 12-month period beginning with the following December in amounts not to exceed—

"(i) in the aggregate, a total amount which, according to actuarial estimate, equals the amount by which the balance in such trust funds on the date of such determination exceeds the amount necessary to effect a combined trust funds ratio of 32.0 percent for the following year; and

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

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

"(F) In any case in which additional payments are made by reason of the provisions of subparagraph (E), for purposes of determining benefit amounts for months after the 12-month period for which such additional benefits were made, the percentage increase under this subsection applicable to benefits payable for such 12-month period shall be deemed to be the actual percentage achieved by reason of such additional payments (as measured with respect to payments which are not subject to reduction under any other provision of this Act)."

(c) Only with respect to the determination made for January 1, 1988, the combined trust fund ratio for such year (for purposes of determining the increase under section 215(i) of the Social Security Act for benefits payable for December of such year) shall be determined by using the actuarial estimate of the Secretary of Health and Human services of the ratio of—

S 3004

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

(1) the combined balance which will be available in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Hospital Insurance Trust Fund, at the close of business on December 31 of such calendar year, to

(2) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for calendar year 1988 for all purposes authorized by section 201 of such Act, but excluding any transfer payments between such trust funds, and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from the Railroad Retirement Account.

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

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

SEC. 118. (a) Section 202(w)(1)(A) of the Social Security Act is amended to read as follows:

"(A) the applicable percentage (as determined under paragraph (E)) of such amount, multiplied by";

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

"(E) For purposes of paragraph (E)(A), the applicable percentage is—

"(A)  $\frac{1}{2}$  of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit before 1978; and

"(B)  $\frac{1}{2}$  of 1 percent in the case of an individual who first becomes so eligible after 1978, and before 1990;

"(C) in the case of an individual who first becomes so eligible after 1990 and before 2009, a percentage equal to the percentage in effect under this subparagraph for individuals who first became eligible in the preceding calendar year (as increased pursuant to this clause), plus  $\frac{1}{2}$  of 1 percent; and

"(D) in the case of an individual who first becomes so eligible after 2008,  $\frac{1}{2}$  of 1 percent."

(c) Paragraphs (2)(A) and (3) of section 203(a) of such Act are each amended by striking out "age 72" and inserting in lieu thereof "age 70".

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

#### INCREASE IN RETIREMENT AGE

SEC. 119. (a) Section 210 of the Social Security Act is amended by inserting before subsection (b) the following new subsection: "Retirement Age

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

"(B) with respect to an individual who attains early retirement age after December 31, 1999, and before January 1, 2012, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the year in which such individual attains early retirement age; and

"(C) with respect to an individual who attains early retirement age after December 31, 2012, 65 years of age.

"(2) The term 'early retirement age' means age 62 in the case of an old-age, wife's, or

husband's benefit, and age 60 in the case of a widow's or widower's benefit.

"(3) The age increase factor for individuals who attain early retirement age in the period described in subparagraph (B) shall be equal to one-twelfth of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

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

"(9) The amount of the reduction for early retirement specified in paragraph (1) shall be periodically revised by the Secretary such that—

"(A) for old-age insurance benefits, wife's insurance benefits, and husband's insurance benefits, the reduction applicable to an individual entitled to such a benefit at an age not more than 3 years lower than the retirement age applicable to such individual, shall be the same as under such paragraph (1), and such reduction shall be increased by five-twelfths of 1 percent for each month below that age which is 3 years lower than the applicable retirement age; and

"(B) for widow's insurance benefits and widower's insurance benefits, the reduction for those entitled to such benefits at the earliest possible early retirement age shall be the same as specified in paragraph (1), and those for later ages shall be established by linear interpolation between the applicable reductions for such earliest possible early retirement age and a factor of unity at the applicable retirement age."

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

(c) The Social Security Act is amended—

(1) by striking out "age 65" or "age of 65", as the case may be, each place it appears in the following sections and inserting in lieu thereof in each instance "retirement age (as defined in section 210(a))";

(A) subsections (b), (c), (d), (e), (f), (g), (h), and (i) of section 202;

(B) subsections (c) and (f) of section 206;

(C) section 211(b)(3);

(D) subsection (f) of section 215;

(E) subsections (b) and (f) of section 216;

(F) section 223(a);

(G) subsections (a), (b), (c), and (e) of section 226;

(H) section 1811;

(I) section 1813(a)(1);

(J) section 1838(2);

(K) section 1837;

(L) subsections (c) and (f) of section 1839;

(M) section 1836;

(N) section 1844(a); and

(O) section 1876(a)(5);

(2) by striking out "age sixty-five" in section 204(c) and inserting in lieu thereof "retirement age (as defined in section 210(a))"; and

(3) by striking out "age of sixty-five" in section 223(a) and inserting in lieu thereof "retirement age (as defined in section 210(a))".

#### ADJUSTMENTS IN OASDI BENEFIT FORMULA

SEC. 120. (a) Section 215(a)(1)(A) of the Social Security Act is amended by striking out "90 percent" in clause (i), "32 percent" in clause (ii), and "15 percent" in clause (iii) and inserting in lieu thereof in each instance "the applicable percentage (as determined under paragraph (8))".

(b) The first sentence of section 215(a)(7)(B) of such Act (as added by section 113(a) of this Act) is amended by striking out "61 percent" and inserting in lieu thereof "the applicable percentage as determined under paragraph (8)".

(c) Section 215(a) of such Act is further amended by adding at the end thereof (after

the new paragraph added by section 113 of this Act) the following new paragraph:

"(8) The 'applicable percentages' for purposes of clauses (i), (ii), and (iii) of paragraph (1)(A), and the 'applicable percentage' for purposes of the first sentence of paragraph (7)(B), shall be determined as follows:

The 'applicable percentage'—			
For individuals who initially become eligible for old-age or disability insurance benefits, or who are (before becoming eligible for such benefits) in—	for purposes of clause (i) of paragraph (1)(A) is—	for purposes of clause (ii) of paragraph (1)(A) and the first sentence of paragraph (7)(B) is—	
		for purposes of clause (i) of paragraph (1)(A) is—	for purposes of clause (ii) of paragraph (1)(A) is—
any year from 1979 through 1999.....	90.0	32.0	15.0
2000.....	89.4	31.8	14.9
2001.....	88.8	31.6	14.8
2002.....	88.2	31.4	14.7
2003.....	87.6	31.1	14.6
2004.....	87.0	30.9	14.5
2005.....	86.4	30.7	14.4
2006.....	85.8	30.5	14.3
2007 or thereafter...	85.2	30.3	14.2

#### PHASEOUT OF EARNINGS LIMITATION FOR BENEFICIARIES WHO HAVE ATTAINED RETIREMENT AGE

SEC. 121. (a) Section 203(f)(8)(D) of the Social Security Act is amended by inserting "(i)" after "(D)" and adding at the end thereof the following new clause:

"(ii) Notwithstanding any other provision of this subsection, the exempt amount applicable to any individual who has attained retirement age, as otherwise determined under this subsection, shall be increased by—

"(I) \$250 for each month in any taxable year ending after 1989 and before 1991;

"(II) \$500 for each month in any taxable year ending after 1990 and before 1992;

"(III) \$750 for each month in any taxable year ending after 1991 and before 1993;

"(IV) \$1,000 for each month in any taxable year ending after 1992 and before 1994; and

"(V) \$1,250 for each month in any taxable year ending after 1993 and before 1995."

(b) Section 203(e)(1) of the Social Security Act is amended by striking out "the age of seventy" and inserting in lieu thereof "retirement age".

(c) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefits if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."

(d) Section 203(d)(1) of such Act is amended by striking out "the age of seventy" and inserting in lieu thereof "retirement age".

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

(1) in clause (B), by striking out "the age of seventy" and inserting in lieu thereof "retirement age";

(2) by amending clause (D) to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,"; and

(3) by striking out "the applicable exempt amount" each place it appears and insert-

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3005

ing in lieu thereof in each instance "the exempt amount".

(f) Section 203(f)(3) of such Act is amended—

(1) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(2) by striking out "age 70" and inserting in lieu thereof "retirement age".

(g) Section 203(f)(4)(B) of such Act is amended by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount".

(h) Section 203(f)(8)(A) of such Act is amended by striking out "exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "exempt amount which is to be applicable".

(i) Section 203(f)(8)(B) of such Act is amended—

(1) by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be";

(2) in clause (4), by striking out "corresponding"; and

(3) in the matter following clause (ii), by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(j) Section 203(f)(8) of such Act is amended by striking out subparagraph (D) thereof.

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

(1) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(2) by striking out "age 70" each place it appears and inserting in lieu thereof in each instance "retirement age".

(l) Section 203(j) of such Act is amended—

(1) by striking out "Age Seventy" in the heading thereof and inserting in lieu thereof "Retirement Age"; and

(2) by striking out "seventy years of age" and inserting in lieu thereof "retirement age".

(m) Section 202(w)(2) of such Act (as amended by section 118 of this Act) is further amended by inserting "for months prior to 1984" before "and prior".

(n) The amendments made by this section, other than subsection (a) and subsection (m), shall be effective with respect to taxable years ending after 1994.

#### INCREASE IN DROPOUT YEARS FOR TIME SPENT IN CHILD CARE

SEC. 122. (a) Section 215(b)(2)(A) of the Social Security Act is amended, in the third sentence thereof—

(1) by striking out "clause (ii)" each place it appears and inserting in lieu thereof in each instance "clause (i) or (ii)"; and

(2) by striking out "a combined total not exceeding 3" and inserting "a combined total not exceeding 7".

(b) The amendments made by this section shall apply only with respect to individuals who first become eligible for benefits under title II of the Social Security Act for months after December 1983.

#### LIMITATION ON PAYMENTS TO PRISONERS

SEC. 123. (a) Section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

##### "Suspension of Benefits for Inmates of Penal Institutions

"(x)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section

223 to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law.

"(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits.

"(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of any individual who is confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection."

(b) Section 223 of such Act is amended by striking out subsection (f).

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits payable for months beginning on or after the date of the enactment of this Act.

#### LIMITATIONS ON PAYMENTS TO NONRESIDENT ALIENS

SEC. 124. (a) Section 202(t)(1) of the Social Security Act is amended to read as follows:

"(1)(A) Notwithstanding any other provision of this title (but subject to subparagraphs (B) through (D) of this paragraph), no monthly benefit shall be paid under this section or section 223 for any month to any individual who is not a citizen or national of the United States if such individual is outside the United States.

"(B) For purposes of this paragraph, an individual shall be considered to be outside the United States in any month only if such month occurs—

"(i) after the sixth consecutive calendar month during all of which (as determined by the Secretary on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention) such individual is outside the United States; and

"(ii) prior to the first month thereafter during all of which such individual has been in the United States;

but in applying the preceding provisions of this subparagraph an individual who has been outside the United States for any period of 30 consecutive days shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"(C)(i) An individual who is otherwise prevented by subparagraph (A) from receiving benefits under this title shall nevertheless be paid such benefits, as though such subparagraph were inapplicable, until the total amount of such benefits (excluding amounts withheld from such benefits under section 1441 of the Internal Revenue Code of 1954) equals the total amount of the taxes payable under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or the corresponding provisions of prior law) with respect to the wages and self-employment income on which such benefits are based (as determined by the Secretary on the basis of such wages and self-employment income) plus interest (as determined under clause

(iii)).

"(ii) In determining the total amount of benefits payable to an individual under clause (i) with respect to the wages and self-employment income of any individual, the Secretary shall take into account all benefits paid before such determination is made on the basis of such wages and self-employment income (wherever paid).

"(iii) For purposes of this subparagraph, interest on taxes payable under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or corresponding provisions of prior law) shall be compounded annually from July 1 of the year in which such taxes were payable only until the last day of the year preceding the year in which the individual on the basis of whose wages and self-employment income benefits are to be paid attains age 62, becomes disabled, or dies, whichever occurs first, at a rate of 3.0 percent for the period after 1936 and before 1951, and, for each year after 1950, at a rate equal to the average of the twelve monthly interest rates determined under section 201 for such year.

"(D) For purposes of this paragraph, the term 'United States' (when used in either a geographical or political sense) means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

(b) Section 202(t)(2) of such Act is repealed.

(c) Section 202(t)(3) of such Act is amended to read as follows:

"(3) Paragraph (1) shall not apply—

"(A) in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Social Security Amendments of 1983; or

"(B) to individuals who are citizens or residents of a country with which the United States has concluded an international social security agreement pursuant to section 233, unless otherwise provided by such agreement."

(d) Section 202(t)(4) of such Act is amended—

(1) by striking out subparagraphs (A) and (B);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C); and

(3) by striking out the semicolon at the end of subparagraph (C) (as so redesignated) and all that follows and inserting in lieu thereof a period.

(e) The heading of section 202(t) of such Act is amended by adding at the end thereof the following: "Prohibition Against Payment of Benefits to Aliens Not Permanent Residents".

(f)(1) The amendments made by the preceding subsections shall apply with respect to any individual who initially becomes eligible for benefits under section 202 or 223 of the Social Security Act after December 31, 1984.

(2) Section 202(t) of the Social Security Act (as in effect on the day before the date of enactment of this Act) shall apply with respect to individuals who are eligible for benefits under section 202 or 223 of such Act before January 1, 1985.

#### REDUCTION OF COST-OF-LIVING INCREASE IF TRUST FUNDS RATIO IS BELOW 20 PERCENT AND DECLINING

SEC. 125. (a) Section 215(t) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) On or before July 1 of each calendar year after 1983, the Secretary shall deter-



S 3066

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

mine whether the estimated OASDI trust fund ratio for the second calendar year following such calendar year will be—

"(i) less than 20.0 percent; and  
 "(ii) less than the estimated OASDI trust fund ratio for the first calendar year following the year in which such determination is made.

"(B) If the Secretary finds that the OASDI trust fund ratio for the second calendar year following such calendar year will be less than each of the ratios described in clauses (i) and (ii) of subparagraph (A), the Secretary shall—

"(i) notify the Congress on or before July 1 of such calendar year that, absent a change of circumstances, it will be necessary to reduce the amount of the percentage cost-of-living increase otherwise payable under this subsection with respect to benefits for months after November of such calendar year; and

"(ii) absent a change of circumstances before such cost-of-living increase is determined that will allow the full amount of benefits otherwise payable to be paid in a timely fashion, reduce the amount of such percentage increase (but not below zero) in accordance with subparagraph (C) to the extent necessary to ensure that the OASDI trust fund ratio for the second calendar year following the calendar year in which the determination is made will not fall below the lower of—

"(I) 20.0 percent; or

"(II) the OASDI trust fund ratio for the calendar year following the calendar year in which the determination is made.

"(C) In reducing a cost-of-living percentage increase under subparagraph (B), the Secretary shall first apply such reduction to the percentage increase otherwise payable with respect to monthly benefits payable under this section that are based on a primary insurance amount of \$250 or more for the month preceding such cost-of-living increase; the percentage increase applied to the primary insurance amount used to determine all other monthly benefits shall not be such as to increase such primary insurance amounts above \$250. If further reduction in outgo is required, a reduction in the percentage increase applicable with respect to monthly benefits based on a primary insurance amount of less than \$250 for such preceding month shall be made.

"(D) For purposes of this paragraph, the term 'OASDI trust fund ratio' shall mean, with respect to any calendar year, the ratio of—

"(i) the amount estimated by the Secretary to be equal to the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as of the start of business on January 1 of such calendar year, taking into account any cost-of-living increase that otherwise would be made with respect to benefits paid during such year, and any actions possible to be taken under sections 201(l) and 1817(j) (relating to inter-fund borrowing) and 201 (a) and (m) (relating to normalized crediting of social security taxes), to

"(ii) the amount estimated by the Secretary to be the total amount to be paid from such Trust Funds during such calendar year (other than payments of interest on, and repayments of loans from), such Trust Funds, and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfer to such account from any such Trust Fund.

"(E) With respect to any calendar year beginning before January 1988 for which a determination is required to be made under subparagraph (A), the estimated OASDI trust fund ratio for the second calendar year

following such calendar year shall be treated as exceeding the estimated OASDI trust fund ratio for the first calendar year following such calendar year if ratio of the estimated combined balances in the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund for such second following calendar year to the amounts estimated to be paid from all such Trust Funds during such second following calendar year exceeds the ratio of the estimated balances in all such Trust Funds to estimated payments from all such Trust Funds for such first following calendar year."

## PART C—REVENUE PROVISIONS

## SEC. 131. TAXATION OF SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

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

## "SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

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

"(1) one-half of the social security benefits received during the taxable year; or

"(2) one-half of the excess described in subsection (b).

"(b) TAXPAYERS TO WHOM SUBSECTION (a) APPLIES.—

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

"(A) the sum of—

"(i) the adjusted gross income of the taxpayer for the taxable year, plus

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

"(B) the base amount.

"(2) ADJUSTED GROSS INCOME.—For purposes of this subsection, the adjusted gross income of the taxpayer for the taxable year shall be—

"(A) determined without regard to this section and sections 221, 911, and 931, and

"(B) increased by the amount of interest of the taxpayer which is exempt from tax for the taxable year.

"(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

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

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

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

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

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

"(d) SOCIAL SECURITY BENEFIT.—

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

"(A) a monthly benefit under title II of the Social Security Act (determined without regard to section 203(i) of the Social Security Act), or

"(B) a tier 1 railroad retirement benefit.

"(2) ADJUSTMENT FOR REPAYMENTS DURING YEAR.—

"(A) IN GENERAL.—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the tax-

payer (whether or not such benefit was received during the taxable year).

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

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

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

"(1) LIMITATION.—If—

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

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

"(2) SPECIAL RULES.—

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

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

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

"(1) section 43(c)(2) (defining earned income),

"(2) section 219(f)(1) (defining compensation),

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

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

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

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

## "SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.

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

"(1) the—

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

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

"(2) the name and address of such individual.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a

March 16, 1983

## CONGRESSIONAL RECORD -- SENATE

S 3007

return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

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

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

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPROPRIATE FEDERAL OFFICIAL.—The term 'appropriate Federal official' means—

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

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

"(2) SOCIAL SECURITY BENEFIT.—The term 'social security benefit' has the meaning given to such term by section 86(d)(1)."

(c) TREATMENT OF NONRESIDENT ALIENS.—

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

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

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

"(B) section 86 shall not apply."

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

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

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

(B) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by inserting "(h)(8)." after "(h)(2)" in the material preceding subparagraph (A) and in subparagraph (F)(4) thereof.

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

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

(e) TRANSFERS TO TRUST FUNDS.—

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

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to any payor fund shall be transferred from time to time (but not less

frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Any such quarterly payment shall be made on the first day of such quarter and shall take into account social security benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

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

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

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

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

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

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

(f) TECHNICAL AMENDMENTS.—

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

(2) Subparagraph (B) of section 118(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out "85," and inserting in lieu thereof "85, 86."

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

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

"Sec. 87. Alcohol fuel credit."

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

"Sec. 6050F. Returns relating to social security benefits."

(g) EFFECTIVE DATES.—

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

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

SEC. 132. ACCELERATION OF INCREASES IN FICA TAXES; 1984 EMPLOYEE TAX CREDIT.

(a) ACCELERATION OF INCREASES IN FICA TAXES.—

(1) TAX ON EMPLOYER.—Subsection (a) of section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (1)

through (7) and inserting in lieu thereof the following:

"In cases of The rate shall be: wages received

during: 1984, 1985, 1986, or 1987 ..... 5.7 percent

1988 or 1989 ..... 6.06 percent

1990 or thereafter ..... 6.2 percent."

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

"In cases of The rate shall be: wages paid during: be:

1984, 1985, 1986, or 1987 ..... 5.7 percent

1988 or 1989 ..... 6.06 percent

1990 or thereafter ..... 6.2 percent."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid after December 31, 1983.

(b) 1984 EMPLOYEE TAX CREDIT.—

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

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

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by section 3101(a) on wages received during 1984 an amount equal to  $\frac{1}{2}$  of 1 percent of the wages so received.

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

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

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

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

"(2) is paid during 1984,

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

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

"(1) IN GENERAL.—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes an amount equal to  $\frac{1}{2}$  of 1 percent of such compensation.

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

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

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

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

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

S 3008

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

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

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

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

(6) **STATEMENTS FURNISHED TO EMPLOYEES.**—Any written statement which is required to be furnished to an employee under section 6051(a) with respect to remuneration paid during 1984 shall include—

(A) the total amount which would have been deducted and withheld as a tax under section 3101 if the credit allowable under section 3510 had not been taken into account, and

(B) the amount of the credit allowable under section 3510.

**SEC. 133. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT AGAINST SUCH TAXES.**

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

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

“In the case of a taxable year

Beginning after:	And before:	Percent:
December 31, 1983.....	January 1, 1988 .....	11.40
December 31, 1987.....	January 1, 1990 .....	12.12
December 31, 1989.....	.....	12.40

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

“In the case of a taxable year

Beginning after:	And before:	Percent:
December 31, 1983.....	January 1, 1985 .....	2.60
December 31, 1984.....	January 1, 1986 .....	2.70
December 31, 1985.....	.....	2.90.”

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

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

“(1) **IN GENERAL.**—There shall be allowed as a credit against the taxes imposed by this section for any taxable year an amount equal to the applicable percentage of the self-employment income of the individual for such taxable year.

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

“In the case of taxable years beginning in:	The applicable percentage is:
1984.....	2.9
1985.....	2.5
1986.....	2.2
1987, 1988, or 1989.....	2.1
1990 or thereafter.....	2.3.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

**PART D—MISCELLANEOUS FINANCING PROVISIONS**

**ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND**

**SEC. 141.** (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1984, and so reported, (L) 1 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (M) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (N) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and (M) 1.30 per centum of the wages (as so defined) paid after December 31, 1999, and so reported.”.

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: “(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1984, (L) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1988, (M) 1.06 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (N) 1.20 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (M) 1.30 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999.”.

**INTERFUND BORROWING EXTENSION**

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

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

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

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

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

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

(iii) by striking out “the loan were an investment under subsection (d)” and inserting in lieu thereof “such amount had remained in the Depository Account established with respect to such lending Trust Fund under subsection (d) or section 1817(c).”.

(B) The amendment made by this paragraph shall apply with respect to months be-

ginning more than thirty days after the date of enactment of this Act.

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

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

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

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

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

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

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

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

“(I) the combined balance in the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Fund from the Federal Hospital Insurance Trust Fund, as of the last day of such calendar year, to

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

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

“(ii) For the period after December 31, 1987, and before January 1, 1990, the Managing Trustee shall transfer each month to the Federal Hospital Insurance Trust Fund from any Trust Fund with any amount outstanding on a loan made from the Federal Hospital Insurance Trust Fund under paragraph (1) an amount equal to one twenty-fourth of the amount owed to the Federal Hospital Insurance Trust Fund by such Trust Fund at the beginning of such period (plus the interest accrued on the outstanding balance of such loan during such month).”.

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

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

March 16, 1988

## CONGRESSIONAL RECORD — SENATE

S 3009

"(B) For purposes of this paragraph, the term 'Hospital Insurance trust fund ratio' means, with respect to any month, the ratio of—

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

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

(b)(1) Section 1817(j)(1) of such Act is amended—

(A) by striking out "January 1983" and inserting in lieu thereof "January 1988"; and  
(B) by inserting "subject to paragraph (5)," after "may".

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

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

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

(iii) by striking out "the loan were an investment under subsection (c)" and inserting in lieu thereof "such amount had remained in the Depositary Account established with respect to such lending Trust Fund under section 201(d)".

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

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

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

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

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

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

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

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

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

"(I) the balance in the Federal Hospital Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as of the last day of such calendar year, to

"(II) the amount estimated by the Secretary to be the total amount to be paid from

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

"(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1990."

"(ii) For the period after December 31, 1987 and before January 1, 1990, the Managing Trustee shall transfer each month from the Federal Hospital Insurance Trust Fund to any Trust Fund that to equal any amount by the Federal Hospital Insurance Trust Fund on a loan made under paragraph (1), an amount equal to 1/36 of the amount owed to such Trust Fund by the Federal Hospital Insurance Trust Fund at the beginning of such period (plus the interest accrued on the outstanding balance of such loan during such month)."

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

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

"(B) For purposes of this paragraph, the term 'Hospital Insurance Trust Fund ratio' means, with respect to any month, the ratio of—

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

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

#### CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO TRUST FUNDS

SEC. 143. (a) The Secretary of the Treasury shall take such actions as may be necessary to ensure that amounts of checks for benefits under title II of the Social Security Act which have not been presented for payment within a reasonable length of time (not to exceed twelve months) after issuance are credited to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever may be the fund from which the check was issued. Amounts of any such check shall be recharged to the fund from which they were issued if payment is subsequently made on such check.

(b)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors In-

surance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all currently unnegotiated benefit checks. After the amounts appropriated by this subsection have been transferred to the Trust Funds, the provisions of subsection (a) shall be applicable. There are hereby appropriated into such Trust Funds such sums as may be necessary to reimburse such Trust Funds for the amount of currently unnegotiated benefit checks. The first such transfer shall be made within thirty days after the date of the enactment of this Act with respect to all such unnegotiated checks as of such date of enactment.

(2) As used in paragraph (1), the term "currently unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Act, which remain unnegotiated after the twelfth month following the date on which they were issued.

#### TRANSFER TO TRUST FUNDS FOR BENEFITS ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957

SEC. 144. (a) Section 3174(g) of the Social Security Act is amended to read as follows:

##### "APPROPRIATION TO TRUST FUNDS

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

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

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

"(2) The Secretary shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Secretary from data which becomes available to him after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this title or title XVIII and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 201(c) or 1817(b). Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury de-

S 3010

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

termines necessary to compensate for such revision."

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

SEC. 145. (a) Section 229(b) of the Social Security Act is amended to read as follows:

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

(b) The amendment made by subsection (a) shall be effective with respect to wages deemed to have been paid for calendar years after 1983.

(c)(1) Within thirty days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the additional amounts which would have been appropriated into the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act, if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1984 had constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

(2)(A) The Secretary of the Treasury shall, within thirty days after the date of the enactment of this Act, transfer into each such Trust Fund, from the general fund in the Treasury, an amount equal to the amount determined with respect to such Trust Fund under paragraph (1), less any amount appropriated into such Trust Fund under the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under paragraph (1) with respect to wages deemed to have been paid for calendar years prior to 1984. There are hereby appropriated into such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

(B) The Secretary shall revise the amount determined under subparagraph (A) within one year after the date of the transfer made under paragraph (1), as warranted by data which may become available to him after the date of the transfer under subparagraph (A) based upon actual benefits paid under

this title and title XVIII. Any amounts determined to be needed for transfer shall be transferred by the Secretary of the Treasury into the appropriate Trust Fund from the general fund in the Treasury, or out of the appropriate Trust Fund into the general fund in the Treasury, as may be appropriate. There are authorized to be appropriated to such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

**TRUST FUND INVESTMENT PROCEDURE**

SEC. 146. (a) Section 201 of the Social Security Act is amended by striking out subsections (d), (e), and (f) and inserting in lieu thereof the following new subsections:

"(d) There are hereby created on the books of the Treasury of the United States an account to be known as the Old-Age and Survivors Insurance Depository Account and an account to be known as the Disability Insurance Depository Account.

"(e) The Managing Trustee shall deposit that portion of the Federal Old-Age and Survivors Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Old-Age and Survivors Insurance Depository Account and that portion of the Federal Disability Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Disability Insurance Depository Account.

"(f)(1) The Secretary of the Treasury may apply moneys deposited in an account pursuant to subsection (e) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in an account pursuant to subsection (e) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each business day of such month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971 and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in an account pursuant to subsection (e) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund which deposited such moneys, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount."

(b) Section 1817 of such Act is amended by striking out subsections (c), (d), and (e) and

inserting in lieu thereof the following new subsections:

"(c) There is hereby created on the books of the Treasury of the United States an account to be known as the Hospital Insurance Depository Account.

"(d) The Managing Trustee shall deposit that portion of the Federal Hospital Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Hospital Insurance Depository Account.

"(e)(1) The Secretary of the Treasury may apply moneys deposited in the account pursuant to subsection (d) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in the account pursuant to subsection (d) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each business day of such month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in the account pursuant to subsection (d) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount."

(c) Section 1841 of such Act is amended by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following new subsections:

"(c) There is hereby established on the books of the Treasury an account to be known as the Supplementary Medical Insurance Depository Account.

"(d) The Managing Trustee shall deposit that portion of the Federal Supplementary Medical Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Supplementary Medical Insurance Depository Account.

"(e)(1) The Secretary of the Treasury may apply moneys deposited in the account pursuant to subsection (d) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in the account pursuant to subsection (d) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product



March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3011

obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each business day of such month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in the account pursuant to subsection (d) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount."

(d)(1) No later than the date on which this section takes effect, the Secretary of the Treasury shall redeem at par all outstanding obligations of the United States issued under the Second Liberty Bond Act exclusively for purchase by the Federal Old-Age Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund (hereinafter in this subsection referred to as the "Trust Funds").

(2)(A) The Managing Trustee may sell any marketable obligation of the United States held by the Trust Funds at market price at any time and shall sell (or redeem) all "flower bonds" held by the Trust Funds on the date of enactment of this section at market price no later than the date on which this section takes effect.

(B) For purposes of this paragraph, the term "flower bond" means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

(i) it was owned by such deceased individual at the time of his death,

(ii) it is part of the estate of such deceased individual, and

(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

(3) The proceeds from the redemption and sale of obligations of the United States pursuant to paragraphs (1) and (2) shall be paid to the Trust Fund selling or redeeming such obligations and that portion of such proceeds which is not required to meet current withdrawals from such Trust Fund shall be deposited in the account established with respect to such Trust Fund by subsection (a), (b), or (c) of this Act.

(e) The amendments made by this section shall take effect on the first day of the first

month beginning more than 30 days after the date of enactment of this Act.

#### ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARDS OF TRUSTEES

SEC. 147. (a) Sections 201(a), 1817(b), and 1841(b) of the Social Security Act are each amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate; and

(2) by adding at the end thereof the following new sentence: "A member of the public, serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Funds."

(b) The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

#### PAYMENT SCHEDULE BY STATE AND LOCAL GOVERNMENTS

SEC. 148. (a) Section 218(e)(1)(A) of the Social Security Act is amended by striking out "within the thirty-day period immediately following the last day of each calendar month" and inserting in lieu thereof "in accordance with the same payment schedule as applies to payment by employers of the taxes imposed under sections 3101 and 3111 of the Internal Revenue Code of 1954."

(b) The amendment made by subsection (a) shall be effective with respect to payments due on or after January 1, 1984.

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

SEC. 149. (a) Section 201(a) of the Social Security Act is amended by striking out "The amounts appropriated" in the last sentence and inserting in lieu thereof "Except as provided in subsection (m), the amounts appropriated."

(b) Section 201 of such Act is further amended by adding at the end thereof the following new subsection:

"(m)(1) The procedures in effect on January 1, 1983, with respect to the transfer of the amounts appropriated by clauses (3) and (4) of subsection (a) and the amounts appropriated by clauses (1) and (2) of subsection (b) shall apply to a calendar month unless the Secretary makes a finding under this paragraph that the OASDI trust fund ratio as of the first day of such calendar month is less than 12 percent.

"(2) If the Secretary makes the finding described in paragraph (1) with respect to a calendar month, the amounts appropriated by clauses (3) and (4) shall be transferred on the first day of such calendar month from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred on the first day of such calendar month from the general fund of the Treasury to the Federal Disability Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in clauses (3) and (4) of subsection (a), to be paid to or deposited into the Treasury during such calendar month.

"(3) Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in clauses (3) and (4) of subsection (a).

"(4) All amounts transferred to either Trust Fund under paragraph (2) shall be treated by the Managing Trustee in the same manner and to the same extent as the other

assets of such Trust Fund; and such Trust Fund shall pay interest to the general fund on the amount so transferred at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the average 91-day Treasury bill rate during such month (payable on the last day of such month).

"(5) For purposes of this subsection, the term 'OASDI trust fund ratio' means, with respect to any month, the ratio of—

"(A) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Trust Fund from the Federal Hospital Insurance Trust Fund under subsection (1), and determined without regard to amounts transferred theretofore under this subsection, as of the last day of the second month preceding such month, to

"(B) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the month for which such ratio is to be determined for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under subsection (1)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account."

(c) The amendments made by this section shall apply to calendar months beginning after the date of enactment of this section and before January 1, 1988.

#### AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS TREATED AS WAGES FOR FICA TAXES

SEC. 150. (a)(1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(v) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (a) (other than paragraph (1)) shall exclude from the term 'wages' any employer contribution—

"(A) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) under a cafeteria plan (as defined in section 125(d)) which includes an arrangement described in subparagraph (A) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this chapter.

"(2) GOVERNMENTAL PLANS.—For purposes of subsection (a)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wages' shall not include any payment to or from a governmental plan (within the meaning of section 414(d)).

"(B) EXCEPTIONS.—The term 'wages' shall include any amount—

"(i) deferred under a plan described in section 457(a) (at the time the services which relate to such payment were performed),

"(ii) deferred under a plan described in subsection (e)(1), (e)(2)(D), or (e)(2)(E) of section 457, or

"(iii) which is treated as wages under subsection (a)(5)(E) by reason of a salary reduction agreement."

(2) Paragraph (5) of section 3121(a) of such Code (defining wages) is amended—  
(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma and "or", and

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

"(E) under an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement;"

(3) Subsection (a) of section 3121 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (9),

(C) in paragraph (13)(A)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer," and

(D) by striking out "subparagraph (B)" in the last sentence thereof and inserting in lieu thereof "subparagraph (A)".

(b)(1) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(r) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (b) (other than paragraph (1)) shall exclude from the term 'wages' any employer contribution—

"(A) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) under a cafeteria plan (as defined in section 125(d)) which includes an arrangement described in subparagraph (A) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this chapter.

"(2) GOVERNMENTAL PLANS.—For purposes of subsection (b)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wages' shall not include any payment to or from a Governmental plan (within the meaning of section 414(d)).

"(B) EXCEPTIONS.—The term 'wages' shall include any amount—

"(i) deferred under a plan described in section 457(a) (at the time the services which relate to such payment were performed),

"(ii) deferred under a plan described in subsection (e)(1), (e)(2)(D), or (e)(2)(E) of section 457, or

"(iii) which is treated as wages under subsection (b)(5)(E) by reason of a salary reduction agreement."

(2) Paragraph (5) of section 3306(b) of such Code (defining wages) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma and "or", and

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

"(E) under an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement;"

(3) Subsection (b) of section 3306 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (8), and

(C) in paragraph (10)(A)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,"

(4)(A) Subparagraph (A) of section 3306(b)(2) of such Code, as redesignated by paragraph (3)(A), is amended to read as follows:

"(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term 'wages' only payments which are received under a workman's compensation law), or"

(B) Subsection (b) of section 3306 of such Code (defining wages) is amended by adding at the end thereof the following new flush sentence:

"Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages."

(C) Rules similar to the rules of subsections (d) and (e) of section 3 of the Act entitled "An Act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act" (Public Law 97-123), approved December 29, 1981, shall apply in the administration of section 3306(b)(2)(A) of such Code (as amended by subparagraph (A)).

(c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof (as amended by this Act) the following new paragraph:

"Nothing in any of the foregoing provisions of this section (other than subsection (a)) shall exclude from the term 'wages' any employer contribution—

"(1) under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(2) under a cafeteria plan (as defined in section 125(d)) which includes an arrangement described in paragraph (1) to the extent the employee had the right to choose cash, property, or other benefits which would be wages for purposes of this chapter.

"For purposes of this section—

"(1) the term 'wages' shall not include any payment to or from a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1954); except that

"(2) the term 'wages' shall include any amount—

"(A) deferred under a plan described in section 457(a) of such Code (at the time the services which relate to such payment were performed),

"(B) deferred under a plan described in subsection (e)(1), (e)(2)(D), or (e)(2)(E) of section 457 of such Code, or

"(C) which is treated as wages under subsection (e)(5) by reason of a salary reduction agreement."

(2) Subsection (e) of section 209 of such Act is amended by adding before the semicolon at the end thereof the following: "; or

(5) under an annuity contract described in section 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement;"

(3) Section 209 of such Act is amended—

(A) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subsections (c) and (i), and

(C) in subsection (m)(1)—

(i) by inserting "or" after "death," and

(ii) by striking out "or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer,"

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1984.

#### CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND LODGING

SEC. 151. (a)(1) Subsection (a) of section 3121 of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (17), by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119."

(2) Section 209 of the Social Security Act is amended by striking out "or" at the end of subsection (p), by striking out the period at the end of subsection (q) and inserting in lieu thereof "; or", and by inserting after subsection (q) the following new subsection:

"(r) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1954."

(b)(1) Subsection (a) of section 3121 of such Code is amended by inserting after paragraph (19) (as added by subsection (a) of this section) the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter."

(2) Section 209 of the Social Security Act is amended by inserting immediately after subsection (r) (as added by subsection (a) of this section) the following new sentence:

"Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1954 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this title."

(c) Subsection (b) of section 3306 of the Internal Revenue Code of 1954 (defining wages) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or",

(3) by adding immediately after paragraph (13) the following new paragraph:

"(14) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3013

to exclude such items from income under section 119," and

(4) by adding at the end thereof the following new flush sentence:

"Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter."

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

#### TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS

SEC. 152. (a) Subparagraph (D) of section 3121(a)(5) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(b) Subsection (e) of section 209 of the Social Security Act, as amended by this Act, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: "; or (6) under a simplified employee pension (as defined in section 408(k) of the Internal Revenue Code of 1954) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment."

(c) Subparagraph (D) of section 3306(b)(5) of the Internal Revenue Code of 1954 is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

#### TITLE II—SUPPLEMENTAL SECURITY INCOME

##### INCREASE IN BENEFIT STANDARD

SEC. 201. (a) Section 1617 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Effective July 1, 1983—

"(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611, as previously increased under this section, shall be increased by \$240 (and the dollar amount in effect under subsection (a)(1)(A) of Public Law 93-86, as previously so increased, shall be increased by \$120); and

"(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as previously increased under this section, shall be increased by \$360."

(b) Section 1617(b) of such Act is amended by striking out "this section" and inserting in lieu thereof "subsection (a) of this section".

##### ADJUSTMENT IN FEDERAL SSI PASS-THROUGH PROVISIONS

SEC. 202. Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

(d)(1) For any particular month after March 1983, a State shall be deemed to have met the requirements of paragraph (4) of subsection (a) if—

"(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable under section 1611(b) (to such recipients), for that particular month, is not less than—

"(B) the combined level of its supplementary payments (to recipients of the type in-

volved) and the amounts payable under section 1611(b) (to such recipients), for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefit increases under this title) which have occurred after March 1983 and before that particular month.

"(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Act Amendments of 1983 had not been enacted."

#### NOTIFICATION REGARDING SSI

SEC. 203. Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act, who may be eligible for supplemental security income benefits under title XVI of such Act, of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplemental medical insurance.

#### TITLE III—MEDICARE

##### MEDICARE PAYMENTS FOR INPATIENT HOSPITAL SERVICES ON THE BASIS OF PROSPECTIVE RATES

SEC. 301. (a)(1) Section 1886(a)(4) of the Social Security Act is amended by adding at the end the following new sentence: "Such term does not include costs of approved educational activities, or, with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986, capital-related costs, as defined by the Secretary."

(2) Subsection (a)(1) of section 1886 of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) Subparagraph (A) shall not apply to cost reporting periods beginning on or after October 1, 1985."

(3) It is the intent of Congress that, in considering the implementation of a system for including capital-related costs under a prospectively determined payment rate for inpatient hospital services, costs related to capital projects initiated on or after the effective date of the implementation of such a system, may or may not be distinguished and treated differently from costs of projects initiated before such date.

(b) Section 1886(b) of such Act is amended—

(1) by striking out "Notwithstanding sections 1814(b), but subject to the provisions of sections" in paragraph (1) and inserting in lieu thereof "Notwithstanding section 1814(b) but subject to the provisions of section";

(2) by inserting "(other than a subsection (d) hospital, as defined in subsection (d)(1)(B))" in the matter before subparagraph (A) of paragraph (1) after "of a hospital";

(3) by inserting, in the matter in paragraph (1) following subparagraph (B), "(other than on the basis of a DRG prospective payment rate determined under subsection (d))" after "payable under this title";

(4) by repealing paragraph (2);

(5) by inserting "and subsection (d) and except as provided in subsection (e)" in paragraph (3)(B) after "subparagraph (A)";

(6) by inserting "or fiscal year" after "cost reporting period" each place it appears in paragraph (3)(B);

(7) by inserting "before the beginning of the period or year" in paragraph (3)(B) after "estimated by the Secretary";

(8) by striking out "exceeds" in paragraph (3)(B) and inserting in lieu thereof "will exceed"; and

(9) by amending paragraph (6), effective with respect to cost reporting periods beginning on or after October 1, 1982, to read as follows:

"(6) In the case of any hospital which becomes subject to the taxes under section 3111 of the Internal Revenue Code for 1954 for part or all of a cost reporting period, and was not subject to such taxes for the 12-month cost-reporting period referred to in subsection (b)(3)(A)(4), the Secretary shall provide for an adjustment by increasing the base year amount referred to in subsection (b)(3)(A)(4) for such hospital applicable to such cost reporting period by the amount of such taxes paid or accrued by such hospital for such cost reporting period."

(c)(1) Subsection (c)(1) of such section is amended—

(A) by striking out "and" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(D) the Secretary determines that the system will not preclude an eligible organization (as defined in section 1876(b)) from negotiating directly with hospitals with respect to the organization's rate of payment for inpatient hospital services.

The Secretary cannot deny the application of a State under this subsection on the ground that the State's hospital reimbursement control system is based on a payment methodology other than on the basis of a diagnosis-related group or on the ground that the amount of payments made under this title under such system must be less than the amount of payments which would otherwise have been made under this title not using such system. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period, the State has the option of applying such test (for inpatient hospital services under part A) on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining aggregate payment amounts below a national average percentage increase in total payments under part A for inpatient hospital services, the Secretary cannot deny the application of a State under this subsection on the ground that the State's rate of increase in such payments for such services must be less than such national average rate of increase."

(2) Subsection (c)(3) of such section is amended—

(A) by striking out "requirement of paragraph (1)(A)" and inserting in lieu thereof "requirements of subparagraphs (A) and (D) of paragraph (1) and, if applicable, the requirements of paragraph (5)", and

(B) by inserting "(or, if applicable, in paragraph (5))" in subparagraph (B) after "paragraph (1)".

(3) Subsection (c) of such section is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system, and

"(B) with respect to that system a waiver of certain requirements of title XVIII of the Social Security Act has been approved on or before (and which is in effect as of) the date of the enactment of the Social Security Act Amendments of 1983, pursuant to section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972.

With respect to a State system described in this paragraph, the Secretary shall judge the effectiveness of such system on the basis of its rate of increase or inflation in inpatient hospital payments for individuals under this title, as compared to the national rate of increase or inflation for such payments, with the State retaining the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during the three cost reporting periods beginning on or after October 1, 1983, after which such test shall no longer apply, and such hospitals shall be treated in the same manner as under other waivers.

"(5) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system;

"(B) the Secretary determines that the system—

"(i) is operated directly by the State or by an entity designated pursuant to State law,

"(ii) provides for payment of hospitals covered under the system under a methodology (which sets forth exceptions and adjustments, as well as any method for changes in the methodology) by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period, and

"(iii) hospitals covered under the system will make such reports (in lieu of cost and other reports, identified by the Secretary, otherwise required under this title) as the Secretary may require in order to properly monitor assurances provided under this subsection;

"(C) the State has provided the Secretary with satisfactory assurances that operation of the system will not result in any change in hospital admission practices which result in—

"(i) a significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services,

"(ii) a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services,

"(iii) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

"(iv) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services;

"(D) any change by the State in the system which has the effect of materially reducing payments to hospitals can only take effect upon 60 days notice to the Secretary and to the hospitals the payment to which is likely to be materially affected by the change; and

"(E) the State has provided the Secretary with satisfactory assurances that in the de-

velopment of the system the State has consulted with local governmental officials concerning the impact of the system on public hospitals.

The Secretary shall respond to requests of States under this paragraph within 60 days of the date the request is submitted to the Secretary.

"(6) If the Secretary determines that the assurances described in paragraph (1)(C) have not been met with respect to any 36-month period, the Secretary may reduce payments under this title to hospitals under the system in an amount equal to the amount by which the payments under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title not using such system."

(d) Subsection (d) of such section, as added by section 110 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

(1) by striking out "section 1814(b)" in paragraph (2)(A) and inserting in lieu thereof "subsection (b)", and

(2) by redesignating the subsection as subsection (j) and transferring and inserting such subsection at the end of section 1814 of the Social Security Act under the following heading:

"Elimination of Lesser-of-Cost-or-Charges Provision".

(e) Such section 1886 is further amended by adding at the end the following new subsection:

"(d)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a subsection (d) hospital (as defined in subparagraph (B)) for inpatient hospital discharges in a cost reporting period or in a fiscal year—

"(i) beginning on or after October 1, 1983, and before October 1, 1986, is equal to the sum of—

"(I) the target percentage (as defined in subparagraph (C)) of the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(A)) for the period, and

"(II) the DRG percentage (as defined in subparagraph (C)) of the applicable combined adjusted DRG prospective payment rate determined under subparagraph (D) for such discharges; or

"(ii) beginning on or after October 1, 1986, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.

"(B) As used in this section, the term 'subsection (d) hospital' means a hospital located in one of the fifty States or the District of Columbia other than—

"(i) a psychiatric hospital (as defined in section 1861(f)),

"(ii) a rehabilitation hospital (as defined by the Secretary),

"(iii) a hospital whose inpatients are predominantly individuals under 18 years of age, or

"(iv) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days;

and, in accordance with regulations of the Secretary, does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary). The exclusion of any category of hospitals or units under this subparagraph shall become inapplicable at such time as the Secretary determines that adequate data of clinical and statistical significance is available such that the Secretary

may include such category in the payment system established under this subsection.

"(C) For purposes of this subsection, for cost reporting periods beginning, or discharges occurring—

"(i) on or after October 1, 1983, and before October 1, 1984, the 'target percentage' is 75 percent and the 'DRG percentage' is 25 percent;

"(ii) on or after October 1, 1984, and before October 1, 1985, the 'target percentage' is 50 percent and the 'DRG percentage' is 50 percent; and

"(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 25 percent and the 'DRG percentage' is 75 percent.

"(D) For purposes of subparagraph (A)(i)(II), the 'applicable combined adjusted DRG prospective payment rate' for cost reporting periods beginning, or discharges occurring—

"(i) on or after October 1, 1983, and before October 1, 1984, is a combined rate consisting of 25 percent of the national DRG prospective payment rate, and 75 percent of the regional DRG prospective payment rate, determined under paragraph (2) for such discharges;

"(ii) on or after October 1, 1984, and before October 1, 1985, is a combined rate consisting of 50 percent of the national DRG prospective payment rate, and 50 percent of the regional DRG prospective payment rate, determined under paragraph (3) for such discharges;

"(iii) on or after October 1, 1985, and before October 1, 1986, is a combined rate consisting of 75 percent of the national DRG prospective payment rate, and 25 percent of the regional DRG prospective payment rate, determined under paragraph (3); and

"(iv) on or after October 1, 1986, is a rate equal to the national DRG prospective payment rate determined under paragraph (3).

"(2) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional adjusted DRG prospective payment rate for such discharges in each such region, for which payment may be made under part A of this title. Each such rate shall also be determined for hospitals located in urban or rural areas within the United States and within each such region. Such determinations shall be made as follows:

"(A) DETERMINING ALLOWABLE INDIVIDUAL HOSPITAL COSTS FOR BASE PERIOD.—The Secretary shall determine the allowable operating costs per discharge of inpatient hospital services for the hospital for the most recent cost reporting period for which data are available.

"(B) UPDATING FOR FISCAL YEAR 1984.—The Secretary shall update each amount determined under subparagraph (A) for fiscal year 1984 by—

"(i) updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under such subparagraph and fiscal year 1983, and

"(ii) projecting for fiscal year 1984 by the applicable percentage increase (as defined in subsection (b)(3)(B)) for fiscal year 1984.

"(C) STANDARDIZING AMOUNTS.—The Secretary shall standardize the amount updated under subparagraph (B) for each hospital by—

"(i) excluding an estimate of indirect medical education costs,

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3015

"(ii) adjusting for variations among hospitals by area and region in the average hospital wage level, and

"(iii) adjusting for variations in case mix among hospitals.

"(D) COMPUTING URBAN AND RURAL AVERAGES.—The Secretary shall compute an average of the standardized amounts determined under subparagraph (C) for the United States and for each region—

"(i) for all subsection (d) hospitals located in an urban area, and

"(ii) for all subsection (d) hospitals located in a rural area.

For purposes of this subsection, the term 'region' means one of the four census regions established by the Bureau of the Census, established by the Secretary; the term 'urban area' means an area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget), or within such similar area as the Secretary has recognized under subsection (a) by regulation; and the term 'rural area' means any area outside such an area or similar area.

"(E) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (D) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment rates which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(F) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection 4(e)(1)(B) for that fiscal year.

"(G) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS IN THE UNITED STATES AND IN EACH REGION.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a DRG prospective payment rate which is equal—

"(i) for hospitals located in an urban area in the United States, and for hospitals located in an urban area in each region, to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in an urban area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(iii) for hospitals located in a rural area in the United States, and for hospitals located in a rural area in each region, to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in a rural area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(H) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (G) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national or regional average hospital wage level as appropriate.

"(3) The Secretary shall determine an adjusted DRG prospective payment rate, for

each inpatient hospital discharge in a fiscal year after fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital for which payment may be made under part A of this title, as follows:

"(A) UPDATING PREVIOUS STANDARDED AMOUNTS.—The Secretary shall compute an average standardized amount for hospitals located in an urban area within the United States and, for fiscal year 1985, for hospitals located in an urban area, within each region, and for hospitals located in a rural area within the United States, and for fiscal year 1985, for hospitals located in a rural area within each region, and equal to the respective average standardized amount computed for the previous fiscal year under paragraph (2)(D) or under this subparagraph, increased by the applicable percentage increase under subsection (b)(2)(B) for that particular fiscal year.

"(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(C) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection 4(e)(1)(B) for that fiscal year.

"(D) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a DRG prospective payment rate for the fiscal year which is equal—

"(i) for hospitals located in an urban area in the United States and (if applicable) for hospitals located in an urban area in each region, to the product of—

"(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in an urban area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(iii) for hospitals located in a rural area in the United States and (if applicable) for hospitals located in a rural area in each region (and, if applicable, in a census division), to the product of—

"(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in a rural area in the United States or in that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(E) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion, (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (D) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national or regional average hospital wage level as appropriate.

"(4)(A) The Secretary shall establish a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

"(B) For each such diagnosis-related group the Secretary shall assign an appropriate weighting factor which reflects the relative hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

"(C) The Secretary shall adjust the classifications and weighting factors established under subparagraphs (4) and (B), at least every five years, to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

"(D) The Commission established under subsection (a)(2) shall consult with and make recommendations to the Secretary with respect to adjustments to be made under subparagraph (C) based upon its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The Commission shall report to the Congress with respect to its evaluation of any adjustments made by the Secretary under subparagraph (C).

"(5)(A)(i) The Secretary shall provide for an additional payment for a subsection (d) hospital for any discharge in a diagnosis-related group, the length of stay of which exceeds the mean length of stay for discharges within that group by a fixed number of days, or exceeds such mean length of stay by some fixed number of standard deviations, whichever is the lesser.

"(ii) For cases which are not included in clause (i), a hospital may request additional payments in any case where charges, adjusted to cost, exceed a fixed multiple of the DRG rate, or exceed such other fixed dollar amount, whichever is greater.

"(iii) The amount of such additional payment under clauses (i) and (ii) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i) or (ii).

"(iv) The total amount of the additional payments made under this subparagraph for discharges in a fiscal year may not be less than 5 percent nor more than 5 percent of the total payments made based on DRG prospective payment rates for discharges in that year, and the DRG rates shall be reduced to compensate for any payments under this subparagraph in excess of such 6 percent.

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except that in the computation under this subparagraph the Secretary shall use an educational adjustment factor equal to twice the factor provided under such regulations.

"(C)(i) The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title.

"(ii) With respect to a hospital which is a 'sole community hospital', payment under paragraph (1)(A)(i) for any cost reporting period or fiscal year beginning on or after October 1, 1983, shall be determined using the target percentage and DRG percentage applicable for the fiscal year beginning on October 1, 1983, and in no case shall total payments to such a hospital under this title for any cost reporting period beginning on



or after October 1, 1983, and before October 1, 1986, be less than such payments to such hospital for the preceding cost reporting period. For purposes of this subparagraph, the term 'sole community hospital' means a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographical area who are entitled to benefits under part A.

"(iii) The Secretary may provide for such adjustments to the payment amounts as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

"(D)(i) The Secretary shall estimate the amount of reimbursement made for services described in section 1862(a)(14) with respect to which payment was made under part B in the base reporting periods referred to in paragraph (2)(A) and with respect to which payment is no longer being made.

"(ii) The Secretary shall provide for an adjustment to the payment for subsection (d) hospitals in each fiscal year so as appropriately to reflect the net amount described in clause (i).

"(E) This paragraph shall apply only to subsection (d) hospitals that receive payments in amounts computed under this subsection.

"(6) The Secretary shall provide for publication in the Federal Register, on or before the September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the adjusted DRG prospective payment rates under this subsection, including any adjustments required under subsection (e)(1)(B).

"(7) There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the determination of the requirement, or the proportional amount, of any adjustment effected pursuant to subsection (e)(1), and

"(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof under paragraph (4).

"(e)(1)(A) For cost reporting periods of hospitals beginning in fiscal year 1984 or fiscal year 1985, the Secretary shall provide for such proportional adjustment in the applicable percentage increase (otherwise applicable to the periods under subsection (b)(3)(B)) as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(I) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals, are not greater or less than—

"(ii) the target percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983;

except that the adjustment made under this subparagraph shall apply only to subsection (d) hospitals and shall not apply for purposes of making computations under subsection (d)(2)(B)(ii) or subsection (d)(3)(A).

"(B) For discharges occurring in fiscal year 1984 or fiscal year 1985, the Secretary shall provide under subsections (d)(2)(F) and (d)(3)(C) such equal proportional adjustment in each of the average standard-

ized amounts otherwise computed for that fiscal year as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(II) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals, are not greater or less than—

"(ii) the DRG percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983.

"(2) The Secretary shall provide for appointment of a Commission of independent experts, selected by the Office of Technology Assessment (hereinafter in this subsection referred to as the 'Commission') to review the applicable percentage increase factor described in subsection (b)(3)(B) and make recommendations to the Secretary on the appropriate percentage increase which should be effected for hospital inpatient discharges under subsections (b) and (d) for fiscal years beginning with fiscal year 1985. In making its recommendations, the Commission shall take into account changes in the hospital market-basket described in subsection (b)(3)(B), hospital productivity, technological and scientific advances, the quality of health care provided in hospitals (including the quality and skill level of professional nursing required to maintain quality care), and long-term cost-effectiveness in the provision of inpatient hospital services.

"(3) The Commission, not later than the April 1 before the beginning of each fiscal year (beginning with fiscal year 1985), shall report its recommendations to the Secretary on an appropriate increase factor which should be used (instead of the applicable percentage increase described in subsection (b)(3)(B)) for inpatient hospital services for discharges in that fiscal year.

"(4) Taking into consideration the recommendations of the Commission, the Secretary shall determine for each fiscal year (beginning with fiscal year 1986) the percentage increase which will apply for purposes of this section as the applicable percentage increase (otherwise described in subsection (b)(3)(B)) for discharges in that fiscal year, and which will assure adequate compensation for the efficient and effective delivery of medically appropriate and necessary care of high quality.

"(5) The Secretary shall cause to have published in the Federal Register, not later than—

"(A) the June 1 before each fiscal year (beginning with fiscal year 1985), the Secretary's proposed determination under paragraph (4) for that fiscal year, and

"(B) the September 1 before such fiscal year, the Secretary's final determination under such paragraph for that year.

The Secretary shall include in the publication referred to in subparagraph (A) for a fiscal year the report of the Commission's recommendations submitted under paragraph (3) for that fiscal year.

"(6)(A) The Commission shall consist of fifteen individuals selected and appointed by the Director of the Congressional Office of Technology Assessment (hereafter in this part referred to as the 'Director' and the 'Office', respectively). Such appointments shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members of the Commission shall be appointed no later than April 1, 1984, for a term of three years, except that the Director may

provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than seven members shall expire in any one year. Members of the Commission shall be eligible for reappointment for no more than two consecutive terms.

"(B) The membership of the Commission shall provide expertise and experience in the provision and financing of health care, including but not limited to physicians and registered professional nurses, employers, third party payors, and individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research. The Director shall seek nominations from a wide range of groups, including but not limited to—

"(i) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals;

"(ii) national organizations representing hospitals, including teaching hospitals; and

"(iii) national organizations representing the business community, health benefit programs, labor, and the elderly.

"(C) The Commission may employ such personnel (not to exceed 50) as may be necessary to carry out its duties. Subject to approval by the Director, the Commission shall appoint one of the members of its staff as Executive Director. The Commission is authorized to seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies. Such assistance may include the provision of detailees, office space, and related services, with or without reimbursement, as agreed upon by the Commission and the head of the appropriate department or agency.

"(D) While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and his regular place of business, a member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by the Chairman of the Commission.

"(E) The Executive Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(F) The Executive Director shall, in accordance with such policies as the Commission may prescribe, appoint and fix the rates of compensation of such personnel as may be necessary to carry out the provisions of this part. Such rates of compensation may not exceed the level specified in subparagraph (E).

"(G) The Commission shall have the authority to—

"(i) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission, with any competent personnel or organization, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(ii) make advance, progress, and other payments which relate to the work of the Commission without regard to the provisions of section 3324 of title 31, United States Code;

"(iii) accept services of voluntary and uncompensated personnel that are necessary for the conduct of the work of the Commission and provide transportation and subsistence as authorized by section 5703 of

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3017

title 5, United States Code, for persons serving without compensation;

"(fa) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds that is necessary for, or results from, the exercise of authority granted by this part (without regard to the first section of the Act of March 3, 1877 (22 Stat. 376, chapter 106; 40 U.S.C. 34); and

"(f) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(H) In order to identify medically appropriate patterns of health resources use in accordance with paragraph (b)(1A), the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient-care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. In order to assess the safety, efficiency, and cost-effectiveness of new and existing medical and surgical procedures, the Commission shall, in coordination to the extent possible with the Secretary, collect and assess factual information, giving special attention to the needs of updating existing DRG's, establishing new DRG's, and making recommendations on relative DRG weights to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the Commission shall—

"(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this part; and

"(ii) carry out, or award grants or contracts for, original research where existing information is inadequate for the development of useful and valid guidelines by the Commission.

"(I) The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies. The Commission shall maintain the confidentiality of all confidential information it receives.

"(J) There shall be established a Federal Liaison Committee to the Commission (hereafter in this part referred to as the 'Committee'). The Committee shall—

"(1) arrange for the acquisition of information in accordance with subparagraph (I) and assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies; and

"(2) advise the Commission with respect to the activities of Federal agencies that relate to the duties of the Commission or to particular medical procedures and services under study, or being considered for study, by the Commission.

The Federal Liaison Committee shall consist of delegates of those Federal agencies which can, in the judgment of the Commission, play a significant role in assisting the Commission. The Administrator of the Health Care Financing Administration shall serve as the Chairman of the Committee. Members of the Committee shall serve without additional compensation. The Committee shall meet at the call of the Chairman of the Committee, or at the call of the Chairman of the Commission, but not less than six times a year.

"(K)(i) The Office shall report to the Congress, from time to time, on the functioning

and progress of the Commission and on the status of the assessment of medical procedures and services by the Commission. Such reports shall be annual for the first three years of the Commission's operation and biannual thereafter and shall be delivered to the Congress by March 15 of each reporting year.

"(ii) The Office shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

"(iii) In order to carry out the duties under this part, the Office is authorized to expend reasonable and necessary funds as mutually agreed upon by the Office and the Commission. The Office shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission. The Office shall carry out such duties subject to approval of the Technology Assessment Board, as prescribed by sections 3(d) (2) and (3) of the Technology Assessment Act of 1972 (2 U.S.C. 4726a) (2) and (3).

"(iv) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this paragraph.

"(v) Eighty-five percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 15 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund."

"(f) Section 1862(a)(1) of the Social Security Act is amended—

(1) by striking out "(B) or (C)" and inserting in lieu thereof "(B), (C), or (D)";

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

(3) by striking out the sentence at the end of subparagraph (C) and inserting in lieu thereof a comma and "and"; and

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

"(D) in the case of clinical care items and services provided with the concurrence of the Secretary and with respect to research and experimentation conducted by, or under contract with, the Prospective Payment Assessment Commission or the Secretary, which are not reasonable and necessary to carry out the purposes of section 1886(d)(6);"

## CONFORMING AMENDMENTS

Sec. 302. (a) Sections 1814(g) and 1835(e) of the Social Security Act are each amended by inserting "(or would be if section 1886 did not apply)" after "section 1861(v)(1)(D)".

(b) Section 1814(h)(2) of such Act is amended by striking out "the reasonable costs for such services" and inserting in lieu thereof "the amount that would be payable for such services under subsection (b) and section 1886".

(c)(1) The matter in section 1861(v)(1)(G)(i) of such Act following subclause (III) is amended by striking out "on the basis of the reasonable cost of" and inserting in lieu thereof "the amount otherwise payable under part A with respect to".

(2) Section 1861(v)(2)(A) of such Act is amended by striking out "an amount equal to the reasonable cost of" and inserting in lieu thereof "the amount that would be taken into account with respect to".

(3) Section 1861(v)(2)(B) of such Act is amended by striking out "The equivalent of the reasonable cost of".

(4) Section 1861(v)(3) of such Act is amended by striking out "the reasonable cost of such bed and board furnished in semiprivate accommodations (determined pursuant to paragraph (1))" and inserting in lieu thereof "the amount otherwise payable under this title for such bed and board furnished in semiprivate accommodations".

(d) Section 1862(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "or", and

(3) by adding at the end the following new paragraph:

"(14) which are other than physicians' services (as defined in regulations) and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are furnished under arrangements (as defined in section 1861(v)(11)) with the entity made by the hospital."

(e)(1) Section 1886(a)(1) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E), and

(C) by adding at the end the following new subparagraph:

"(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the accuracy of diagnostic information on such hospital's bills, the completeness and adequacy of care provided, the appropriateness of admissions, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(6), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, but shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a budget approved by the Secretary).

"(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f), and

"(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under section 1886(d), to have all items and services (other than physicians' services as defined in regulations) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(v)(11)) made by the hospital."

(2) The matter in section 1886(a)(2)(B)(ii) of such Act preceding subclause (I) is amended by inserting "and except with respect to inpatient hospital costs with respect to which amounts are payable under section 1886(d)" after "(except with respect to emergency services)".

(f) Section 1876(g) of such Act is amended by adding at the end the following:

"(4) A risk-sharing contract under this subsection may, at the option of an eligible organization, provide that the Secretary—

"(A) will reimburse hospitals for payment amounts determined in accordance with section 1886, as applicable, of inpatient hospital services furnished to individuals enrolled with such organization pursuant to subsection (d), and

"(B) will deduct the amount of such reimbursement for payment which would otherwise be made to such organization."

(g)(1) Section 1878(a) of such Act is amended—

(A) by inserting "and (except as provided in subsection (g)(2)) any hospital which receives payments in amounts computed under section 1886(d) and which has submitted such reports within such time as the Secretary may require in order to make payment under such section may obtain a hearing with respect to such payment by the Board" after "subsection (h)" in the matter before paragraph (1),

(B) by inserting "(i)" after "(A)" in paragraph (1)(A),

(C) by inserting "or" at the end of paragraph (1)(A) and by adding after such paragraph the following new clause:

"(ii) is dissatisfied with a final determination of the Secretary as to the amount of the payment under section 1886(d)," and

(D) by striking out "(1)(A)" in paragraph (3) and inserting in lieu thereof "(1)(A)(i), or with respect to appeals under paragraph (1)(A)(ii), 180 days after notice of the Secretary's final determination."

(2)(A) The last sentence of section 1878(f)(1) of the Social Security Act is amended by inserting "or, in an action brought jointly by several providers, the judicial district in which the greatest number of such providers are located) after "the judicial district in which the provider is located."

(B) Section 1878(f)(1) of such Act is further amended by adding at the end thereof the following new sentence: "Any appeal to the Board or action for judicial review by providers which are under common ownership or control must be brought by such providers as a group with respect to any matter involving an issue common to such providers."

(3) Section 1878(g) of such Act is amended by inserting "(1)" after "(g)" and by adding at the end the following new paragraph:

"(2) The determinations and other decisions described in section 1886(d)(7) shall not be reviewed by the Board or by any court pursuant to an action brought under subsection (f) or otherwise."

(4) The third sentence of section 1878(h) of such Act is amended striking out "cost reimbursement" and inserting in lieu thereof "payment of providers of services."

(h) The first sentence of section 1881(b)(2)(A) of such Act is amended by inserting "or section 1886 (if applicable)" after "section 1861(v)".

(i) Section 1887(a)(1)(B) of such Act is amended by inserting "or on the bases described in section 1886" after "on a reasonable cost basis".

(j) The Secretary may, for any cost reporting period beginning prior to October 1, 1986, waive the requirements of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Security Act in the case of a hospital which has followed a practice of allowing direct billing under part B of title XVIII of such Act for services (other than physician services) so extensively, that immediate compliance with those requirements would threaten the stability of patient care. Any such waiver shall provide that such billing may continue to be made under part B but that the payments to such hospital under part A of such title shall be reduced by the amount of the billings for such services under part B. If such a waiver is granted, at the end of

the waiver period the Secretary may provide for such methods of payments under part A as is appropriate, given the organizational structure of the institution.

#### REPORTS, EXPERIMENTS, AND DEMONSTRATION PROJECTS

SEC. 303. (a)(1) The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall study and report to the Congress within 18 months after the date of the enactment of this Act on the method by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included within the prospective payment amounts computed under section 1886(d) of the Social Security Act.

(2)(A) The Secretary shall study and report annually to the Congress at the end of each year (beginning with 1984 and ending with 1987) on the impact, of the payment methodology under section 1886(d) of the Social Security Act during the previous year, classes of hospitals, beneficiaries, and other payors for inpatient hospital services, and other providers.

(B) During fiscal year 1984, the Secretary shall begin the collection of data necessary to compute the amount of physician charges attributable, by diagnosis-related groups, to physicians' services furnished to inpatients of hospitals whose discharges are classified within those groups. The Secretary shall include, in a report to Congress in 1985, legislative recommendations on the advisability and feasibility of providing for determining the amount of the payments for physicians' services furnished to hospital inpatients based on the DRG classification of the discharges of those inpatients.

(C) In the annual report to Congress under subparagraph (A) for 1985, the Secretary shall include the results of studies on—

(i) the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates under paragraph (3) of section 1886(d) of the Social Security Act;

(ii) whether and the method under which hospitals, not paid based on amounts determined under such section, can be paid for inpatient hospital services on a prospective basis as under such section;

(iii) the application of severity of illness, intensity of care, or other modifications to the diagnosis-related groups, and the advisability and feasibility of providing for such modifications; and

(iv) the feasibility and desirability of applying the payment methodology under such section to payment by all payors for inpatient hospital services.

(3) Prior to April 1, 1985, the Secretary shall complete a study and make legislative recommendations to the Congress with respect to an equitable method of reimbursing sole community hospitals which takes into account their unique vulnerability to substantial variations in occupancy. In addition, the Secretary shall examine ways to coordinate an information transfer between parts A and B, particularly with respect to those cases where a denial of coverage is made under part A, and no adjustment is made in the reimbursement to the admitting physician, or physicians. The Secretary also reports on the appropriate treatment of uncompensated care costs, and adjustments that might be appropriate for large teaching hospitals located in rural areas. The Secretary shall also on the advisability of having hospitals make available information on the cost of care to patients financed by both public programs and private payors.

(4) The Secretary shall complete a study and make recommendations to the Congress, before April 1, 1984, with respect to whether

hospitals located outside of the fifty States and the District of Columbia should be included under a prospective payment system.

(b)(1) Except as provided in paragraph (2), the amendments made by this title shall not affect the authority of the Secretary to develop, carry out, or continue experiments and demonstration projects.

(2) The Secretary shall provide that, upon the request of a State which has a demonstration project, for payment of hospitals under title XVIII of the Social Security Act approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972, which (A) is in effect as of March 1, 1983, and (B) was entered into after August 1982, the terms of the demonstration agreement shall be modified so that the percentage by which such demonstration project is required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in medicare hospital costs shall be decreased by one-half of one percentage point per contract year, beginning with the contract year beginning in 1983.

(c) The Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, within 30 days after the date of enactment of this Act—

(1) the risk-sharing application of On Lok Senior Health Services (according to terms and conditions as specified by the Secretary), dated July 2, 1982, for waivers, pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, of certain requirements of title XVIII of the Social Security Act over a period of 36 months in order to carry out a long-term care demonstration project, and

(2) the application of the Department of Health Services, State of California, dated November 1, 1982, pursuant to section 1115 of the Social Security Act, for the waiver of certain requirements of title XIX of such Act over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

(d) The Secretary shall continue demonstrations with hospitals in areas with critical shortages of skilled nursing facilities to study the feasibility of providing alternative systems of care or methods of payment.

#### EFFECTIVE DATES

SEC. 304. (a)(1) Except as provided in paragraph (2), the amendments made by the preceding provisions of this title apply to items and services furnished by or under arrangements with a hospital beginning with its first cost reporting period that begins on or after October 1, 1983. A change in a hospital's cost reporting period that has been made after November 1982 shall be recognized for purposes of this section only if the Secretary finds good cause for that change.

(2) Section 1866(a)(1)(F) of the Social Security Act (as added by section 302(f)(1)(C) of this title), section 1862(a)(14) (as added by section 302(e)(3) of this title) and sections 1886(a)(1) (G) and (H) of such Act (as added by section 302(f)(1)(C) of this title) take effect on October 1, 1983.

(b) The Secretary shall make an appropriate reduction in the payment amount under section 1886(d) of the Social Security Act (as amended by this title) for any discharge, if the admission has occurred before a hospital's first cost reporting period that begins after September 1983, to take into account amounts payable under title XVIII of that Act (as in effect before the date of the enact-

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3019

ment of this Act) for items and services furnished before that period.

(c)(1) The Secretary shall cause to be published in the Federal Register a notice of the interim final DRG prospective payment rates established under subsection (d) of section 1886 of the Social Security Act (as amended by this title) no later than September 1, 1983, and allow for a period of public comment thereon. The DRG prospective payment rates shall become effective on October 1, 1983, without the necessity for consideration of comments received, but the Secretary shall, by notice published in the Federal Register, affirm or modify the amounts by December 31, 1983, after considering those comments.

(2) A modification under paragraph (1) that reduces a DRG prospective payment rate shall apply only to discharges occurring after 30 days after the date the notice of the modification is published in the Federal Register.

(3) Rules to implement subsection (d) of section 1886 of the Social Security Act (as so amended) shall, and exceptions, adjustments, or additional payment amounts under paragraph (5) of such subsection may, be established in accordance with the procedure described in this subsection.

#### DELAY IN PROVISION RELATING TO HOSPITAL-BASED SKILLED NURSING FACILITIES

SEC. 305. (a) Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

(b) The Secretary of Health and Human Services shall, prior to December 31, 1983, complete a study and report to the Congress, with respect to the effect which the implementation of section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 would have on hospital-based skilled nursing facilities, given the differences (if any) in the patient populations served by such facilities and by community-based skilled nursing facilities.

#### SHIFT IN PART B PREMIUM TO COINCIDE WITH COST-OF-LIVING INCREASE

SEC. 306. (a) Section 1839 of the Social Security Act is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a)(1) The Secretary shall, during October of 1983 and of each year thereafter, determine the monthly actuarial rate for enrollees who have attained retirement age (as defined in section 216(a)) which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees who have attained retirement age will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The monthly premium of each individual enrolled under this part for each month after December 1983 shall, except as provided in subsections (b) and (c), be the amount determined under paragraph (3).

"(3) The Secretary shall, during October of 1983 and of each year thereafter, determine and promulgate the monthly premium applicable for individuals enrolled under this part for the succeeding calendar year. The monthly premium shall (except as otherwise provided in subsection (c)) be equal to the smaller of—

"(A) the monthly actuarial rate for enrollees who have attained retirement age, determined according to paragraph (1) of this subsection, for that calendar year, or

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of \$900, that applied to individuals who became eligible for and entitled to old-age insurance benefits for December of the year preceding the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following December.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees who have attained retirement age as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

"(4) The Secretary shall also, during October of 1983 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees who have not attained retirement age which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to disabled enrollees who have not attained retirement age will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin."

(2) Subsections (d), (e), (f), and (g) of section 1839 of such Act are redesignated as subsections (b), (c), (d), and (e), respectively.

(3) (A) Section 1839(b) of such Act (as so redesignated) is amended by striking out "subsection (b), (c), or (g)" and inserting in lieu thereof "subsection (a) or (e)".

(B) Section 1839(d) of such Act (as so redesignated) is amended by striking out "purposes of subsection (c)" and inserting in lieu thereof "purposes of subsection (b)".

(C) Section 1839(e) of such Act (as so redesignated) is amended by striking out "subsection (c)" and "subsection (c)(1)" and by inserting in lieu thereof "subsection (a)" and "subsection (a)(1)", respectively.

(D) Section 1818(c) of such Act is amended by striking out "subsection (c) of section 1839" and inserting in lieu thereof "subsection (a) of section 1839".

(E) Section 1843(d)(1) of such Act is amended by striking out "without any increase under subsection (c) thereof" and inserting in lieu thereof "without any increase under subsection (b) thereof".

(F) Section 1844(a)(1)(A)(i) of such Act is amended—

(i) by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(G) Section 1844(a)(1)(B)(i) of such Act is amended—

(i) by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(H) Section 1876(a)(5) of such Act is amended—

(i) in subparagraph (A)(iii), by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) in subparagraph (B)(iii), by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)".

(4) The amendments made by this subsection shall apply with respect to premiums payable for January 1984 and each month thereafter.

(5) The monthly premium amount under section 1839 of the Social Security Act for the months of July through December of 1983 shall be equal to the monthly premium amount as determined under such section (as in effect prior to the amendments made by this section) for June 1983.

#### SHIFT IN VOLUNTARY PART A PREMIUM TO COINCIDE WITH COST-OF-LIVING INCREASES

SEC. 307. (a) Section 1818(d)(2) of the Social Security Act is amended—

(1) by striking out "during the last calendar quarter of each year, beginning in 1973," in the first sentence and inserting in lieu thereof "during the next to last calendar quarter of each year";

(2) by striking out "the 12-month period commencing July 1 of the next year" in the first sentence and inserting in lieu thereof "the following calendar year"; and

(3) by striking out "for such next year" in the second sentence and inserting in lieu thereof "for that following calendar year".

(b) The amendments made by this section shall apply to premiums for months beginning with January 1984, and for months after June 1983 and before January 1984, the monthly premium under part A of title XVIII of the Social Security Act for individuals enrolled under each respective part shall be the monthly premium under that part for the month of June 1983.

#### TITLE IV—UNEMPLOYMENT COMPENSATION PROVISIONS

##### PART A—FEDERAL SUPPLEMENTAL COMPENSATION

###### EXTENSION OF PROGRAM

SEC. 401. (a) Paragraph (2) of section 602(f) of the Federal Supplemental Compensation Act of 1982 is amended by striking out "March 31, 1983" and inserting in lieu thereof "September 30, 1983".

(b) Section 605(2) of such Act is amended by striking out "April 1, 1983" and inserting in lieu thereof "October 1, 1983".

###### NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE

SEC. 402. (a) Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2)(A) In the case of any account from which Federal supplemental compensation was first payable to an individual for a week beginning after March 31, 1983, the amount established in such account shall be equal to the lesser of—

"(i) 65 per centum of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or



"(ii) the applicable limit determined under the following table times his average weekly benefit amount for his benefit year,

"In the case of weeks during a:	The applicable limit is:
6-percent period.....	14
5-percent period.....	12
4-percent period.....	10
Low-unemployment period.....	8

"(B) Notwithstanding the provisions of clause (ii) of subparagraph (A), the applicable limit under such clause shall not be lower than 4 less than the number of weeks applicable to such State under this paragraph as in effect for the week beginning March 27, 1983, to the amendments made by the Social Security Amendments of 1983.

"(C) In the case of any account from which Federal supplemental compensation was payable to an individual for a week beginning before April 1, 1983, the amount established in such account shall be equal to the lesser of the subparagraph (A) entitlement or the sum of—

"(i) the subparagraph (A) entitlement reduced (but not below zero) by the aggregate amount of Federal supplemental compensation paid to such individual for weeks beginning before April 1, 1983, plus

"(ii) such individual's additional entitlement.

"(D) For purposes of subparagraph (C) and this subparagraph—

"(i) The term 'subparagraph (A) entitlement' means the amount which would have been established in the account if subparagraph (A) had applied to such account.

"(ii) The term 'additional entitlement' means the applicable limit determined under the following table times the individual's average weekly benefit amount for his benefit year.

"In the case of weeks during a:	The applicable limit is:
6-percent period.....	8
5-percent period.....	6
4-percent period.....	4
Low-unemployment period.....	4

"(D) Except as provided in subparagraph (C)(i), for purposes of determining the amount of Federal supplemental compensation payable for weeks beginning after March 31, 1983, from an account described in subparagraph (C), no reduction in such account shall be made by reason of any Federal supplemental compensation paid to the individual for weeks beginning before April 1, 1983.

"(3)(A) For purposes of this subsection, the terms '6-percent period', '5-percent period', '4-percent period', and 'low-unemployment period' mean, with respect to any State, the period which—

"(i) begins with the 3d week after the 1st week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls in the applicable range, and

"(ii) ends with the 3d week after the 1st week in which the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks does not fall within the applicable range.

"(B) For purposes of subparagraph (A), the applicable range is as follows:

"In the case of a:	The applicable range is:
6-percent period.....	A rate equal to or exceeding 6 percent.
5-percent period.....	A rate equal to or exceeding 5 percent but less than 6 percent.
4-percent period.....	A rate equal to or exceeding 4 percent but less than 5 percent.
Low-unemployment period.	A rate less than 4 percent.

"(C) No 6-percent period, 5-percent period, or 4-percent period, as the case may be, shall last for a period of less than 4 weeks unless the State enters a period with a higher percentage designation.

"(D) For purposes of this subsection—

"(i) The rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

"(ii) The amount of an individual's average weekly benefit amount shall be determined in the same manner as determined for purposes of section 202(b)(1)(C) of such Act."

(b)(1) Section 602(f)(2) of such Act is amended by inserting before the period at the end thereof the following: "; except that in the case of any individual who received such compensation for the week preceding the last week beginning after such date, such compensation shall be payable to such individual for weeks beginning after such date, but the total amount of such compensation payable for such weeks shall be limited to 50 percent of the total amount which would otherwise be payable for such weeks".

(2) Section 605(2) of such Act is amended by inserting before the semicolon the following: "(except as otherwise provided in section 602(f)(2))".

(c)(1) Section 602(b)(1) of such Act is amended by striking out "and" at the end of subparagraph (B), adding "and" at the end of subparagraph (C), and inserting after subparagraph (C) the following:

"(D) had at least 26 weeks of full-time insured employment, during his base period or the equivalent in insured wages during his base period (as determined using a methodology equivalent to that used under section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970)";

(2) The amendment made by paragraph (1) shall apply only to individuals who first became eligible for Federal supplemental compensation for weeks beginning on or after April 1, 1983.

(d) Paragraph (3) of section 602(d) of the Federal Supplemental Compensation Act of 1982 (as amended by section 544(d) of the Highway Revenue Act of 1982) is amended by striking out "subsection (e)(2)(A)(ii)" and inserting in lieu thereof "subparagraph (A)(ii) or (C)(ii)(II) of subsection (e)(2)".

#### EFFECTIVE DATE

SEC. 403. (a) The amendments made by this part shall apply to weeks beginning after March 31, 1983.

(b) In the case of any eligible individual—

(1) to whom any Federal supplemental compensation was payable for any week beginning before April 1, 1983, and

(2) who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) before the first week beginning after March 31, 1983,

such individual's eligibility for additional weeks of compensation by reason of the amendments made by this part shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and before April 1, 1983 (and the period after such exhaustion and before April 1, 1983, shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Federal Supplemental Compensation Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State,

with which he has in effect an agreement under section 602 of the Federal Supplemental Compensation Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this part. Notwithstanding any other provision of law, if any State fails or refuses, within the 3-week period beginning on the date the Secretary of Labor proposed such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such 3-week period.

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

##### DEFERRAL OF INTEREST

SEC. 411. (a) Section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) With respect to interest due under this section for any year after December 31, 1982, and before January 1, 1986, a State may pay 80 percent of such interest in four annual installments of at least 20 percent beginning with the year after the year in which it is otherwise due, if such State meets the criteria of subparagraph (B). Interest shall accrue on such deferred interest in the same manner as under paragraph (3)(C).

"(B) To meet the criteria of this subparagraph a State must—

"(i) have taken no action since October 1, 1982, which would reduce its net unemployment tax effort or the net solvency of its unemployment system (as determined for purposes of section 3302(f) of the Internal Revenue Code of 1954); and

"(ii) have taken an action (as certified by the Secretary of Labor) after October 1, 1982, which will increase revenues and decrease benefits under the State's unemployment compensation system (hereinafter referred to as a 'solvency effort') by a combined total of the applicable percentage (as compared to such revenues and benefits as they would have been in effect without such State action).

In the case of the first year for which there is a deferral (over a 4-year period) of the interest otherwise payable for such year, the applicable percentage shall be 30 percent. In the case of the second such year, the applicable percentage shall be 40 percent. In the case of the third such year, the applicable percentage shall be 50 percent.

"(C)(i) The base year is the first year for which deferral under this provision is granted. The Secretary of Labor shall estimate the unemployment rate for the base year. To determine whether a State meets the requirements of subparagraph (B)(ii), the Secretary of Labor shall determine the percentage by which the benefits and taxes in the base year with the application of the action referred to in subparagraph (B)(ii) are lower or greater, as the case may be, than such benefits and taxes would have been without the application of such action. In making this determination, the Secretary shall deem the application of the action referred to in subparagraph (B)(ii) to have been effective for the base year to the same extent as such action is effective for the year following the base year. Once a deferral is approved a State must continue to maintain its solvency effort. Failure to do so shall result in the State being required to make immediate payment of all deferred interest.

"(ii) Increases in the taxable wage base from \$6,000 to \$7,000 or increases after 1984 in the maximum tax rate to 5.4 percent shall



March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3021

not be counted for purposes of meeting the requirement of subparagraph (B).

"(D) In the case of a State which produces a solvency effort of 50 percent, 80 percent, and 90 percent rather than the 30 percent, 40 percent, 50 percent required under subparagraph (B), the deferred interest shall be computed at an interest rate which is 1 percentage point less than the otherwise applicable interest rate."

(b) Section 1202(b)(7) of such Act is amended by striking out "and before January 1, 1988".

## CAP ON CREDIT REDUCTION

SEC. 412. (a)(1) Section 3302(f) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

## "(8) PARTIAL LIMITATION.—

"(A) In the case of a State which would meet the requirements of this subsection for a taxable year prior to 1987 but for its failure to meet one of the requirements contained in subparagraph (C) or (D) of paragraph (2), the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be reduced by 0.1 percentage point.

"(B) In the case of a State described in subparagraph (A) which also meets the requirements of section 1202(b)(8)(B) with respect to such taxable year, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be further reduced by an additional 0.1 percentage point."

(2) The amendment made by paragraph (1) shall apply with respect to taxable year 1983 and taxable years thereafter.

(b) Section 3302(f)(1) of such Code is amended by striking out "beginning before January 1, 1988."

## AVERAGE EMPLOYER CONTRIBUTION RATE

SEC. 413. (a) Section 3302(d)(4)(B) of the Internal Revenue Code of 1954 is amended by striking out "the total of the remuneration subject to contributions under the State unemployment compensation law" and inserting in lieu thereof "the total of the wages attributable to such State subject to taxation under this chapter".

(b) Sections 3302(c)(2)(B)(i) and 3302(c)(4) of such Code are each amended by striking out "2.7" and inserting in lieu thereof "2.7 multiplied by the ratio of the wage base under this chapter divided by the estimated average annual wage in covered employment for the calendar year in which the determination is to be made".

(c) The amendments made by this section shall be effective for taxable year 1984 and taxable years thereafter.

## DATE FOR PAYMENT OF INTEREST

SEC. 414. Section 1202(b)(3)(A) of the Social Security Act is amended by striking out "not later than" and inserting in lieu thereof "prior to".

## RECOUPMENT OF INTEREST

SEC. 415. Section 3302 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

## "(h) RECOUPMENT OF OVERDUE INTEREST.—

"(1) In addition to any other reduction required under this section, if any accrued interest under section 1202(b) of the Social Security Act has not been paid by a State within one year after the date such payment

is otherwise required to be paid, then the total credits (after applying any other provisions of this section) otherwise allowable under this section for the following taxable year, in the case of a taxpayer subject to the unemployment compensation law of such State, shall be reduced by an amount equal to 0.1 percent of the amount of the wages paid by such taxpayer during such taxable year which are attributable to such State.

"(2) Any increase in the amount of tax paid by reason of paragraph (1) shall be first applied as a payment of such overdue interest, and any remainder shall be applied as a repayment of principal under section 1202(b) of the Social Security Act."

## PART C—MISCELLANEOUS PROVISIONS

## TREATMENT OF EMPLOYERS PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

SEC. 421. (a)(1) Section 3306(a)(6)(A) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new clause:

"(v) with respect to services to which section 3309(a)(1) applies, if such services are provided to or on behalf of an educational institution, compensation shall be denied in the same manner as if such services were performed directly for an educational institution, and"

(2) Clauses (ii)(I), (iii), and (iv) of such section are each amended by striking out "may be denied" and inserting in lieu thereof "shall be denied".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after April 1, 1984.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to comply with the amendment made by this section, the amendment made by this section shall apply in the case of compensation paid for weeks which begin on or after April 1, 1984, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

## EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

SEC. 422. (a) Clause (ii) of paragraph (3)(A) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(ii) during which he fails to actively engage in seeking work, unless such individual is not actively engaged in seeking work because such individual is, as determined in accordance with State law—

"(I) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty (as such term may be defined by the Secretary of Labor), or

"(II) hospitalized for treatment of an emergency or a life-threatening condition (as such term may be defined by such Secretary),

if such exemptions in clauses (I) and (II) apply to recipients of regular benefits, and the State chooses to apply such exemptions for recipients of extended benefits; or"

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

Mr. DOLE. Mr. President, today, we begin consideration of H.R. 1900, "The Social Security Act Amendments of 1983," as proposed to be amended by

the Finance Committee. S. 1 was favorably reported by the Finance Committee on Thursday evening, March 10, by a vote of 19 to 1. The committee bill implements the consensus recommendations of the National Commission on Social Security Reform, and also includes provisions dealing with prospective payments under the medicare program, supplemental unemployment benefits, and unemployment compensation loan reform. Representing the culmination of many months of negotiation, this may be the single most important piece of legislation we consider in the 98th Congress. I urge my colleagues to support the bill.

## SOCIAL SECURITY

Titles I and II of the committee amendment would implement the consensus recommendations of the National Commission on Social Security Reform. Each of the recommendations of the National Commission were approved by the committee and, I might add, only those areas that required refinement—such as the taxing of benefits—were modified in any significant way. Also, the committee had to deal with two areas in which the Commission was unable to reach consensus: the long-range, financing deficit and a "fall-safe" mechanism. In total, the social security financing package reduces the short-range deficit in the Old-Age, Survivors and Disability Insurance programs (OASDI) by \$165 billion. For the long-range, the committee bill eliminates the entire long-range deficit in OASDI, and actually generates a small surplus.

## MAJOR PROVISIONS

The recommendations of the National Commission, as embodied in the committee amendment, will require concessions from all of the parties who have a stake in social security—current and future beneficiaries, taxpayers, and Government employees who do not now contribute to the system. While no one Member is happy with every specific recommendation, the important fact is that consensus was reached on how to save the system.

## COVERAGE

First, the bill would expand coverage. Newly hired Federal employees, the President, Vice President, Members of Congress, the Social Security Commissioner, and employees of non-profit organizations would, beginning in 1984, be covered by social security on a mandatory basis. State and local governments would no longer be granted the privilege of opting out of the system. To deal with the problem that will exist as long as coverage is not universal, windfalls will be eliminated for people who earn disproportionately large benefits because of long periods in noncovered employment. To moderate the impact of this provision, the committee bill would phase in the windfall provision and provide additional guarantees for

S 3022

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

people with long periods of covered employment.

I might note that that is the one minor change in the House-passed bill—to phase in that particular provision.

## COLA

Second, on the benefit side, the annual cost-of-living adjustment of social security benefits and SSI payments would be delayed by 6 months, from July to January. To protect the needy elderly during the transition to the new payment schedule, the maximum payment under the SSI program would be increased by \$20 per month (\$30 for couples). This would allow the income of all SSI recipients to rise by \$20 a month beginning in July even though his or her COLA is delayed.

## REVENUE PROVISIONS

Also, for beneficiaries with high incomes, half of social security benefits would be included in taxable income. The "notch" resulting under the Commission recommendation was eliminated by specifying that half of social security benefits be added to the individual's adjusted gross income and his income from tax-exempt obligations to determine whether any of his benefits will be subject to taxation. Counting adjusted gross income, tax-exempt interest, and half of social security benefits in this manner, the thresholds in the committee bill are then \$25,000 for an individual and \$32,000 for a couple. The lesser of one-half of social security benefits or one-half of income above the thresholds would be subject to income taxes. In no case would an individual's benefits be taxed if his income was below \$20,000 (or if a couple's adjusted gross income was below \$25,000).

In addition, part of the payroll tax increases now scheduled by law would be accelerated, as recommended by the National Commission. The 1985 increase in the OASDI rate would take place in 1984, and part of the 1990 increase would take place in 1988. A direct credit against FICA tax would exactly offset the increase in the employee's tax in 1984 so that the acceleration in the rate increase originally set for 1985 will increase trust fund receipts without increasing an employee's tax liability.

For the self-employed, the OASDHI tax rates on self-employed income would be increased so as to equalize his or her contribution to the social security trust funds with the combined contribution paid by workers and their employers. The tax on the self-employed—now about 1.5 times the employee's OASDI tax and the same as the employee's HI tax—would be made equal to the combined employee-employer rates. To offset partially the increased tax burden this provision imposes on the self-employed, the committee bill would provide a credit against self-employment taxes equal to 2.9 percent of self-employment income subject to self-employment tax in 1984, 2.5 percent in 1985, 2.2 percent

in 1986, 2.1 percent in 1987 through 1989, and 2.3 percent in 1990 and thereafter.

## STABILIZER

To help stabilize the financial condition of social security, this bill includes the recommendation of the National Commission to trigger a new method of indexing benefits if reserves are critically low. Beginning in 1988, if reserves fall below 20 percent of annual outgo, the annual COLA would be based on the lower of the increase in wages or prices. As reserves begin to accumulate again, a "catch-up" provision would repay beneficiaries for any prior reduction in their benefit increases. This would help prevent insolvency when prices grow more rapidly than wages, as they have in the last 5 years.

## EQUITY PROVISIONS

Also included in the bill are provisions which would increase outlays somewhat, but they improve the equity of the system considerably for women and for the elderly who continue to work. As recommended by the National Commission, benefit adequacy is improved for widows and widowers and for disabled widows and widowers. Eligibility requirements are eased for divorced widows and widowers, and for divorced disabled widows and widowers. For the elderly who continue to work and who do not now receive an actuarially fair increase in benefits when they delay retirement, the delayed retirement credit would be increased from 3 percent to 8 percent a year.

Along these same lines, two additional provisions were added by the Finance Committee. First, people who leave the work force to care for a child under 3 will be allowed to drop up to 2 extra years of earnings in the computation of their earnings history. This change would help acknowledge the economic contribution of spouses in the home by eliminating part of the financial penalty they now suffer when they are out of the work force. Second, the bill would gradually phase out the retirement earnings test for people 65 and older. This is a broadly supported change that would remove a strong disincentive for the elderly who wish to continue working beyond 65.

## ACCOUNTING CHANGES

Two accounting changes recommended by the Commission are included in the bill that would improve the treatment of the social security trust funds. First, the trust funds would be reimbursed for all forgone taxes and interest on account of gratuitous wage credits provided to people with military service. Presently, the trust funds are not reimbursed until the additional benefits are paid. Second, the trust funds would be credited with the value of all checks which have remained unnegotiated for 1 year or longer. Presently, such checks remain a drain on the trust funds even if they are never cashed.

## ADDITIONAL PROVISIONS RECOMMENDED BY THE NATIONAL COMMISSION

In addition to these provisions, which constitute the bipartisan consensus, this bill contains three other recommendations made by the National Commission. These were approved unanimously in November. First, trust fund investment procedures would be revised so as to improve the level of public understanding.

I might say I see the distinguished Senator from Mississippi in the Chamber. It was through his efforts and the efforts of the distinguished Senator from Wisconsin that this provision was added and agreed to by the National Commission. We will be discussing that more in length later and will notify the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. DOLE. We appreciate the Senator calling that to our attention last year.

In the future, any excess reserves would be invested on a month-to-month basis at a rate equal to the average interest rate paid on long-term Government bonds. Second, two public members would be added to the Social Security Board of Trustees. Presently, the Board is composed of the Secretaries of Treasury, Labor, and Health and Human Services.

I guess that was a recommendation that the Commission felt should have been adopted, and we have adopted it.

Third, salary reductions made under salary-reduction plans qualifying under section 401(k) of the Internal Revenue Code would, as recommended by the National Commission, be included in taxable wages for purposes of OASDHI, as would certain other forms of noncash compensation at the time the employee elects to forego current cash for a noncash benefit.

In particular, under the committee bill, amounts deferred under a qualified "cash or deferred" plan or a tax-sheltered annuity by reason of a salary reduction agreement would be includible in the FICA wage base. Similarly, amounts used to fund fringe benefits under a cafeteria plan would be included in the wage base if the employee had an option under the plan to defer income pursuant to a cash or deferred plan. Amounts deferred under an eligible State deferred compensation plan would be included in the FICA wage base in the year the related services were performed. Other nonqualified deferred compensation would be included in the FICA wage base when it becomes available to the employee. These changes should prevent future decreases in OASDHI tax income and benefit credits that might otherwise occur from increased use of deferred compensation arrangements.

I must say we think that is a rather significant provision for the future.

## FAIL-SAFE PROVISIONS

The National Commission unanimously recommended that the social

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3023

security financing package include a "fail-safe" provision—some mechanism for insuring that benefits continue to be paid even under adverse economic conditions. No specific formula was recommended, however. The options were: Some form of triggered COLA reductions, tax increases, general revenue borrowing, or some combination of these.

The committee bill incorporates the first option, that of triggered COLA reductions.

And the record should indicate this was a provision offered in the Committee by the distinguished Senator from Louisiana (Mr. Long).

Under this provision, offered in committee by Senator Long, the Secretary of Health and Human Services would be required—for any year after 1984 that reserves are projected to be less than 20 percent of outgo and falling—to announce by the preceding July 1 the amount of the COLA that could be provided without further depleting trust fund reserves. Should Congress then fail to respond by providing the additional financing necessary to keep reserves from falling, the lower COLA would then go into effect in January.

That is a real fail-safe provision, but it does give Congress 6 months within which to act so we would have time if we wanted to find some other way to do it without any COLA reduction. That could be done.

People with benefits above \$250 monthly would be affected first. In order for this fail-safe to go into effect, trust funds would have to be both critically low—20 percent of annual outgo or less—and reserves would have to be falling. In other words, it would have to be falling from the 20 percent downward.

To further bolster the trust funds in the event of adverse economic circumstances, the bill includes interfund borrowing between the three social security trust funds. So as not to allow deficits in any one of the trust funds to bankrupt another, the committee included strict requirements for interest payments and repayment of principal and interest—beginning no later than 1988.

This was a particular concern of the committee and particular concern of Senators DURENBERGER and BAUCUS as I recall as well as others who were concerned about the OSI funds.

Also, when trust funds are unable to pay at least 1 1/2 months of benefits, the Secretary of Treasury would be required to transfer to the OASDI trust funds on the first day of the month the full amount of payroll tax revenues expected to be collected during the month. This is a little provision called normalization.

Normalizing tax transfers would provide income to the trust funds at the start of the month—when benefit expenditures are heavily concentrated. Once again, interest would be charged on the excess sums so transferred.

Together, these three provisions—the COLA fail-safe, interfund borrowing, and normalized tax transfers—should provide the safety valve necessary to insure the continued solvency of social security (OASDI) during the 1980's.

I really believe that with those additions and with the change made in the Finance Committee, the changes in these three areas—I guess if we did not change the normalization, we changed the other two areas somewhat—that we have provided a real fail-safe and it should protect all those who participate in short term.

We move from the short term to the long term.

## LONG RANGE

To close the long-range deficit in OASDI, the committee bill would lower the long-term cost of the program through a combination approach. First, the bill would raise the age at which full retirement benefits are payable from 65 to 67, by 1 month a year, between 2000-2012. Early retirement benefits would continue to be payable at 62. This provision would reduce the OASDI deficit by 0.4 percent of taxable payroll. Second, the bill would gradually reduce the level of present law benefits payable to people who retire after the turn of the century by about 5 percent. In other words, people would come on to the rolls at a benefit level about 5 percent lower than now projected. This, of course, would still be at a level much higher than today. This change would reduce the deficit by another 0.43 percent of taxable payroll. In conjunction with the rest of the bill, these two changes would completely eliminate the OASDI deficit projected by the Social Security Board of Trustees.

## FROM PRACTICES

In my view, this is a good bill in the sense that it represents a fair compromise between all of the parties that have a stake in social security. While some of us may have wished to go further, particularly with regard to short-range financing, we did the best we could recognizing that bipartisan consensus was essential. Opening social security up again to the partisan political bickering of 1981 would have served no one's interests.

Before us we have a bill that incorporates a set of recommendations offered by the National Commission that is supported by a broad group including Representative CLAUDE PEPPER; Lane Kirkland, president of the AFL-CIO; and Save Our Security, on the one hand; and Robert Beck, president of Prudential; and the Business Roundtable, on the other hand; as well as by President Reagan and House Speaker O'NEILL. A bill very similar to the one passed by the committee was approved last week in the House of Representatives by a vote of 282 to 148.

The American people—the 30 million people receiving benefits as well as the 110 million working people who

support the system—deserve the speedy consideration of this bipartisan package of recommendations. Confidence in the long-term viability of social security can be restored only by enacting measures that help put the system on a sound financial footing and do so without imposing an unrealistic tax burden on present and future workers.

## MORRIS

THIS IS of the committee amendment provides for a major change in the way Medicare pays for hospital services; a change which the Senator from Kansas wishes to point out, was initiated by this body last year.

As you will recall, the Tax Equity and Fiscal Responsibility Act of 1982 contained a provision directing the Secretary of Health and Human Services to develop, in consultation with the Finance Committee and the Committee on Ways and Means, proposals for the reimbursement of hospitals under Medicare on a prospective basis. The Department's report was submitted in late 1982. Hearings were held by the Finance Committee's health subcommittee on February 2 and 17, 1983. Witnesses present at the hearings represented the hospital industry, provider groups, the insurance industry, consumers, and representatives of the business community.

Mr. President, a great many issues were raised during these hearings, many of which we tried to address in the drafting of this legislation. Clearly, these are these problems we were unable to solve, but I am hopeful that over time, once the system is in place, we will continue to make changes as necessary.

The provisions contained in this bill are by no means perfect. Any time you attempt to devise a new system, problems occur which you were either unaware of, or unable to resolve at the outset. This system is no different. However, this Senator believes ample flexibility has been provided, giving the Secretary the opportunity to adjust the system, and in some cases directing the Secretary to make certain changes when possible. For example, on the issue of severity of illness, we know that certain institutions, many of which are teaching hospitals, care for patients that are far sicker than the average patient and consume a greater number of resources. A DRG payment may not be sufficient in these cases. To help adjust for this concern, the provision agreed to by the Finance Committee contains two adjustments for teaching institutions. The first recognizes the direct costs of teaching—salaries, blackboards—and passes these costs through. The second adjustment recognizes the indirect costs of teaching and doubles the current adjustment for these costs. This will certainly help to recognize some of the unusual costs faced by these institutions.

S 3024

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

In addition to these two adjustments, we have also provided an institution the opportunity to apply to the Secretary for additional payments where the length of stay for a particular case is unusually long, or the cost unusually high as compared to the DRG rate. The House bill only provides for special treatment for long lengths of stay.

Our bill also contains a provision requiring that the Secretary make adjustments or exceptions as he deems appropriate to take into account the special circumstances of hospitals caring for a large number of low-income patients. Sole community providers are given special treatment, as are psychiatric hospitals, childrens hospitals, and rehabilitation hospitals.

I understand the distinguished Senator from Texas will offer an amendment to assist those institutions that serve as regional or national referral centers, an amendment we are certainly willing to accept.

By summarizing these exceptions and adjustments the Senator from Kansas wants to make it clear that every attempt has been made to identify and resolve those legitimate concerns raised by institutions across the country.

As I said at the outset, this is a new program, and we are not sure of all the answers. These provisions give us a chance to test out some answers to some specific problems, while getting the system into place.

## INDUSTRY SUPPORT

The hospital industry has made it clear that they want to move ahead with this system. They do not like the current system of controls any more than we do. They want a system that finally puts some incentives for efficiency into place. They are, of course, concerned that we treat hospitals equitably, but also believe that our recommendations go a long way toward resolving some of these concerns.

## MAJOR PROVISIONS OF THE PROSPECTIVE PROPOSAL

## DIAGNOSTIC-RELATED GROUPS AND RATES

Under the committee amendment, the Secretary is required to determine prospectively a payment amount for each medicare hospital discharge. DRG rates would be established for urban and rural areas both nationally and in each of four census regions.

These rates would be increased for fiscal year 1984 and fiscal year 1985 by the marketbasket plus 1 percentage point. Adjustments for future years would be decided upon by the Secretary, based in part upon recommendations made by an independent commission.

Changes in the relative weights of the DRG's would be made at least every 5 years to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources. The independent commission mentioned earlier will also assist the Secretary in making these changes.

## OUTLIERS

Another major provision is the one that deals with outliers, the unusually costly cases or those with particularly long lengths of stay. As noted earlier, our proposal is more generous in dealing with these costs.

## EXCLUSION OF CAPITAL-RELATED EXPENSES AND MEDICAL EDUCATION EXPENSES

In the case of capital costs and direct education costs, we will continue to reimburse hospitals as we do under current law until October 1, 1986, after which time capital costs will no longer be "passed through."

In the case of indirect medical expenses the proposal doubles the current teaching adjustment.

## EFFECTIVE DATE/TRANSITION

The proposal would be in effect for individual hospital accounting years beginning on or after October 1, 1983. The bill also provides for a 3-year transition from the current system to a full national DRG system. During the transition the hospitals would be paid a mixed rate based on their historical costs, a national DRG rate and a regional DRG rate. This transition provides ample opportunity to the hospitals to adjust to the new system.

## EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS

As noted earlier in my comments, certain hospitals are excluded from the prospective system and adjustments and exceptions are provided for others to accommodate certain concerns, such as unusual patient case-loads or geographic location.

## PEER REVIEW

The proposal includes a requirement that hospitals contract with a professional review organization selected by the Secretary under title XI of the Social Security Act. It will be particularly important that a monitoring system be in place in conjunction with a payment program that pays an established rate per diagnosis. We will want to continue to insure that appropriate and necessary services are provided.

## STATE COST CONTROL PROGRAMS

The States will continue to be able to design and implement State payment systems. In fact, the language contained in the proposal strengthens the case of States applying for medicare waivers as long as they meet the requirements established by the statute.

We continue to be interested in examining the State systems, believing that there are a great many ways one might go about addressing the problem of rising hospital costs, and that the Federal Government might still have a great deal to learn.

## ADMINISTRATIVE AND JUDICIAL REVIEW

The committee amendment continues to provide the opportunity for institutions to seek administrative and judicial review in all cases except those that relate to the establishment of diagnosis-related groups, of the methodology for the classification of

discharges within such groups, and of the appropriate weighting factors.

## STUDIES AND REPORTS

Mr. President, the last major provision of title III deals with studies and reports. The committee has asked that the Secretary complete a number of studies on issues of concern to us in establishing this new prospective system.

Of particular note are the studies and reports dealing with the severity of illness, intensity of care, or other such modifications to the diagnosis related groups. These issues are critical to our efforts to insure that institutions receive a DRG payment that is reasonably sensitive to the care being provided to patients.

## COMMISSION

There is one other aspect of title III that bears noting. This is the creation of a Commission of experts to assist the Secretary in making adjustments to the DRG's and in examining those changes in the health care industry that have a bearing on health care delivery and the cost of care.

The Commission will help us look at such important issues as variations in treatment practices, resource usage, and medically appropriate patterns of care. Because this Commission would be made up of a mix of experts, for example, nurses, physicians, employers, and hospital administrators, they will be able to explore a number of diverse issues, such as the role of nutrition in the treatment of a patient and its impact on the overall use of services.

Changes in technology will be particularly important for us to track. We certainly do not want to discourage the kind of innovation we have come to expect from the health care industry. The introduction of a new treatment modality or a new piece of equipment can have enormous implications for a particular DRG and its so-called weight. We want to make sure that changes in the DRG's really follow changes in the industry.

## NEED FOR ACTION

Like the other aspects of S. 1, this title should be given every consideration by my colleagues. It is clearly time to move away from the old inefficient cost based reimbursement system, to one that puts some incentives in place. These provisions do exactly that.

## UNEMPLOYMENT COMPENSATION PROVISIONS

The Finance Committee included four provisions in S. 1 dealing with the unemployment insurance system. The first provision would provide a 6-month extension of the Federal supplemental compensation (FSC) program currently scheduled to expire on March 31, 1983. Two provisions deal with coverage and eligibility issues, and the final provision provides some relief from the interest and loan requirements of current law. The House-passed bill, H.R. 1900, includes only the extension of FSC.

March 16, 1983

## CONGRESSIONAL RECORD—SENATE

S-3025

The Finance Committee provision extends the Federal supplemental compensation (FSC) program for 6 months, from April 1, 1983, through September 30, 1983. The basic tier of benefits has been redesigned to reflect more accurately current unemployment conditions. The proposal has three new and important features:

First, extra weeks of FSC benefits are provided to claimants who have exhausted the initial FSC entitlement prior to April 1, 1983. These benefits are again geared to the level of distress in each State.

Second, claimants who have not used their full initial entitlement are permitted to continue to receive FSC benefits after April 1, 1983.

Third, those individuals who may have FSC entitlement remaining on September 30, 1983, when this program will expire, will not have their benefits immediately cease. Instead, the proposal allows a "phase out" of benefits whereby the claimant would receive half of the remaining weeks of his entitlement. To me, this is attractive because it allows the individual who becomes eligible for FSC late in the program's life to receive some benefit from it.

In order to afford this "phase out" feature, it is necessary to scale back somewhat the level of benefits available. The current FSC program provides 16 weeks of benefits in States with the highest insured unemployment rates (IUR). This proposal would allow 14, the same level provided in the House-passed bill. In my opinion, this is justified not only on cost grounds, but also because there does appear to be a downward trend in unemployment which is projected to continue, although slowly, through the spring and summer. Should this not be the case, I certainly expect that the Congress will be in session this summer and alterations can be made, if necessary.

Additionally, we have included an increase in the number of weeks of work required to qualify for FSC benefits—from 20 to 26 weeks. This requirement would be applied on a prospective basis only, that is, for people who first begin receiving FSC after April 1. It seems reasonable to me that a work force attachment beyond 26 weeks should be required for the receipt of benefits of as many as 53 weeks in some States.

CBO estimates the fiscal year 1983 cost of this proposal at \$2.1 billion. There would also be a cost in fiscal year 1984 of \$120 million. This is in addition to the \$2.5 billion fiscal year 1982 and fiscal year 1983 cost of the current FSC program. It is a substantial expenditure of Federal dollars and demonstrates a real commitment to aiding our Nation's unemployed. We may not be able to go further.

The second provision approved by the Finance Committee would correct a serious situation which was brought to the attention of the committee by one of our Members, Senator BRADLEY, and by a number of our House col-

leagues. This provision would permit a State to treat ~~SSC~~ claimants serving on jury duty and those who are hospitalized in the same manner as such claimants are treated under the regular State programs. A number of cases were documented in which FSC claimants were terminated from benefits for failing to meet the "able to work" and "available for work" requirements under Federal law. These claimants were serving on jury duty or, in some cases, had been suddenly hospitalized. The committee recognized that such occurrences are generally beyond the control of the individual. Therefore, the Bradley amendment was adopted to allow States the flexibility to deal with such cases as they do in their own State programs.

The third provision would require States to deny unemployment benefits to school employees and certain employees who perform services for educational institutions. This denial of benefits would apply during periods between academic years or terms. The denial would take place only if there was reasonable assurance of returning to work in the next academic year or term. This amendment equalizes the treatment of these employees with the treatment now accorded to professional employees working in instructional, research, and principal administrative capacities.

Finally, the Finance Committee adopted a measure which provides limited relief for States which are borrowing from the Federal Treasury to meet benefits payments. This is a responsible provision which is deserving of the support of the full Senate. The committee developed a plan which will allow a State to spread the interest it owes over a 5-year period. The State can also qualify for a reduction of 1 percentage point in the interest rate charged on borrowing. Additionally, a State which does not qualify for the full cap on the loss of the Federal unemployment tax (FUTA) credit may, under the committee provision, qualify for a partial cap.

Some action on the State's part for this relief is, of course, necessary. The Finance Committee proposal requires States to make progress toward solvency of 30 percent the first year, 40 percent the second year, and 50 percent the third year. If the State makes an effort to reach solvency which increases those percentages to 50, 80, and 90, the interest rate will be reduced by 1 percent.

Even this limited relief will have a Federal budget impact. The loss of interest paid to the Federal Government could total \$319 million in fiscal year 1983 from the deferral alone. The reduced interest rate would only increase the revenue impact. The availability of the partial cap on the offset credit loss would also have a negative impact on the Federal deficit of some \$200 million. However, the Finance Committee recognized the fact that the current recession has been deeper and more prolonged than we expected in the summer of 1981 when the inter-

est and cap provisions were enacted as part of the Omnibus Budget Reconciliation Act. Therefore, the committee was willing to make some temporary changes in the current law in order to allow States extra time to enact the necessary State law changes to bring their programs closer to solvency.

I urge my colleagues to support these modifications in the interest and loan provisions. I believe that the Finance Committee proposal treats in a fair manner those States which must continue to borrow. I believe that the Finance Committee provision also protects the interests of those States who have operated solvent programs over the years, borrowing when necessary but repaying on time and making the required State law changes to insure solvency. The interests of those States and their taxpayers deserve our attention.

## CONCLUDING REMARKS

The social security financing package, as well as the Medicare and unemployment compensation provisions, represents the end result of intensive negotiations between a bipartisan group of interested parties.

I urge my colleagues to support this important and comprehensive bill.

I ask unanimous consent to have printed in the Record a detailed description of each of the social security provisions along with cost estimates provided by the Office of the Actuary, SSA, and the Congressional Budget Office, and also a detailed description of the Finance Committee amendments dealing with the unemployed insurance program.

There being no objection, the material was ordered to be printed in the Record, as follows:

ACTUARIAL COST ANALYSIS OF S. 1, AS AMENDED BY THE FINANCE COMMITTEE, PREPARED BY THE OFFICE OF THE ACTUARY OF THE SOCIAL SECURITY ADMINISTRATION, AND ACTUARIAL COST ANALYSIS OF THE BILL PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

DEPARTMENT OF HEALTH AND HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION,

March 11, 1983.

Preliminary estimate of the impact of S. 1 as reported by the Senate Finance Committee on the long-range financial status of the OASDI system

Mr. HARRY C. BALLANTYNE,  
Chief Actuary

The attached table includes preliminary long-range estimates for S. 1 as reported by the Senate Finance Committee based on the 1983 trustees Report, Alternative II-B assumptions. Enactment of this bill will result in a long-range actuarial surplus of 0.08 percent of taxable payroll for OASDI combined. Estimates for individual provisions are shown in the table generally only for those provisions with significant long-range impact on OASDI. However, the impact on OASDI of all provisions of S. 1 as reported is included in the totals.

The estimates assume that the allocation to the DI trust fund will be similar to the allocation in H.R. 1900 as reported by the Ways and Means Committee, except that after 1999 the rate would increase from 0.60 to 0.65 each.

FRANCISCO R. BAYO,  
Deputy Chief Actuary.

Attachment.



S 3026

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

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

(In billions)

Provision	Calendar year							Total, 1983- 89
	1983	1984	1985	1986	1987	1988	1989	
Increase tax rate on covered wages and salaries.....		\$8.6	\$0.3			\$14.5	\$16.0	\$39.4
Increase tax rate on covered self-employment earnings.....		1.1	3.1	\$3.0	\$3.2	3.7	4.4	18.5
Cover President, Vice President, and Members of Congress.....								
Cover new Federal employees.....		(1)	(1)	(1)	(1)	(1)	(1)	(1)
Cover all nonprofit employees.....		2	1	1	1	2	3	9
		1.3	1.5	1.8	2.1	2.6	3.1	12.5
Total for new coverage.....		1.5	2.2	3.0	3.9	5.0	6.1	21.8
Prohibit State and local government terminations.....		1	2	4	6	8	1.1	3.2
Accelerate collection of State and local taxes.....		1.4	1	1	1	3	2	2.2
Provide general fund transfers for military service credits and renegotiated checks.....		19.2	4	4	3	3	3	17.2
Delay benefit increases 6 mo.....		3.2	5.2	5.4	5.5	6.2	6.7	7.3
Tax 1/2 of benefits for high income beneficiaries.....		2.6	3.2	3.9	4.7	5.6	6.7	26.6
Continue benefits on remarriage.....		(*)	(*)	(*)	(*)	(*)	(*)	(*)
Modify indexing of deferred survivors' benefits.....		(*)	(*)	(*)	(*)	(*)	(*)	(*)
Raise disabled widow(er)'s benefits to 71.5 percent of PIA.....		(*)	(*)	(*)	(*)	(*)	(*)	(*)
Pay divorced spouses whether or not worker has retired.....		-2	-2	-2	-2	-3	-3	-14
Replace 90-percent factor in benefit formula with variable percentage, for individuals receiving pensions from covered employment.....		(*)	(*)	(*)	(*)	(*)	(*)	(*)
Raise delayed retirement credit, beginning in 1990.....		(*)	(*)	(*)	(*)	1	1	3
Provide up to 2 child-care drop out years.....								
All other miscellaneous and technical changes.....		(*)	-1	-1	-2	-4	-5	-13
		(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total for all changes.....		22.3	19.9	13.8	15.1	17.9	35.6	40.8
								165.5

\* Net additional taxes of less than \$50,000,000.

\* Additional benefits of less than \$50,000,000.

\* Reduction in benefits of less than \$50,000,000.

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

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

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

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

Provision	Effect as percent of payroll		
	OASI	DI	OASDI
After committee bill:			
Actuarial balance.....	+07	+01	+08
Average income.....	11.61	1.31	12.92
Average cost rate.....	11.54	1.30	12.84

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

\* The values in the subtotal take into account the estimated interactions among the provisions.

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

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

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

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

Hon. ROBERT J. DOLE,  
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

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

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

Sincerely,

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

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

One. Bill No.: S. 1.

Two. Bill title: Social Security Act Amendments of 1983

Three. Bill status: As ordered reported by the Senate Committee on Finance on March 10, 1983.

Four. Bill purpose: To amend the Social Security Act to assure the solvency of the Social Security trust funds; to accelerate presently scheduled payroll tax increases; to tax 50 percent of certain individuals' benefits; to increase the self-employed tax; to delay the payment of cost-of-living adjustments; to reform the Medicare reimbursement of hospitals; to extend the federal supplemental compensation program; and for other purposes.

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

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

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

(By fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987	1988
Spending:						
Function 550:						
Budget authority.....	3,439	1,001	1,985	2,283	2,665	2,987
Outlays.....	105	93	-33	-131	-135	-140
Function 600:						
Budget authority.....	22,235	14,084	14,713	14,503	16,673	30,457
Outlays.....	341	-3,067	-3,447	-3,626	-3,764	-4,140

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3027

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

(By fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987	1988
Function 700:						
Budget authority	0	-89	-58	-58	-60	-63
Outlays	-25	-54	-58	-58	-60	-63
Total spending:						
Budget authority	25,675	14,996	16,640	16,728	19,278	33,381
Outlays	421	-3,028	-3,538	-3,815	-3,959	-4,343
Revenues	0	6,466	7,579	7,453	8,889	19,825
Change in unified budget deficit	421	-9,494	-11,117	-11,268	-12,848	-24,168

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

Stamps, Veteran's Pensions and Medicaid programs.

*Basis of estimate*

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

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

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

(By fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987	1988
Outlay changes:						
Delay COLA 6 mo:						
OASI	-1,704	-3,793	-4,228	-4,473	-4,706	-5,181
SSI	-100	-130	-170	-170	-175	-210
Veterans' pensions	-25	-54	-58	-58	-60	-63
Offset: Food stamps	0	37	46	51	53	53
Medicare premium delay:						
SMI	114	63	-90	-201	-206	-211
HI	1	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Offset: Medicaid	-9	-5	7	15	18	16
Increase SSI benefits:						
SSI	250	750	845	840	875	935
Offset:						
Food stamps	-40	-165	-170	-170	-175	-175
Medicaid	0	35	50	55	55	55
Extend FSC program for 6 mo. <sup>2</sup>	2,070	120	0	0	0	0
Unemployment compensation	-135	-8	0	0	0	0
Offset to food stamps and AFDC	0	0	0	0	0	0
Prospective payment system	0	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )
State waiver change	0	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )	( <sup>3</sup> )
Miscellaneous outlay impacts:						
OASI	0	122	200	296	364	438
SSI and AFDC	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
Total outlays changes	421	-3,028	-3,538	-3,815	-3,959	-4,343
Revenue changes:						
FICA increase:						
OASI	0	6,361	2,349	0	0	10,272
Railroad retirement	0	45	0	0	0	61
1984 FICA tax credit	0	-3,240	-985	0	0	0
Other FICA tax offsets	0	-795	-147	0	0	-1,284
SECA tax increase	0	1,408	4,304	4,382	4,747	5,199
SECA tax credit	0	-893	-2,645	-2,481	-2,397	-2,447
Cover nonprofit employees	0	1,118	1,807	1,955	2,297	2,853
Nonprofit workers' income tax offsets	0	-141	-212	-244	-287	-357
Cover new Federal workers	0	61	185	315	455	636
State spending	0	1,600	200	136	104	200
Tax 50 percent of benefits:						
OASI	0	780	2,769	3,316	3,885	4,504
Railroad retirement	0	20	64	74	85	98
Increased tax revenues from FSC extension <sup>5</sup>	0	142	0	0	0	0
Total revenue changes	0	6,466	7,579	7,453	8,889	19,825
Total impact on unified budget deficit	421	-9,494	-11,117	-11,268	-12,848	-24,168

<sup>1</sup> Less than \$500,000.<sup>2</sup> This bill contains no estimates relating to unemployment trust fund loan reform.<sup>3</sup> The budgetary impact cannot be estimated because the bill would allow the Secretary of Health and Human Services, as advised by a panel of experts, nearly unlimited discretion in setting payment rates for inpatient hospital services. Those rates could be set such that Medicare outlays in the aggregate would increase or decrease.<sup>4</sup> The cost of this provision cannot be estimated because it depends on the actions of State hospital rate-setting commissions in Massachusetts and New York.<sup>5</sup> SSI costs do not include costs of the provision requiring notices to be sent to social security beneficiaries informing them about SSI. See the text for details.

Source: CBO estimates based on February 1983 economic assumptions.

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

(By fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987	1988
Trust fund outlay changes:						
6-mo. COLA delay:						
OASI	-1,519	-3,394	-3,805	-4,049	-4,272	-4,712
DI	-185	-399	-423	-424	-434	-469

S 3028

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

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

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987	1988
Miscellaneous provisions: OASI .....	0	122	230	296	364	438
Total outlay changes:						
OASI .....	-1,519	-3,272	-3,575	-3,753	-3,908	-4,274
DI .....	-185	-399	-423	-424	-434	-469
Total .....	-1,704	-3,671	-3,998	-4,177	-4,342	-4,743
Trust fund income changes:						
Tax 50 percent of benefits: OASI <sup>2</sup> .....	0	780	2,769	3,316	3,885	4,594
FICA tax speedup:						
OASI .....	0	5,476	1,974	0	0	8,631
DI .....	0	966	483	0	0	1,764
SECA tax increase:						
OASI .....	0	856	2,525	2,447	2,608	2,912
DI .....	0	175	517	581	534	597
HI .....	0	377	1,262	1,434	1,605	1,670
Cover newly hired Federal workers:						
OASI .....	0	184	384	536	774	1,081
DI .....	0	18	56	94	136	191
Cover nonprofit organizations:						
OASI .....	0	712	1,089	1,226	1,427	1,763
DI .....	0	189	288	332	390	445
HI .....	0	216	326	397	480	605
Military transfer credits:						
OASI .....	16,800	-380	-385	-210	-220	-218
DI .....	2,300	-60	-60	-35	-35	-35
HI .....	3,290	-70	-70	-60	-60	-60
Uncashed checks:						
OASI .....	680	43	43	43	43	43
DI .....	120	7	7	7	7	7
HI .....	0	1,600	200	136	104	200
State speedup: OASDIHI .....						
OASDI .....	19,900	10,487	9,734	8,393	9,653	22,023
HI .....	3,290	523	1,548	1,771	2,025	2,215
Total .....	23,190	11,010	11,252	10,164	11,678	24,238
Total outlay and income infusions to trust funds:						
OASDI .....	21,604	14,158	13,732	12,570	13,995	26,761
OASDIHI .....	14,894	14,681	15,250	14,341	16,020	28,981
Estimated interest income:						
OASDI .....	290	2,948	4,428	5,559	6,442	7,770
OASDIHI .....	335	3,333	4,928	6,202	7,217	8,682
Total annual increase in trust funds:						
OASDI .....	21,894	17,106	18,160	18,129	20,497	34,531
OASDIHI .....	25,229	18,014	20,178	20,543	23,237	37,663

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

Source: CBO estimates based on February 1983 economic assumptions.

A section by section description for the basis of the estimates for the provisions in this bill having major cost impact is given below. These estimates were prepared from a draft of the bill before Committee amendments were added and from mark-up documents. No bill as amended has been received.

#### PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

##### Cover new Federal employees

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

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

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

##### Cover workers in nonprofit organizations

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

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

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

##### Termination of State and local coverage

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

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

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

This section delays the payment of future cost-of-living adjustments (COLA's) for Social Security for six months, from July to January of each year. In addition, the provision changes the base period from which the COLA is calculated.

The COLA is measured by the growth in the Consumer Price Index (CPI) from the

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

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

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

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

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

March 16, 1983

## CONGRESSIONAL RECORD—SENATE

S 3029

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

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

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

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

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

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

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

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

**Increase self-employed tax rate**

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

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

**Reallocation of OASI and DI tax rates**

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

**Benefits to certain widows, divorced and disabled women**

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

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

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

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

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

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

**State payment speedup**

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

This estimate was prepared by the Social Security Administration.

**LONG-TERM FINANCING**

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

raised from 65 to 68 beginning in the year 2000.

**MISCELLANEOUS PROVISIONS**

These provisions are aimed mostly at work incentives for the elderly, and at insuring the financial soundness of the trust funds. The provisions would eliminate the retirement test for workers over the age of 65 beginning in 1990. This test reduces retirement benefits by \$1 for each \$2 in earnings over a given amount (\$6,000 in 1983). A delayed retirement credit of 8 percent would also be phased in. This credit would increase from 3 percent the added benefit amount paid to a retiree for each year a worker decides to retire after age 65.

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

**SUPPLEMENTAL SECURITY INCOME PROVISIONS**

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

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

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

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

The bill also apparently includes a provision that would require the Social Security Administration to send notices to Social Security beneficiaries informing them of their potential eligibility for SSI and urging them

to contact a local office if they think they would be eligible. No language is available for this provision and the extent of the notices could vary considerably. Hence, there is no cost estimate for the provision. However, costs under even a fairly limited provision could be significant, perhaps around \$50 million. Not only would there be added administrative costs but it would be reasonable to assume that around 5 percent of those receiving a notice who are eligible for SSI would apply for SSI benefits.

#### UNEMPLOYMENT COMPENSATION PROVISIONS *Federal supplemental compensation*

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

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

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

#### *Loan reform*

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

#### MEDICARE HOSPITAL INSURANCE PROVISIONS

##### *Conforming changes in medicare premiums*

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

the cost-of-living increase in social security benefits in the previous January.

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

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

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

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

#### ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS

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

TABLE 4.—ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS

(in millions of dollars)

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

Note.—Basis of estimate: The acceleration of FICA rate increases would add to State and local government payroll costs. Currently, about 70 percent of

total State and local government employment is covered by social security. State and local governments would have added payroll tax contributions of \$291 million in fiscal year 1984 and \$396 million over the entire 1984-88 period. The CBO estimate does not include a future cost to States who would no longer be able to withdraw from the social security system under this legislation.

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

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

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

In addition to the effect of the \$20 benefit increase, SSI state supplement costs would be increased by the COLA delays in SSI and OASDI. When COLAs are made, state supplement costs decline slightly because for state supplement only beneficiaries OASDI increases are larger than SSI increases. The costs of the COLA delays are estimated to total about \$6 million a year.

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

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

The increased federal supplemental compensation benefits for the unemployed



March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 9081

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

Estimate comparison: None.

Previous CBO estimate: None.

Estimate prepared by Stephen Chalkind, Malcolm Curtis, Richard Hendrix, John Navratil, Janice Peakin, Roger Hitchner, Kathleen Shepherd, James Nason.

Estimate approved by C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

[Side-by-side comparison of present law and proposed changes in S. 1, as amended by the Finance Committee.]

## TITLE I OF THE BILL

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

## Coverage of newly hired federal employees (Section 101 of the Bill)

## Present law

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

## Committee amendment

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

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

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

Effective date.—January 1, 1984.

## REVENUE GAIN

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989	1993-89
Short-range.....	\$0.2	\$0.7	\$1.2	\$1.8	\$2.4	\$3.1	\$3.3
Long-range.....	0.28 percent of taxable payroll.						

## Coverage of nonprofit employees (Section 102 of the Bill)

## Present law

Work performed for a nonprofit tax-exempt organization (specified in section 501(c)(3) of the Internal Revenue Code of

1954) is excluded for social security coverage unless the organization files a certificate with the Internal Revenue Service waiving its exemption from social security taxes. Nonprofit organizations may terminate coverage upon giving 2 years advance notice, providing coverage has been in effect for 5 years or more. Once coverage has been terminated, the organization cannot again cover its employees. About 4.7 million employees of nonprofit organizations (about 80 percent) are covered.

## Committee amendment

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

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

Effective date.—January 1, 1984.

## OASDI REVENUE GAIN

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989	1993-89
Short-range.....	\$2.3	\$2.5	\$2.5	\$2.5	\$2.5	\$2.1	\$12.5
Long-range.....	16 percent of taxable payroll.						

## Prohibit withdrawal of State and local employees (Section 103 of the Bill)

## Present law

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

## Committee Amendment

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

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

Effective date.—On enactment.

## OASDI REVENUE GAIN

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989	1993-89
Short-range.....	\$2.1	\$2.2	\$2.4	\$2.6	\$2.8	\$1.1	\$3.2
Long-range.....	.05 percent of taxable payroll.						

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

## Present law

In general, social security (FICA) tax is imposed on every individual who receives wages with respect to employment. In addition, social security tax is imposed on employers who pay wages with respect to employment. There is no exemption, under present law, for employers or employees who are members of religious sects that

oppose the social security system. However, present law does provide an exemption from self-employment tax (SECA) for members of religious sects that are conscientiously opposed to the acceptance of private or public insurance and which make provision for the care of their dependent members.

## Reason for change

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

## Explanation of provision

The provision will exempt from social security tax wages paid by individuals who are exempt from self-employment taxes because of their religious beliefs to individuals who are members of religious sects that conscientiously oppose the acceptance of private or public insurance and which make provisions for the care of their dependent members. This exemption applies both to the employer and employee portion of social security tax.

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

## Effective date

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

## Delay cost-of-living adjustment to a calendar year basis (Section 111 of the Bill)

## Present law

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

## Committee amendment

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

In addition, the Committee amendment would, for 1983 only, provide the COLA even if it is less than 3 percent. The SMI

## S 3032

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

(Supplemental Medical Insurance) premium increase would also be shifted to a calendar year basis.

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

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

## OASDI SAVINGS

(In billions, calendar years)

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

## SST COSTS (CBO ESTIMATES)

(In millions, fiscal years)

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

## Eliminate "windfall" benefits

(Section 112 of the Bill)

## Present law

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

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

## Committee amendment

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

## Benefit factor

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

To moderate the impact of this provision on people with small pensions from non-covered employment, social security benefits could in no case be reduced by more than one-third of the portion of the worker's pension based on service which was non-covered employment. The offset would not apply to persons with pensions based on one year or less of non-covered employment.

In addition, the Committee amendment exempts from any reduction under this provision

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

Survivor benefits would not be affected by this provision.

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

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

## OASDI SAVINGS

(In billions, calendar years)

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

<sup>1</sup> Less than \$50 million.

## Benefits for divorced or disabled widowers or widows who remarry

(Section 113 of the Bill)

## Present law

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

## Committee amendment

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

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

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

## OASDI COST

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989	1984-89
Short range.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	—\$0.1
Long range: negligible.							

<sup>1</sup> Less than \$50 million.

## Changes in indexing for deferred survivor benefits

(Section 114 of the Bill)

## Present law

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

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

## Committee amendment

The Committee amendment would provide that deferred widow and widower benefits would continue to be based on earnings indexed to wages as under present law, however, this wage indexing would continue after the death of the worker. This is the same as the recommendation of the National Commission on Social Security Reform. In addition, the Committee amendment would specify that such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow's benefits, whichever is earlier. In no case would benefits be lower than under present law.

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

## OASDI COST

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989	1984-89
Short range.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	
Long range: —.05 percent of taxable payroll.							

<sup>1</sup> Less than \$50 million.

## Independent eligibility for divorced spouses (Section 115 of the Bill)

## Present law

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

## Committee amendment

The Committee amendment would allow divorced spouses (who have been divorced for a significant period) to draw benefits at

March 16, 1983

## CONGRESSIONAL RECORD—SENATE

S 3083

age 62 if the former spouse has claimed these benefits or has had them suspended because of substantial employment. This is the same as the recommendation of the National Commission on Social Security Reform. In addition, the Committee amendment would specify that the proposal would only apply to spouses who have been divorced for at least two years.

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

## OASDI COST

(In billions, calendar years)

1984	1985	1986	1987	1988	1989	1990	1991	1992	1993

Short range..... (2) (2) (2) (2) (1) — 98.3  
Long range..... 41 percent of taxable payroll.

<sup>1</sup> Less than \$50 million.

## Increase benefits for disabled widows and widowers

(Section 116 of the Bill)

## Present law

Social Security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the worker's primary insurance amount) at age 66, and at reduced rates at ages 60-64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits also payable at reduced rates to disabled widows and widowers aged 50-59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).

## Committee amendment

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

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

## OASDI COST

(In billions, calendar year)

1984	1985	1986	1987	1988	1989	1990	1991	1992	1993

Short range..... \$0.2 — \$0.2 — \$0.2 — \$0.2 — \$0.3 — \$0.3 — \$1.4  
Long range..... 41 percent of taxable payroll.

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

(Section 117 of the Bill)

## Present law

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

## Committee amendment

The Committee amendment would modify the cost-of-living adjustment formula during periods when trust fund reserves are low in order to help stabilize reserves. Specifically, if the OASDI trust fund ratio (reserves as a percentage of outgo) is of the beginning of a year is less than 20 percent,

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

**Effective date.**—This provision would first be applicable in 1986.

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

## Increase delayed retirement credit

(Section 118 of the Bill)

## Present law

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

## Committee amendment

The Committee amendment would gradually increase, between 1990 and 2010, the delayed retirement credit to 8 percent per year, as recommended by the National Commission on Social Security Reform. (The amount of credit would relate to year of attainment of age 65.) Beginning in 1990 the DRC would be increased by 1/4 percent each subsequent year until reaching 8 percent in 2010.

**OASDI cost.**—0.10 percent of taxable payroll.

## Increase in retirement age

(Section 119 of the Bill)

## Present law

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

## Committee amendment

The Committee amendment would gradually raise the age at which full social security benefits are payable from 65 to 68, beginning with those who attain age 62 in 2000. Under this provision, the normal retirement age would be increased one month per year, reaching 68 for those attaining 62 in the year 2012 or later. Early retirement benefits would continue to be available beginning at age 62 for workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors would be larger. The minimum age for eligibility for medicare benefits would continue to be tied to the age at which unreduced retirement benefits are first available.

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

**Effective date.**—For people attaining 62 in 2000.

**OASDI savings.** 0.40 percent of taxable payroll.

## Long-range benefit change

(Section 120 of the Bill)

## Present law

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

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

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

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

## Committee amendment

For people first becoming eligible for benefits in 2000, the Committee amendment would reduce initial benefit levels by 5.3 percent by decreasing the percentage factors in the benefit formula by two-thirds of one percent each year for 8 years. This would have the effect of reducing the ultimate replacement rate by 4 percent.

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

**OASDI savings.** 0.43 percent of taxable payroll.

## Elimination of retirement earnings test

(Section 121 of the Bill)

## Present law

Social security beneficiaries under age 70 who work and have earnings are subject to a one dollar reduction in benefits for every two dollars of earnings, when their earnings exceed certain exempt amounts. For 1983, the annual exempt amount is \$8,600 for people age 65 and older.

## Committee amendment

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

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

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

## Child-care drop out years

(Section 122 of the Bill)

## Present law

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

**Committee amendment**

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

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

**OASDI COST**

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989
Short-range.....	( <sup>1</sup> )	—\$0.1	—\$0.1	—\$0.2	—\$0.4	—\$0.5
Long range.....	( <sup>1</sup> )	—\$0.1	—\$0.1	—\$0.2	—\$0.4	—\$0.5
84 percent of taxable payroll.						

<sup>1</sup> Less than \$50 million.**Prisoners benefits**  
(Section 123 of the Bill)**Present law**

Persons imprisoned for the conviction of a felony may not receive student benefits (which are being phased out anyway), and are not eligible for disability benefits unless they are participating in a court-approved rehabilitation program. (Dependents benefits are not affected.) Also, impairments resulting from the commission of a crime cannot be the basis for disability benefits and impairments occurring during imprisonment cannot be the basis for disability benefits during the period of imprisonment.

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

**Committee amendment**

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

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

**OASDI Cost:** Negligible.**Eliminate benefits to aliens**  
(Section 124 of the Bill)**Present law**

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

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

**Committee amendment**

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

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

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

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

**OASDI SAVINGS**

(Dollars in billions, calendar years)

	1983	1984	1985	1986	1987	1988	1989	1983-89
Short range.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Long range: .01 percent of taxable payroll.								

<sup>1</sup> Savings of less than \$50 million.**Fail-safe provision**  
(Section 125 of the Bill)**Present law**

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

**Committee amendment**

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

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

The Committee views this provision as a last resort which would come into play only after all other authorities for maintaining trust fund solvency had been exercised. Thus, for example, other provisions in this legislation for such procedures as interfund borrowing and normalization of tax transfers would be invoked before this provision would be operative to the extent that such procedures are authorized by law. Under current projections such measures should be sufficient to keep fund balances from declining to dangerous levels. If however, unexpected adverse situations should develop, this provision would assure that sufficient reserves were maintained so that regular, timely payment of monthly benefit checks would not be placed in jeopardy.

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

**Effective date.**—Determinations beginning July 1, 1984.

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

**PART C—REVENUE PROVISIONS**

**A. Taxation of social security and railroad retirement benefits (sec. 181 of the bill, new Code secs. 86 and 6050, and Code secs. 861, 871, 1441, and 6103)**

**Present law**

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

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

**Reasons for change**

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

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

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

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3035

substantial taxable income from other sources will be taxed on a portion of the benefits they receive.

#### Taxation of social security and railroad retirement benefits

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

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

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

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

The base amount is zero for married individuals filing separate returns because the

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

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

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

If this special rule is elected, the taxpayer will determine the tax for the taxable year of receipt of the lump-sum payment by including in gross income for the current year the sum of the increases in gross income that result solely from taking into account the appropriate portions of the lump-sum payment in the taxable year to which they are attributable. The committee intends that when lump-sum payments are made, the Social Security Administration or Railroad Retirement Board will notify the recipients thereof of the taxable years to which the payments are attributable.

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

#### Returns relating to social security benefits

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

ment showing (1) the name of the agency making the payments, and (2) the aggregate amount of payments and repayments. This statement will be due by January 31 of the year following the year in which social security benefits are paid.

#### Treatment of nonresident aliens

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

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

#### Transfers to trust funds

The committee's bill appropriates to each payor fund the increase in Federal income tax liabilities attributable to taxing social security benefits. This amount is the difference between total income tax liabilities for the year and what income tax liabilities would have been without the application of the Code sections which provide for the taxation of benefits. A "payor fund" is any trust fund or account from which payments of social security benefits are made.

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

Any quarterly payment to a payor trust fund must be made on the first day of the quarter and must take into account social security benefits estimated to be received during the quarter. Proper adjustments are to be made in the amounts subsequently transferred to the extent that prior estimates were in excess of, or less than, the amounts required to be transferred. A final determination of the amount required to be transferred for a year may be based on an estimate derived from the appropriately weighted sample of individual income tax returns for that year which is used as the basis for the Internal Revenue Service's publication of statistics of income for that year under Code section 6108. In making these estimates, the Secretary of the Treas-



S 3036

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

ury need not take account of certain provisions of the tax law that might affect an individual's tax liability (e.g., income averaging, loss carrybacks, etc.) if these provisions are judged to have an inconsequential effect on the estimates.

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

#### Taxation of Tier One railroad retirement benefits

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

Under the financial interchange between railroad retirement and social security, however, the social security trust funds are placed in the same position they would have been in if railroad employment were covered under social security. Therefore, the committee understands that existing law requires that the proceeds of income taxes on those railroad retirement benefits which are strictly equivalent to social security benefits are to be credited to the social security trust funds through adjustments in the financial interchange. This will produce exactly the same result as if the social security system had paid that portion of the tier I benefits which are strictly equivalent to social security benefits and had received the proceeds of the income tax on these benefits.

#### Effective date

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

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

#### Present law

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

EMPLOYER-EMPLOYEE RATE (EACH)

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

#### Reasons for change

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

equal to the 1984 increase in the employees FICA tax.

#### Explanation of provision

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

EMPLOYER-EMPLOYEE RATE (EACH)

Year	OASDI	HI	OASDI-HI
1984	5.70	1.30	7.00
1985	5.70	1.35	7.05
1986	5.70	1.45	7.15
1987	5.70	1.45	7.15
1988	5.70	1.45	7.15
1989	5.70	1.45	7.15
1990	6.20	1.45	7.65

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

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

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

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

#### Present Law

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

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

#### IN THE CASE OF A TAXABLE YEAR

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

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

#### IN THE CASE OF A TAXABLE YEAR

Beginning after:	and before:	percent:
December 31, 1980	January 1, 1985	1.30
December 31, 1984	January 1, 1986	1.35
December 31, 1985		1.45

Under present law, the expenses of compensation or purchased services, including wages, the employer FICA tax, and payments to self-employed individuals are deductible, for income tax purposes, as business expenses. However, neither the em-

ployee FICA tax nor the SECA tax is deductible.

#### Reasons for change

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

#### Explanation of provisions

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

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

#### IN THE CASE OF A TAXABLE YEAR

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

The HI rate for self-employed persons will be:

#### IN THE CASE OF A TAXABLE YEAR

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

Beginning in 1984, self-employed persons will be entitled to a permanent credit against SECA tax. For 1984, the credit will be 2.9 percent of self-employment income. For 1985, the credit will be 2.5 percent. For 1986, the credit will be 2.2 percent. For 1987-89, the credit will be 2.1 percent. For 1990 and subsequent years, the rate of the credit will be 2.3 percent. The SECA tax credits may be taken directly into account in computing SECA liability for a taxable year and estimated tax payments for that year.

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

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

#### Reallocation of OASDI tax rate

##### (Section 141 of the Bill)

#### Present law

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

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3037

## OASDI TAX RATES

(In percent)

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

## Committee amendment

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

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

(In percent)

	Employers and employees, each			Self-employed		
	OASI	DI	OASDI	OASI	DI	OASDI
1983	5.075	0.625	5.7	10.4625	0.9375	11.40
1984 to 1987	5.20	.90	6.1	10.4	1.0	11.40
1988 to 1989	5.53	.53	6.06	11.06	1.06	12.12
1990 to 1999	5.90	.60	6.50	12.12	1.20	13.32
2000 and later	5.55	.65	6.20	11.1	1.30	12.40

**Effective.**—The first reallocation would apply for 1983.

## Interfund borrowing extension

(Section 142 of the Bill)

## Present law

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

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

## Committee amendment

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

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

The amendment is similar to the recommendation of the National Commission on

Social Security Reform to authorize, through 1987, interfund borrowing between the OASI and DI trust funds and to the OASI and DI trust funds from the HI trust fund.

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

**Effective.**—On enactment.

## Credit amounts of unnegotiated checks to the trust funds

(Section 143 of the Bill)

## Present law

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

## Committee amendment

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

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

## OASDI REVENUE GAIN

(In billions, calendar years)

	1983	1984	1985	1986	1987	1988	1989	1993-89
Short range.....	\$0.8	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	\$1.1
Long range: negligible.								

<sup>1</sup> Less than \$50 million.

## Military wage credits

(Sections 144 and 145 of the Bill)

## Present law

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

of the military were compulsorily covered under social security.)

To finance the costs incurred in paying the benefits based on periods of military service for which no contributions were made, the social security trust funds receive reimbursements from the General Fund of the Treasury. The annual reimbursement to the trust funds has been about \$700 million in recent years.

## Committee amendment

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

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

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

## OASDI REVENUE GAIN

(In billions of dollars, calendar years)

	1983	1984	1985	1986	1987	1988	1989	1993-89
Shortage.....	18.4	-0.4	-0.4	-0.3	-0.4	-0.4	0.4	16.0
Long range: plus .01 of taxable payroll.								

## Trust fund investment procedure

(Section 146 of the Bill)

## Present law

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

The maturity dates on new special issues and the redemption schedule for trust fund investments are not set by law, but by Treasury procedure. The Treasury attempts to set the maturity dates for special issues from 1 to 15 years—so that about 1/3 of the total portfolio comes due in each of the next 15 years. When securities must be sold to meet benefit obligations, special issues with the shortest duration until maturity are sold first. In the event that there are several securities with the same duration until maturity, those with the lowest interest rate are sold first.

## Committee amendment

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

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

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

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

**Revenue Gain.**—No significant gain or loss anticipated.

**Public members on board of trustees**  
(Section 147 of the Bill)

**Present law**

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

**Committee amendment**

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

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

**Effective.**—On enactment.

**Cost.**—None.

**Accelerate State and local deposits**  
(Section 148 of the Bill)

**Present law**

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

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

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

**Committee amendment**

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

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

**OASDI REVENUES**

(In billions, calendar years)

	1984	1985	1986	1987	1988	1989	1993-89
Short range.....	\$1.4	\$0.1	\$0.1	\$0.1	\$0.3	\$0.2	\$2.2
Long-range: Negligible.							

**Triggered normalization of tax transfers**  
(Section 149 of the Bill)

**Present law**

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

**Committee amendment**

The Committee amendment provides that, when at the start of any month, the Secretary of Treasury determines that the reserves of the OASDI trust funds are inadequate to meet 1½ months of benefits (reserves less than 12% of outgo), the Secretary would be required to credit the trust funds on the first day of the next month with the full payroll tax revenues estimated for the month. Interest would be paid to the General Treasury on the excess sums so transferred at a rate equal to the average 91-day Treasury bill rate during the month, with such interest being payable at the end of each month.

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

**Cost.**—Negligible.

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

**Present law**

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

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

**Tax-sheltered annuities**

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

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

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

**Cafeteria plans**

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

**Eligible State deferred compensation plans**

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

**Non-qualified deferred compensation plans**

Under present law (sec. 812(a)), standby pay or payments made to an employee on account of retirement, either on an individual basis or under a plan or system of the employer providing for employees generally, may be excluded from the social security wage base without regard to whether the payments are under a tax-qualified retirement plan (sec. 401(a) or 403(a)) or other tax-favored retirement savings program (e.g., a tax-sheltered annuity (sec. 403(b))).

**Reasons for change**

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

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

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

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3039

qualify for tax-favored treatment under the income tax rules.

## Explanation of provision

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

The bill also provides that any amounts paid by an employer to a tax-sheltered annuity by reason of a salary reduction agreement between the employer and the employee would be includible in the employee's social security wage base. The committee intended that the provision would merely codify the holding of Revenue Ruling 88-208, 1988-2 Cum. Bul. 383, without any implication with respect to the issue of whether a particular amount paid by an employer to a tax shelter annuity is, in fact made by reason of a "salary reduction agreement".

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

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

Under the bill, nonqualified deferred compensation generally is includible in the social security wage base when it becomes available to the employee. For this purpose, nonqualified deferred compensation generally includes payments under a deferred compensation arrangement which is not (1) a tax-qualified plan, (2) an individual retirement arrangement (IRA), (3) a simplified employee pension (SEP), (4) a tax-sheltered annuity, or (5) a governmental plan. A governmental plan is one established and maintained for its employees by the Government of the United States, by any State or politi-

cal subdivision thereof, or by any agency or instrumentality of any of the foregoing. However, elective deferrals under an eligible State deferred compensation plan (sec. 457(a)) are includible in the wage base as described in the preceding paragraph, and amounts payable under a deferred compensation plan of a State or local government which is not an eligible plan (sec. 457(e)(1) and (e)(3) (D) and (E)) are includible in the wage base when there is no substantial risk of forfeiture by the employee.

The bill also includes conforming changes to the provisions (sec. 3306) defining "wages" for purposes of the Federal Unemployment Tax Act (FUTA). Deferred compensation includible in the social security wage base under the bill would also be treated as wages for FUTA purposes. In addition, the bill provides that certain sick pay which is includible in the social security wage base under provisions enacted in 1978 would also be treated as wages for FUTA purposes.

**Effective date.**—These changes apply to remuneration paid after December 31, 1983.

**Codification of Rowan decision with respect to meals and lodging** (sec. 151 of the bill and sec. 3121(a) of the Code).

## Present law

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

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

## Reasons for change

The social security program aims to replace the income of beneficiaries when that income is reduced on account of retirement and disability. Thus, the amount of "wages"

is the measure used both to define income which should be replaced and to compute FICA tax liability. Since the security system has objectives which are significantly different from the objective underlying the income tax withholding rules, the committee believes that amounts exempt from income tax withholding should not be exempt from FICA unless Congress provides an explicit FICA tax exclusion.

## Explanation of provision

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

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

**Treatment of contributions under simplified employee pensions (SEPs)** (sec. 152 of the bill and sec. 3121(a)(6) of the Code)

## Present law

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

## Reasons for change

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

## Explanation of provision

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

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

ESTIMATED REVENUE EFFECTS OF CERTAIN COMMITTEE PROVISIONS <sup>1</sup>

(In millions of dollars)

Provision and receipts or liabilities	Calendar or fiscal year—						Total
	1984	1985	1986	1987	1988	1989	
<b>Taxation of GASDI benefits:</b>							
Calendar year *	2,637	3,181	3,847	4,603	5,580	6,544	26,312
Fiscal year	848	2,805	3,387	4,079	4,878	5,818	21,815
<b>Taxation of tier 1 railroad retirement benefits:</b>							
Calendar year *	61	71	81	94	108	124	538
Fiscal year	20	64	74	85	98	113	453
<b>Tax credit for 1984 FICA taxes:</b>							
Calendar year *	4,434						4,434
Fiscal year	3,234	1,200					4,434
<b>SECA provisions:</b>							
Increase in GASDI and HI rates for SECA:							
Calendar year *	4,490	4,361	4,744	4,973	6,133	6,476	31,177
Fiscal year	1,497	4,447	4,489	4,820	5,360	6,247	26,860
<b>SECA credit:</b>							
Calendar year *	-2,800	-2,586	-2,427	-2,428	-2,565	-2,700	-15,525
Fiscal year	-933	-2,732	-2,540	-2,427	-2,474	-2,613	-13,719
<b>Net effect:</b>							
Calendar year	1,890	1,765	2,317	2,545	3,568	3,767	15,652

S 3040

# CONGRESSIONAL RECORD — SENATE

## ESTIMATED REVENUE EFFECTS OF CERTAIN COMMITTEE PROVISIONS <sup>1</sup>—Continued

March 16, 1983

(In millions of dollars)

Provision and receipts or liabilities	Calendar or fiscal year—						Total
	1984	1985	1986	1987	1988	1989	
Fiscal year .....	564	1,715	1,949	2,393	2,886	3,634	13,141

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

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

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

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

### TITLE II OF THE BILL

#### INCREASE THE SSI PAYMENT STANDARD AND MODIFY PASS-THROUGH REQUIREMENTS (Sections 201 and 202 of the Bill)

##### Present law

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

##### Committee amendment

The Committee amendments would:

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

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

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

Presently, the maximum Federal SSI payment is \$284 monthly for an individual and \$428 monthly for a couple. After certain disregards, the amount of SSI actually received by an individual is reduced on account of other income.

#### SSI COST (BASED ON CBO ESTIMATES)

(In millions, fiscal years)

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

#### SSI ALERT (Section 203 of the Bill) Present law

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

##### Committee amendment

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

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

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

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

**Cost.**—Unable to estimate.

#### TITLE IV OF THE BILL UNEMPLOYMENT COMPENSATION PROVISIONS Extension of Federal supplemental compensation (FSC) program (Section 401 of the Bill)

##### Present law

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

which became effective on September 12, 1982, expires March 31, 1983.

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

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

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

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

If an individual is eligible for FSC benefits, the number of weeks of FSC he may receive is determined in relation to the number of weeks of regular State benefits to which he was entitled. An eligible individual may receive FSC for the lesser of (a) 65 percent of the number of weeks of regular State benefits to which he was entitled or (b) the maximum number of weeks of FSC benefits provided in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in his former State.

##### Committee amendment

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

The number of weeks available in each State would be:

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

- (1) 14 weeks in States with IUR at 6 percent and above;
- (2) 12 weeks in States with IUR at 5 percent to 5.9 percent;



March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3041

(3) 10 weeks in States with IUR at 4 percent to 4.9 percent;

(4) 8 weeks in all other States.

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

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

(1) 8 weeks in States with IUR at 6 percent and above;

(2) 6 weeks in States with IUR at 5 percent to 5.9 percent;

(3) 4 weeks in States with IUR at 4 percent to 4.9 percent;

(4) 4 weeks in all other States.

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

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

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

*Optional exclusion from disqualification for not actively seeking work under extended benefits and Federal supplemental compensation for claimants who are hospitalized or serving on jury duty*

(Section 422 of the Bill)

#### Present law

Present law disqualifies claimants from receiving extended benefits or Federal Supplemental Compensation if they are not actively seeking work. Moreover, the disqualified claimant must go back to work for at least 4 weeks and earn at least 4 times his weekly benefit amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation.

#### Committee amendment

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

*Effective date.*—Date of enactment.

*Denial of benefits to nonprofessional employees of educational institutions between academic years or terms*

#### Present law

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

#### Committee amendment

The committee amendment would make the denial of benefits between academic years or terms to nonprofessional employees

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

#### Effective date

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

#### Modification of credit reduction cap provisions

##### Present law

Employers in all States currently pay the tax levied under the Federal Unemployment Tax Act (FUTA) at a rate of 3.5 percent on a taxable wage base of \$7,000. However, employers in States generally received a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. Prior to reforms enacted in the Omnibus Budget Reconciliation Act of 1981, State UC programs could borrow on an interest-free basis from the Federal Unemployment Account. However, once a State defaulted on its loans from the Federal account, employees in the State began to lose the FUTA tax credit at the rate of at least .3 percent a year.

Specifically, if an advance is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of that year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc.). Additional offset credit reductions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1978-1980 for States satisfying specific requirements. Sixteen states are experiencing a credit reduction for 1983.

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

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

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

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

(1) the net solvency of its UI system has not diminished (effective for taxable years 1981-1987);

(2) there have been no decreases in its unemployment tax effort (effective for taxable year 1981-1987);

(3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983-1987; and

(4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983-1987). The comparable year for taxable year 1983, however, is 1981.

#### Committee amendment

The committee amendment would make the credit reduction cap provisions in present law permanent. A State would still be required to meet all four conditions in present law. The committee amendment would, however, provide two possible lower credit reductions, if a State does not qualify for the total cap: (1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the credit reduction would be 0.2 instead of at least 0.3 percentage points; and (2) If a State meets the first two credit reduction cap conditions and qualifies for the interest deferral authorized as a result of substantial changes in its unemployment compensation law, the credit reduction would be 0.1 instead of at least 0.3 percentage points. The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities.

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

*Effective date.*—Date of enactment.

#### Modification of interest provisions

##### Present law

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

#### Committee amendment

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

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

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

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

The discounted interest rate would be one percentage point below the interest rate that would otherwise apply. It would be authorized for interest accrued only for fiscal

years 1983, 1984, and 1985. It would be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

For purposes of determining whether a State meets the conditions in (2) above, the Secretary of Labor will provide an estimate of the unemployment rate for the base year, the calendar year in which the deferral is requested. The level of benefits and revenue liabilities will be determined using the State law in effect before passage of the legislation. The estimate of changes as a result of new legislation will be made from the base year in each year for which a deferral is requested. Once a deferral is approved, a State must continue to maintain its solvency effort. Failure to do so would result in immediate payment of all deferred interest.

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

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

*Effective date.*—Date of enactment.

*Change in second year additional credit reduction*  
Present law

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

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

*Committee amendment*

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

*Effective date.*—Taxable year 1983.

*Change in the date interest is due*

Present law

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

*Committee amendment*

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

*Effective date.*—Date of enactment.

*Collection interest*

Present law

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

*Committee amendment*

The committee amendment would require the collection of delinquent interest charges

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

*Effective date.*—Date of enactment.

Mr. DOLE. Mr. President, there is a lot of other material, but I would just say this, the Senator from Kansas believes this is an outstanding piece of legislation, not because it is perfect in every sense of the word, not because the Commission did not have its shortcomings, not because there probably are others who might have better ideas, but let the Senator suggest, because the distinguished Senator from New York is in the Chamber, had the Senator from New York not visited with the Senator from Kansas on January 3, this year we might not be here this afternoon.

As I recall, that was about 12:20 p.m., that day when everyone was being sworn in, and the Senator from New York came back to the desk of the Senator from Kansas and said:

Well, are we going to let social security go down the drain.

Or something to that effect.

We talked about it for a while, and we said not if we can help it. So we decided to discuss it ourselves, along with Robert Ball, a former Commissioner, probably the most knowledgeable if not one of the most knowledgeable men about social security in this country.

The next day we brought in Alan Greenspan, the chairman of the Commission. The next day or the following day we brought in a representative of the White House.

Mr. MOYNIHAN. Mr. CONABLE.

Mr. DOLE. Mr. CONABLE. That is correct.

That started what we thought was a very successful process because we came up with a compromise, and for that we owe a debt of gratitude to the distinguished Senator from New York and the others who were willing for about a 2-week period to try to hammer out some of these differences.

So what I believe we have is a fair and a reasonable proposal, not a perfect proposal, not the proposal that probably any one of us in this Chamber or anyone within the hearing of my voice would put together themselves. Let us face it. There is some resistance to bringing in new hires, new Federal employees. There is some resistance to COLA delay. There is some resistance to the fail-safe mechanism. There is some resistance to taxing benefits. That is only about 7 percent of the beneficiaries. There is some resistance of accelerating payroll taxes.

I would guess the strength of this package may be the weakness of its

parts because it is a very fragile package we have.

If during the course of debate one of these should fall by the wayside, it is the opinion of this Senator that we probably end up without a compromise and without a social security package this year.

Along with all the others who deserve great credit and certainly that would be every Member, with the exception of the Member speaking, on the Social Security Commission and perhaps more importantly the willingness of the President and the Speaker of the House of Representatives to endorse the package and in a bipartisan way, to remove politics, partisan politics from consideration of social security in my view has been the highlight of anything that has happened around here for the last several years.

It is a very, very politically sensitive program. There are between 36 million and 37 million beneficiaries. There are between 115 million and 116 million people who pay into the system, and it seems to many of us on the Commission that we could have gone to the Commission meetings and argued about politics, whether it is the Democrats, fault, the Republicans, fault and we could have spent months doing that. But we determined at a very early stage to try to work out a compromise, and let the politics be played out in some other fashion.

So I certainly believe that we owe a debt of thanks to the President of the United States, to the Speaker of the House, to all the members of the National Commission, to members of the staff who worked with the Commission and members of our own personal staff in an effort to sort of put all this together. And then finally, we cannot fail to recognize the very good work done on the House side, the way it was handled by the chairman of the Ways and Means Committee, the very speedy action by Chairman ROSTENKOWSKI and Congressman CONABLE, the ranking Republican member on Ways and Means, and all the members on that committee, and the quick and responsible action on the House floor and, I must say, I hope the equally responsible and quick action in the Senate Finance Committee and on the Senate floor.

This is one piece of legislation that should pass the Congress and be signed by the President before the so-called Easter break, and I have every reason to believe that it will be passed, I hope, by a substantial vote.

I again suggest that no one on the Commission that I know of has ever indicated this would be their package. If they could write out their own package they would probably have different provisions. But I suggest the members of that Commission, knowing the limitations, knowing the severity of the crisis, in my view acted very responsibly, and I am very proud to have been a member of that group.

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3043

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, before I say a single word with respect to the specifics of the measure before us, let me say that the Senator from Kansas has spoken of the role of the President, which was indispensable, of the Speaker which was equally so, of the White House staff, of the Commission members, and of the members of the Finance Committee in bringing this measure to the floor which, as he said, is almost surely the most important single piece of legislation we will deal with in this Congress. But it would not be here in what we firmly believe to be the final stage of enactment save for the Senator from Kansas. It is his willingness to give up personal concerns, to set aside other matters pressing on him in the Congress, to set aside the legitimate interest of party and legitimate political interests in all these matters that have brought us here today, and I stand in tribute to him and I suppose this tribute can best be expressed by my stating that every member of our side, the Democratic side, of the Finance Committee, voted to report this bill, and a larger statement of confidence we could not have, and none would be more deserved.

Mr. President, it is a very exceptional piece of legislation. I have a statement which deals with a number of aspects of the bill.

Mr. President, today the Senate begins its deliberations on one of the most significant issues to face the 98th Congress. I refer, of course, to S. 1, the Social Security Amendments of 1983. The House has already concluded its consideration of the social security issue, and its approval of H.R. 1900 is a clear and unequivocal endorsement of the package of recommendations proposed by the National Commission on Social Security Reform. I am proud to have been a member of that Commission, and I am pleased the House was able with such speed and fairness to pass intact the basic elements of the Commission package, along with a few technical improvements. It is my sincere hope that we in the Senate will be able to act in a similarly expeditious and fair manner. The Senate and House versions contain only relatively small differences, and the Washington Post generously describes each as "a basically fair and responsible approach to dealing with an issue that can, without qualification, be rated as the most politically sensitive one on the American scene."

I think we would do well to review the history of the so called social security crisis, for it underscores the pressing nature of the problem, as well as the successes that are within our reach.

On May 12, 1981, the administration proposed a package consisting primarily of benefit cuts designed to raise \$110 billion in 5 years. The Senate, however, passed unanimously, on May 20, 1981, a resolution stating "that

Congress shall not precipitously and unfairly reduce early retirees' benefits." The prospect of governmental gridlock loomed.

But the shrinkage of the trust funds that resulted from further deterioration in the national economy, coupled with mounting public concern that the system was becoming insolvent, made clear the need for action. On December 16, 1981, by Executive order of the President, the National Commission was created and charged with providing appropriate recommendations to the administration and the Congress "on long-term reforms to put social security back on a sound financial footing."

The Commission met nine times during 1982 and reviewed material produced by various public bodies including Congress, the 1979 Advisory Council, and the 1981 National Commission on Social Security Reform. It sought the advice of experts and examined a wide variety of alternative approaches. These deliberations led to a consensus about the size and nature of the problem. The Commission agreed that there is a short-term problem—a \$150 to \$200 billion shortfall between now and 1989; that from 1990 through the early 2000's the system will be in surplus; and that due to the retirement of the "baby boom" generation, there is a long-term problem beginning after 2010. Equally important, the Commission agreed that "Congress . . . should not alter the fundamental structure of the social security program or undermine its fundamental principles."

There was, however, no agreement on solutions to the social security crisis. Commission members were deeply divided on recommendations to cover both the short-term and long-term revenue shortfalls. This impasse persisted until the middle of January, at which point the combined efforts of Commission members, the congressional leadership and the White House produced the difficult compromise necessary to achieve an acceptable package of proposals.

Twelve of the fifteen Commission members, the President, the Speaker, and other congressional leaders agreed that the National Commission's recommendations strike an acceptable balance between tax increases and reductions of benefit increases. Since the report was issued, it has also been endorsed by a broad range of organizations, including the Save our Security Coalition, the National Association of Manufacturers, the United Auto Workers, the American Council of Life Insurance, and the Business Round Table.

No Commission member is satisfied with every recommendation. No Member of the House or Senate will be satisfied with every recommendation. But as a January 18 Washington Post editorial argued, the package comes "as close to absolute fairness as any social security revision can ever

be." The balance, nonetheless, is fragile. The House has succeeded in avoiding significant alterations in the package. It is our responsibility in the Senate to do the same.

I have been of the opinion that throughout these long and difficult negotiations, more than just social security has been at stake. An alarming number of people, social security contributors and beneficiaries alike—became convinced of the inability of the Congress to govern fairly and effectively. When S. 1 passes, we will have demonstrated not merely that the social security system fundamentally sound, we will have demonstrated that there is a center in American politics, and it can govern. While the effort and patience needed have been great, it is without question a point worth making.

I conclude by saying that if we are on the verge of a historically important achievement, it could not have come without the chairman of the Finance Committee's initiative, commitment, and patience. Our hearings were open to the widest range of opinion on this issue and the Committees deliberations were thoughtful and exhaustive. The chairman's willingness to cooperate made S. 1 possible, and I want to express my personal thanks to him. It is my hope that within a short time the Nation too will recognize the valuable role he has played in the development of a truly praiseworthy piece of legislation.

I would call the attention of Senators to an editorial which, by a happy bit of serendipity, appeared in the Washington Post this morning entitled "Social Security Speeds Along." It begins with the paragraph which I will take the liberty of reading. It says:

If you get discouraged from time to time about government's inability to deal with the hard problems, reflect upon the surprising agility with which the Social Security rescue legislation is moving through Congress. Not only has the progress been swift, but, marvelous to tell, each step along the way has actually brought additional improvements to the package.

I ask unanimous consent that the editorial and its full text be placed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

#### SOCIAL SECURITY SPEEDS ALONG

If you get discouraged from time to time about government's inability to deal with the hard problems, reflect upon the surprising agility with which the Social Security rescue legislation is moving through Congress. Not only has the progress been swift, but, marvelous to tell, each step along the way has actually brought additional improvements to the package.

The measure approved by the House last week made better the version proposed by the National Commission on Social Security Reform: It solved, in addition to the short-term Social Security deficit, the long-term shortfall. The House would achieve this by a further increase in the payroll tax in the next century and by gradually postponing

S 3044

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

the age at which full retirement benefits can be received from 65 to 67.

The Senate Finance Committee bill, which will come to the Senate floor this week, provides additional protection for the fund in the event of severe recessions and a better long-term plan for shoring up the program. The retirement age would be postponed by only one year and the needed savings would come from a slight reduction in benefits for all new retirees. This is a much fairer approach than that taken by the House, which would put a heavy burden on those people who are forced into early retirement by disability or job loss.

The Senate version also allows people who go on working after age 65 to draw full Social Security benefits starting in the next decade. This is a sweetener for high-income beneficiaries who would now have to pay taxes on their benefits, but it would also help people with relatively modest earnings.

If, as seems likely, the Senate approves the measure this week, the conferees will be in a happy position. They will need only to reconcile relatively small differences between two measures, each of which is a basically fair and responsible approach to dealing with an issue that can, without qualification, be rated as the most politically sensitive one on the American scene.

Note also that this has been accomplished without round-the-clock floor battles and encampments of the elderly staked out in the halls of Congress—and with admirable disregard for the million-dollar campaign of misleading argument launched by federal and postal workers' lobbies. It's enough to make you feel optimistic about the future of the republic.

Mr. MOYNIHAN. It comments upon the success of the Finance Committee, in the view of the Post, in fact improving upon a measure which the House passed which, in turn, improved on the proposals of the Commission.

With respect to a repeated theme of my friend's colleague's remarks that none of us would necessarily approve any of the details and many would disapprove of all, and yet together the weakness of each provision is the strength of the whole, a wonderful phrase, may I point out that in the House of Representatives Senator PEPPER, as he is referred to in that body, moved in the final House floor consideration an arrangement which would deal with the long-term problem without increasing the age of retirement. This had been a matter of the deepest concern and conviction on the part of Senator PEPPER for a very long while, and yet his measure lost and a measure did pass which would raise that age to 67, a measure never contemplated by the Commission, and which he and I and others opposed in the Commission, and yet even so CLAUDE PEPPER voted for this measure on final passage. That is what is at stake.

What is at stake is the stability and confidence in the singlemost important social program of the United States today, and the stability of the system as well, and in that context confidence in our ability to make hard choices, to say no even to our best friends when we judge the public interest to be otherwise because the public interest is everyone's interest,

even when narrowly perceived, particular interests differ.

I would like to make one statement then about the bill before us. In the Committee on Finance I moved a proposal to deal with the long-term problem, as it has been designated, by a proposal to raise the tax rates in the year 2010. This proposal did not receive the approval of the committee. It received the approval of a bipartisan minority of two, and with that in mind I thereupon proposed to both members who had voted for that to vote for the final proposal, and I do not mean to propose the matter on the floor.

I think the judgment of the Senate, as reflected in the Finance Committee, should be settled. Similarly in the House Committee on Ways and Means there was a proposal to deal with the long-term problem of shortfall by a combination of a reduction in benefits and an increase in taxes, and again while that was overwhelmingly approved in the Ways and Means Committee, it was not voted on on the floor, and I think it is well to proceed from where we are and not to raise that alternative either, and I will not do that. I will vote for the proposal as it emerged from the Finance Committee and hope it will not in any significant way be changed.

I would like to make several points that may not be as widely recognized or in some cases simply only recently have been established that are important in this matter.

First of all, with respect to the constituents, the beneficiaries from social security. It is commonly stated that there are some 36 million to 37 million beneficiaries of social security and there are some 110 million or 115 million persons paying into the system for the support of the beneficiaries.

Not so, Mr. President. Every person in the system, whether still actively employed and paying into it or retired and receiving from it, is a beneficiary of it, because social security provides the protections of insurance, life insurance, disability insurance, care of the widowed and the orphaned, for everybody involved. No person would deny that an insurance of that quality is a real benefit. In consequence of which I think it would be more widely understood that we are all beneficiaries of the system, those of us who are fortunate enough to be members of it, a condition which we hope that by the end of this legislation will be made universal.

The original 1935 legislation left out a number of groups. One by one they have been included. Now, with inclusion of Federal employees and, indeed, employees of the Social Security Administration, coverage will be as near to a reasonable possibility, universal.

A second point I would like to make is about the stabilizer, as we have come to call it, and the Senator from Kansas described it. I would like to note that during the course of the informal negotiations in January, we

were able to replicate the experience of the period 1977 to 1982, given the hypothetical existence of the COLA adjustment part of this stabilizer.

It is remarkable and important to note that had we had such a stabilizer in effect in 1977 we would not be on the floor today. There would be no shortage in the fund. On the other hand, we might not be on the floor today making changes that are in themselves wholly desirable—desirable because there are improvements in the system in this legislation. The Senator from Kansas mentioned but two—the 2 years of credit that are the dropout credit so called for women who are in the work force but leave to care for children and the gradual elimination of the earnings test for persons over 65 who continue to work.

Mr. President, I depart just a moment from any rigorous statement to an anecdotal one, but it is important. One of the great public men of the middle years of this century was Paul Appleby, confidant of President Roosevelt, Deputy Director of the Budget under President Roosevelt and President Truman, a great writer and teacher in public administration, a great American in every sense of that word. After a long life of public service and later dean of the Maxwell School at Syracuse, he retired. As most such men who had given their life to public service, he had no savings. He had only social security and the fact that he was still in demand for consulting and other duties, lecturing that he could carry out.

I remember, in my early years in Washington in the 1960's, how that great man had to make every decision about what he could do, where he could speak, in terms of would he lose his social security benefits if somehow he went over that \$6,000 limit. It was lower than that then. That will be behind us and ought to be.

I would note that there are a number of provisions that we are specifically correcting, such as inequities in the present system with regard to older women, and they too are additions to the system.

Finally, Mr. President, in order that we may have some sense of the magnitude of the measures we put in force today or tomorrow or the next day—and we must put them in force in this period in the Congress, else we cannot make the technical adjustments at the Social Security Administration to send out the June checks as they will be required—I would like to offer for the Record, Mr. President, estimates of the cumulative OASDI surpluses which this measure will bring about. We asked the Office of Actuary at the Social Security Administration to estimate the period during which the funds will increase from year to year until the first moment, the first year, at which it could be estimated they will decline. And the Office of Actuary reports to us that from the year 1982

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3045

to the year 2021, these funds, the OASDI funds, increase each year.

Now, we are cautioned that things can surprise us. But this is the Office of Actuary. They make the best judgment they can. And, Mr. President, at the end of that period, in the year 2021, the cumulative surpluses are \$12.1 trillion. That suggests a considerable achievement and the importance of this measure which we bring to the floor at this point.

I see that my distinguished friend, the minority whip, the Senator from California, is on the floor. We would be happy to hear his views on these matters.

Mr. CRANSTON. I thank my friend from New York. I appreciate his eloquent statement with regard to the importance of social security.

## UP AMENDMENT NO. 68

(Purpose: To require the Secretary of Health and Human Services to prepare an implementation report on earnings sharing for social security purposes)

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

The PRESIDING OFFICER. (Mr. PRESSLER). The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. Cranston) proposes an unprinted amendment numbered 68.

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

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

The amendment is as follows:

On page 172, between lines 5 and 6, insert the following new part:

## PART E—EARNINGS SHARING IMPLEMENTATION REPORT

Sec. 161. (a) The Secretary of Health and Human Services (hereinafter in this Part referred to as the "Secretary") shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for earnings sharing legislation as described in subsection.

(b) The Secretary shall report such proposals to such committees not later than January 1, 1984. The report and proposals provided to such committees shall—

(1) take into account, discuss, and analyze the impact of earnings sharing on various categories of social security beneficiaries and include recommendations for the implementation of earnings sharing which may be necessary to provide adequate protection for particular classes of beneficiaries;

(2) include specific recommendations with respect to an appropriate and feasible time period or time periods for implementation of such proposals along with recommendations for any transition provisions which may be necessary or appropriate; and

(3) provide cost-impact analyses on each proposal presented.

(b) For the purposes of subsection (a), the term "earnings sharing" refers to proposals that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for social security benefit purposes.

(c) In preparing the report and proposals required in subsection (a), the Secretary

shall include consideration and analysis of the earnings sharing proposals contained in (1) S. 3, 96th Congress, 1st Session, (2) H.R. 1513, 97th Congress, 1st Session, and (3) the earnings sharing option described in the report entitled "Social Security and the Changing Roles of Men and Women", submitted to the Congress pursuant to Public Law 95-216, the Social Security Amendments of 1977.

(d) In carrying out subsections (a), (b), and (c), the Secretary shall consult with the Director of the Congressional Budget Office. Not later than 30 days after the Secretary submits the report required in subsection (a), the Director of the Congressional Budget Office shall submit a report to the committees identified in such subsection on the methodologies, recommendations, and analyses used in the Secretary's report.

Mr. CRANSTON. Mr. President, this amendment would direct the Secretary of Health and Human Services, in consultation with the Committee on Finance, the Committee on Ways and Means of the House, and the Director of the Congressional Budget Office, to develop proposals for implementation of earnings-sharing legislation for the purposes of social security benefits and report those proposals to the appropriate committees of Congress no later than January 1, 1984.

I have discussed this with the distinguished chairman of the committee. I modified the amendment to meet one concern of his and I am delighted he now looks upon it with favor, and I trust that is also true with the distinguished Senator from New York.

## BACKGROUND

Mr. President, last year I introduced legislation, S. 3034, and again this year as S. 3, which would provide for the establishment of a system of earnings sharing within the social security system.

Earnings sharing basically means that the combined earnings of a husband and wife during the period of their marriage would be divided equally and shared between them for social security purposes. Marriage, for the purposes of social security, would be regarded as an economic partnership and each spouse would receive equal social security credits for earnings accrued during the course of the marriage. The earnings-sharing concept is very similar to the community property model, which is increasingly the basis for division of all property or property rights—including private pension rights—acquired during marriage.

Mr. President, I was very pleased that 6 of the 15 members of the Social Security Reform Commission in January specifically referred in their supplemental statements to the earnings-sharing concept as the most promising and direct approach to dealing with the fundamental inequities faced by women under the social security system. They urged that steps be taken now to work out the details for implementation of earnings sharing. The amendment I am offering would set in motion the process toward devel-

oping a concrete and viable plan of action to achieve this goal.

## IMPLEMENTATION REPORT: NOT A STUDY

Mr. President, I want to stress that this amendment does not call for another study. We did that in 1977. The 1977 social security amendments in section 341 called for HHS to study the problems facing women under the social security system. The report developed as a result of the 1977 amendments presented the earnings-sharing model as one of two possible options for dealing in a comprehensive fashion with the problems facing women under social security. Other commissions and task forces—both public and private—which have looked at the problem have also identified earnings sharing as the most promising alternative for providing equity for women under the social security system. What needs to be done now is to work out and test the details on how a specific earnings-sharing model can be implemented, and determine what type of transition provisions are needed and what modifications in the basic earnings-sharing concept are necessary in order to provide adequate protection for various categories of beneficiaries.

Mr. President, at the time I introduced an earnings-sharing proposal in the Senate, I noted that there were a number of complex technical issues that would need to be resolved during the course of consideration of earnings-sharing legislation. However, as one of the Social Security Reform Commission members noted in urging action on earnings sharing:

The fact that transition to such a program will be complex to design and implement should not prevent this much-needed change. Work on the program should begin now so that the details can be worked out and communicated well in advance.

The amendment which I am offering today is designed to do that. It is patterned after the amendment adopted in the 1982 Tax Equity and Fiscal Responsibility Act which directed HHS to develop specific proposals for implementation of prospective reimbursement for medicare. The expertise of HHS along with CBO would be focused upon providing Congress with concrete proposals and a data base upon which legislative action can be taken in the very near future. I am convinced that this type of implementing analysis should precede enactment of earnings sharing and that we need to take action now so that the technical and programmatic issues can be resolved in a responsible, yet timely fashion.

## SOCIAL SECURITY AND THE NEEDS OF WOMEN

The principal problem with the current social security system as it relates to the needs of women is that the program has not adapted to the profound changes in the role of women in our society since the social security system was founded.

In the 1930's when the social security program was created, the typical



S 3046

## CONGRESSIONAL RECORD — SENATE

March 16, 1983

American family consisted of a man who was a full-time worker and his wife who was a full-time lifelong homemaker. The labor force participation was less than 17 percent and fewer than 1 in 12 marriages ended in divorce. The social security benefit structure was thus established on the concept of a lifelong couple with one wage earner and a dependent spouse.

The situation has dramatically changed over the past 50 years and the typical family of the thirties and forties is not the typical family of today. Women have become a major part of America's work force, enriching the world of work with their contributions and productivity, despite continuing wage discrimination and employment barriers. The percentage of married women in the work force exceeds 50 percent and it has been estimated that 90 percent of all women spend some portion of their lives in the work force, many of them moving in and out of the roles of wage earners and homemakers as the needs of their families change. It is no longer true that women are likely to be either lifelong homemakers or lifelong wage earners; these roles are combined and interchanged throughout a lifetime.

Similarly, we must recognize, like it or not, that the status of marriage has changed dramatically over the past 50 years. Today, one in three marriages ends in divorce.

Mr. President, despite these massive changes in our society, the social security system has continued to operate on the basis of a philosophy designed for an era when most women did not work and when most women were part of a lifelong marriage. Consequently, the current system works well only for those women whose family and work patterns have not changed from the thirties and forties. For the vast majority of women and families that no longer fit into that pattern, the system fails to provide either adequately or equitably for their needs.

Both homemakers and women in the labor force are inadequately protected under the current system.

Women who work outside of the home often find that their social security benefits are no higher than they would be if they had never paid into the system. Members of two-earner families often find that they receive lower social security benefits than one-earner families with precisely the same lifetime earnings records.

The inequities of the current system can be even more acute for those women who have been full-time homemakers and are displaced from that role, either by divorce or the death of a spouse. After years of work as a homemaker, a divorced woman may find herself without any work record of her own and eligible for social security benefits only as a dependent spouse—at 50 percent of what her former spouse receives. A homemaker also receives no protection against disability under the current system.

A woman who drops out of the labor force for child rearing is also penalized since the current system rewards continuous work patterns. Each year she remains out of the work force to care for her children can reduce her ultimate social security benefits.

Mr. President, under the earnings-sharing concept, the combined earnings of a couple would be divided equally. Each spouse would have a separate social security account and would accrue credits equally during the period of their marriage. Homemakers would receive disability and retirement benefit protection in their own right. The current bias against two-earner families would be eliminated. Women who enter and leave the work force to fill necessary child-rearing roles would no longer be penalized by gaps in their social security coverage.

Mr. President, the earnings-sharing concept represents a fair and equitable approach to revising the social security system to reflect the changing role and needs of women and their families.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I thank the distinguished Senator from California. The only question the Senator from Kansas had was the date. That has been changed to January 1, 1984.

Mr. CRANSTON. That is correct.

Mr. DOLE. As the Senator knows, the consensus package of the National Commission included some of the recommendations to improve the equity of the social security system for women. In addition, it includes a provision offered by Senator ARMSTRONG that has already been referred to, which will allow people who are out of the work force caring for children under 3 to drop up to 2 years of earnings in the computation of their earnings history.

I think this is a good amendment which I support. It does take it beyond the study stage. It indicates we shall develop in consultation with the Senate Committee on Finance and the House Committee on Ways and Means proposals for earnings sharing legislation described in section (b). That has been made part of the record.

I am prepared to accept the amendment. I thank the distinguished Senator from California not just for the amendment, but for his past interest in this problem. This is an area of discrimination or inequity, whatever we may call it. The Senator from California has been in the forefront in trying to correct it.

Mr. CRANSTON. I thank the Senator from Kansas very much.

Mr. MOYNIHAN. Mr. President, may I simply associate myself with the views of the chairman of the Finance Committee. This is a matter that the Commission did very much concern itself with. The amendment of the Senator from California will put that concern into statutory language and

set about a process by which we will be able to do this in the context of time and when we will more than likely have the funds. That is a necessary combination.

Mr. CRANSTON. I thank my friend from New York.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 68) was agreed to.

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

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

The motion to lay on the table was agreed to.

## UP AMENDMENT NO. 69

(Purpose: To conform certain Veterans' Administration pension law to accommodate the proposed six-month delay in cost-of-living adjustments)

Mr. DOLE. Mr. President, I send a technical amendment to the desk on behalf of the distinguished Senator from Wyoming (Mr. SIMPSON) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SIMPSON, proposes unprinted amendment numbered 69.

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

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

The amendment is as follows:

On page 75, between lines 7 and 8, insert the following: (e) Section 403(b) of the Omnibus Reconciliation Act of 1982 (Public Law 97-253) is amended to read as follows:

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

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

Mr. DOLE. Mr. President, this amendment will not in any way alter the substance of the package of social security reform we are considering today. It will simply conform VA pension law to those reforms. It will affect only the payment of certain veterans' benefits, not the payment of any social security benefits. Its sole purpose is to protect VA pensioners from any reduction in their monthly benefits.

I think the Senator from California should be added as a cosponsor to the amendment.

Mr. CRANSTON. Yes.

March 16, 1983

## CONGRESSIONAL RECORD — SENATE

S 3047

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

• Mr. SIMPSON. Mr. President, this amendment concerns the effect of the 6-month cost-of-living adjustment (or COLA) delay for social security on the Veterans' Administration improved pension program.

Pursuant to the reconciliation requirements imposed by last year's first concurrent budget resolution, Senate Concurrent Resolution 92, the Senate Veterans' Affairs Committee reported out legislative language which provided that, in computing amounts of monthly non-service-connected VA pension payments, amounts of 99 cents or less shall be rounded down to the next lower dollar. This provision, which was enacted as section 403 of the Omnibus Reconciliation Act of 1982, Public Law 97-253, was made effective "with respect to amounts payable for periods beginning after May 31, 1983," so as to coincide with the effective date, under section 3112 of title 38, United States Code, of this year's COLA for the improved pension program enacted in the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588). Under that section, monthly amounts of such pension are increased at the same time and by the same percentage as title II social security benefits are increased pursuant to section 215(i) of the Social Security Act, which currently provides that benefits shall be increased effective on June 1 of each year.

The congressional intent underlying last year's rounding-down enactment was stated as follows in the joint explanatory statement accompanying the conference report on the Reconciliation Act—House Report No. 97-759, at 83:

The conferees stress that this provision will become effective at the same time as the cost-of-living adjustment in the rates for the "improved" pension program (enacted in Public Law 95-588), pursuant to section 3112 of title 38, scheduled for June 1, 1983, with the result that no such pensioner's monthly rate will be, by virtue of this provision, reduced below the amount paid for the previous month.

We feel that, in order to preserve and give full force and effect to this congressional intent, it is necessary that any social security COLA delay that is enacted in S. 1 be accompanied by a corresponding and simultaneous delay in the effective date of the rounding-down provision contained in section 403 of the 1982 Reconciliation Act. Toward this end, the present amendment would delay the effective date of the rounding provision only with respect to improved pension while retaining that provision's current effective date—June 1, 1983—for old, nonindexed pension payable under section 305(a) of Public Law 95-588.

In short, Mr. President, this amendment is entirely consistent with the bipartisan program of reforms contained in S. 1, and is not intended to alter, amend, or undercut any of those re-

forms. I would strongly urge its adoption. •

Mr. DOLE. Mr. President, I know of no objection. This has been cleared on both sides.

Mr. MOYNIHAN. Mr. President, it is emphatically approved by this side.

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

The amendment (UP No. 69) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I rise in support of H.R. 1900, the bill reported by the Senate Finance Committee, to implement the recommendations of the National Commission on Social Security Reform.

Mr. President, at the outset, I would like to pay tribute to the chairman of the committee, Senator DOLE, whom Senator MOYNIHAN and I had the privilege of serving with as members of the National Commission on Social Security Reform.

I believe the Senator from New York referred to the first paragraph in today's Washington Post editorial which comments that at each step along the way the work of the Commission has been improved upon and that in the Senate and in the Senate Finance Committee it has been improved still further.

Certainly, we all are very privileged to have had the leadership of the chairman of the Finance Committee. He has been tireless in his efforts to find ways to do a better job within the understanding arrived at among the members of the Commission and with Senator BAKER, Speaker O'NEILL, and the President. I believe with his guidance and help we have indeed been able to do that.

I secondly want to pay my tributes to the senior Senator from New York, Senator MOYNIHAN, who, it is literally safe to say, rescued the Commission in its moment of deepest and darkest despair, namely on the very day that we were all coming back to the Senate floor on January 3 to business as usual. But since the Senator from New York does not go about business as usual and never has in his distinguished public career, he was able to restore the process that had somehow begun to drift away from us over the Christmas recess, and it is thanks to his initiative, and I mean this sincerely, that we are here at all. Any of the accomplishments of the President, the Speaker, or any of the rest of us would not have been possible without that initiative. I think we all owe him a deep debt of gratitude.

Indeed, Mr. President, I think that even the critics of this package—Senator ARMSTRONG, as a member of the Finance Committee and as a member of

the commission—have had a very positive, salutary impact upon it.

Several of the amendments in this legislation come about because of the interest of Senator ARMSTRONG in trying to make sure that this package really did the job. I do believe that this package does do the job and, in that respect, rises above even the most optimistic expectations that any of us might have had for this effort.

When I say it does the job, I do not mean that it just addresses the short-term deficit; I do not mean that it just addresses, for the first time that I am familiar with, the long-term deficit. It does so with a variety of safeguards and policy choices that are both responsible and necessary. Uneasy choices admittedly, but responsible and necessary assuredly.

I shall have more to say about that in just a moment, but the reason I stress that point is that, at this very moment, roughly three out of four Americans under age 45 say to people like Lou Harris or George Gallup that they do not believe there is going to be a social security system when they retire. This bill, which does the job in meeting the solvency tests not just of the next 6 years but the next 75, should help restore public confidence in substantial measure. If there is anything we politicians are capable of doing, we should meet the test of reassuring those millions of Americans upon whom the very continuation of the social security system truly depends.

I have often said that this legislation is important not just to 38 million people—the retirees, their survivors, those who are disabled—by securing them against some kind of catastrophe, but I think it secures the interests of the 100-million-plus payees into social security. When we pass this bill, we cannot be accused any more of giving only some kind of idle chatter or meaningless talk when we give a commitment to a strong social security system.

This bill insures the future financial integrity of the old age, survivors, and disability insurance trust funds. It provides a rescue plan which should hearten all beneficiaries and workers who have feared for the future of the social security system.

Contained in this bill are measures which can restore the solvency of social security for the foreseeable future with no reductions in current social security benefit levels and no increases in payroll tax rates above those already scheduled in the law. The bill reaffirms the soundness of the basic structure of social security by making balanced and minimal adjustments to provide immediate relief from the short-term financing problems and to restore the long-term solvency of the program.

## MEETING SHORT-TERM FINANCING NEEDS

The financing package reported from the committee improves the fi-